

Initiatives to support and develop the Palestinian Reconciliation Process

October 2011

Task Force for Promoting the Palestinian Reconciliation

**Outcomes of the Three Workshops Held in Helsinki,
Ankara, and Istanbul**

2010-2011

Preface

This document is built on the outcome of the discussions and ideas raised during the meetings organised by Crisis Management Initiative (CMI). The first workshop was held in Helsinki from 6 to 9 December 2010 and was attended by a group of independent research, academic, and media activists from the West Bank, Gaza Strip, Palestinian citizens of Israel, and Diaspora. In addition, a second workshop was held from 20 to 22 May 2011, while the third workshop was held on 19 and 20 July 2011, with attendance by a group of national, Islamic and Independent Palestinian personalities in their individual capacity, as well as independent persons from the West Bank, Gaza Strip, Palestinian citizens of Israel, and Diaspora, with participation by the CMI team in both workshops.

By no means does this document represent an alternative to the Palestinian national reconciliation Accord Agreement. Instead, it supports such an agreement, and its content does not represent Palestinian factions, but represents those who participated in its drafting. However, this does not mean that the content of this document is agreed upon by all the participants in the discussions. Yet, this document reflects their willingness to support national reconciliation.

Such activities come under a project implemented by CMI, with support from the Palestinian Center for Policy Research and Strategic Studies. The project aims to facilitate the launching of a productive Palestinian dialogue on the means and mechanisms needed to realise Palestinian reconciliation, so as to rebuild a unified and representative Palestinian political system that adopts democracy, plurality, rotation of power, maintenance of public freedoms and human rights; and meets the national objectives of Palestinian people. Within the cooperative

framework between CMI and the Palestinian Center for Policy Research and Strategic Studies, a small working group from the participants of the Ankara Workshop developed a draft of this document, which was discussed during the third workshop held in Istanbul based upon the perceptions of the four working groups of the Ankara Workshop participants. The draft focused on generating ideas on the means for promoting the Reconciliation Agreement signed on 4 May 2011 in Cairo, Egypt, as well as the necessary mechanisms to implement its items. Additionally, the working groups covered the following areas:

- I. Palestinian political agenda**
- II. Government**
- III. Security**
- IV. Palestinian political representation**
- V. Judiciary, rule of law, and protection of human rights**

After the Ankara Workshop, the small working group held three meetings via Skype between the West Bank, Gaza Strip, and Jordan to follow up with this draft according to the perceptions and mechanisms resulting from the Helsinki and Ankara Workshops. Then, the participants in the third workshop held in Istanbul discussed this draft, enhanced it with more suggestions, and developed certain perceptions and mechanisms for supporting the implementation of the reconciliation agreement, which will be a major step in restructuring the Palestinian political system at the levels of the Palestine Liberation Organization (PLO) and the Palestinian Authority (PA). The aim here is to organise the relationship between the two entities and to develop a national strategy to achieve the national objectives of the Palestinian people. In addition, participants in the Istanbul Workshop agreed to establish a group to promote and develop the Palestinian reconciliation

process according to this document, and to develop a multi-level plan in cooperation with the different stakeholders, aiming to realise the desired reconciliation.

I: Palestinian political agenda

When addressing the Palestinian political agenda, it is important to distinguish between the overall political agenda related to all Palestinians and the PLO, which should include all Palestinian factions in order to reinforce its status as the sole legitimate representative of the Palestinian people, and between the political agenda of the PA. In particular, the latter is related to the political agenda of the government and is based upon the fact that the PA is a tool of the PLO, complies with its agenda, and resulted from the Palestinian-Israeli agreement based upon the Oslo Agreement, which received international support and imposed on the PA security, political, and economic commitments clearly shown in the political and financial support provided to the PA. Moreover, the Quartet, since proposing the Road Map in 2003, put a number of conditions on recognising and dealing with any Palestinian government. These conditions include recognition of the right of Israel to exist, compliance with concluded agreements, and denouncing violence and terrorism.

Since the establishment of the Palestinian Authority, the actual role and significance of the Palestinian Liberation Organization declined notably, especially after the transfer of a number of the latter's duties to the former. For example, the Palestinian Ministry of Foreign Affairs is tasked with running Palestinian embassies, starting with the Political Department of the PLO. In addition, the PLO budget became a line-item of the PA budget.

The declining role of the PLO, making it almost paralysed as the Palestinian National Council has not held any new session since amending the Palestinian National Charter, does not mean that the PLO is no longer active. Instead, it needs comprehensive democratic reform

and development. This issue has become the central duty of all Palestinians, especially as the negotiations reached a deadlock, and the promise to turn the provisional authority into a fully sovereign state on 1967 borders, with Jerusalem as its capital, according to the Oslo Agreement, has not been fulfilled. Moreover, such agreement was frequently breached by successive Israeli governments, and it becomes clear that autonomy is the best thing that Israel can accept, and that any coming negotiations without changing the current balance of power on the ground will lead only to withdrawal from limited areas, expansion of the PA authority under Israeli supervision, postponement of the Jerusalem and refugee issues, and turn the PA into a state by name only, provided that it's borders will be provisional without sovereignty .

It is necessary to provide this background before presenting the Palestinian political agenda, in order to demonstrate that the national solution for the current crisis cannot be realised without revitalising the significance of the Palestinian cause and considering it as a question of national liberation rather than a land conflict, or the issue of a state which awaits for Israeli, US and international recognition to build its institutions.

Such a situation requires mobilising all Palestinian efforts in a large-scale process of rebuilding the national movement and revitalising the political system on a national basis under a real partnership among all elements of the political spectrum.

Although reaching an agreement on the political agenda is important, addressing the representation and leadership issues is more important as pointed out by many members of the working group, taking into account that the changes in the Arab region and their implications on the Palestinian situation through the signing of the reconciliation

agreement, make reaching an agreement on the political agenda closer than ever.

It is clear that establishing a comprehensive Palestinian national front is the best way to set aside the Oslo Agreement and commitments of the transitional phase, which put a further burden on the Palestinian cause. In addition, it is important to adopt a new strategy, which enables the realisation of the national objectives. For any Palestinian national agenda should be based upon the three strategic objectives that were previously presented in the Independence Declaration document adopted by the National Council in mid-November 1988. These three objectives are:

First: To enable the Palestinian people to exercise their right in determining their fate, including putting an end to the Israeli occupation of the Palestinian territories occupied in 1967 and practicing sovereignty thereof in order to establish an independent Palestinian state on the 1967 borders, with Jerusalem as its capital.

Second: To resolve the refugee issue, including the right of return and compensation, and defend individual and civil rights of Palestinians living in Diaspora.

Third: To ensure decent and equal treatment of Palestinian citizens of Israel, taking into account their individual and national rights.

It goes without saying that Palestinian efforts to achieve these objectives will not prevent any comprehensive solution for the Palestinian cause in all Palestinian territories.

One may ask, what is the purpose of readdressing these objectives as long as they are embedded into the national Palestinian agenda adopted by the legitimate institutions representing the PLO? An answer to this concern is that the negotiation/peace process, which was launched at the Madrid Conference in 1991, ignored such objectives. This is evident in the Oslo Agreement, the Paris Agreement, the Road Map, the Annapolis Conference, and the negotiations in 2008, which all undermined the Palestinian national agenda. As a result, many concessions have been made for nothing, and the negotiations have not led to any peace treaty as shown below:

☒ Acknowledgement of the land-swap principle. This represents a serious concession with respect to the unity of the Palestinian territories occupied in 1967, the importance of unconditional Israeli withdrawal from such territories, and the United Nations resolutions. Such a concession is considered free as it has not been accompanied by Israeli acknowledgement of withdrawal from the occupied territories and establishment of a Palestinian state on 1967 borders. In addition, the size of the territories to be allocated for the Palestinians, which should be determined proportionally and by value and importance, is very small, making the acknowledgement of such a land-swap principle more critical.

☒ Acknowledgement of the importance of reaching an agreed solution to the refugee issue, as indicated in the Arab Peace Initiative. This gives Israel the right to interfere and veto the decisions, although the right to return is an individual and collective one enshrined in international law and the non-negotiable Security Council Resolution No. 194. Therefore, what can be negotiated is how to implement it rather than what it is about. The seriousness of the concessions made on the refugee issue is represented in Palestinian acceptance of the so-called “Clinton Standards”, which do not include recognition of the

historical, legal, and political responsibility of Israel on the refugee issue. Instead, such standards attempt to resolve this issue through five tracks: compensation, return of refugees to the 1948 borders under the reunification policy (i.e. for humanitarian reasons), return to the Palestinian state after its establishment, assisting refugees to be nationalised in the hosting countries, and assisting any refugees willing to immigrate to other countries.

☒ Inclusion of the issue of Palestinian sovereignty over the old town of Jerusalem and Al Aqsa Mosque, according to Al Jazeera Channel documents, which cited some Palestinian negotiators saying so, under the trade-offs for any final resolution. The documents also talked about dividing Eastern Jerusalem and maintaining some Israeli settlements under Palestinian control after agreeing on the final resolution.

☒ Practical agreement on separating the issues of people, land, and rights. This includes dividing the Palestinian people into different categories: in and outside Palestine, Palestinians of 1948, Palestinians of 1967, Palestinians of the West Bank and Gaza, Palestinians holding VIP cards and ordinary Palestinians. As for lands, they will be divided and separated into areas A, B, and C. In addition, the final solutions of the Palestinian cause will be phased in.

☒ Abandonment of resistance and other tools such as resorting to the United Nations, negotiating based upon border-security first principle, legal prosecution of Israel, and so on, before attaining the national objectives. On the other hand, Israel continues all forms of aggression, settlement, detention, siege, demolition, and apartheid against the Palestinian people.

Although the decision made by Palestinian President Mahmoud Abbas to cease negotiations and address the United Nations is highly commended, such a position cannot lead to restructuring the Palestinian national movement in the light of the latest developments and lessons

learnt without creating a new political process/strategy which highlights strengths and achievements, addresses weaknesses and setbacks, and tries to recover the losses.

In this regard, the first step to be taken is to revive the national agenda and restructure the whole political system based upon a broad national front.

In order to build a well-founded structure, there should be common blocks representing the pillars of higher national interest, which should be the reference point for a national strategy to be agreed upon by all Palestinian political components and institutions, without prejudice to the political agenda of individual Palestinian movements and parties. These pillars include the fundamental objectives and rights of all Palestinians, and exclude the controversial policies, programmes, and strategies.

Agreeing on the higher national pillars becomes the cornerstone for ending the division and regaining unity. For example, the Cairo Agreement is supposed to be an introduction to ending the division, but it cannot reach this goal on its own.

The higher national pillars represent another title for developing a new national charter, especially as the PLO national charter has been amended or even cancelled in order to provide better opportunities for reaching a settlement. This, however, has proven ineffective. Therefore, it will not be possible to unify the Palestinians without drafting a new charter which is fundamentally based on the previous charter, especially with regard to the basic objectives and rights, but in a modern

style and in line with the dramatic changes that have taken place and the lessons learnt.

Among the working group members, there were different ideas on whether it is important to raise the issue of redrafting the National Charter. Those against the redrafting said that the charter is still effective, especially as the amendments proposed to the National Council held in the Gaza Strip in the presence of the former US President Bill Clinton in 1998 are not legally complete. Other members consider it important to redraft the charter without cancelling it or surrendering the fundamental national rights. Instead, the new charter should take the latest developments into account. Finally, some members said that the Independence Declaration document is an adequate common factor to represent the higher national interest pillars.

The pillars of higher national interest can be summarised as follows:

1. The unity of the Palestinian people and their cause, whether in or outside Palestine, represents the cornerstone. This unity is based upon the historical and natural rights, which are enshrined in international law and the United Nations charter and resolutions.
2. The Palestinian people are going through a national liberalisation phase under which they face occupation, the displacement of half of their population, and a Zionist project which aims to terminate them and cancel their rights. Such a situation requires national unity.
3. Emphasising the historical and natural rights does not contradict the development of an achievable programme, which is based upon the struggle to realise national independence, the right to return, and the right to determine fate, in accordance with the status quo locally, regionally, and internationally.

4. Establishing a democratic political system which governs all components of the PLO, PA, parties, trade unions, and societies.
5. Palestine is historically linked to the Arab and Islamic nations, and such a relationship is the strategic factor which has kept the Palestinian cause alive until now.
6. Palestine is part of this world, and its cause is humanitarian and just. Therefore, finding a solution for this cause is in line with the global struggle for enhancing equality and justice, and combating poverty, unemployment, underdevelopment, as well as all forms of occupation, exploitation, and discrimination among mankind.
7. Maintaining the PLO as the national entity which is the sole legitimate representative of the Palestinian people is one of the pillars of higher national interest, requiring hard work to reform, develop, and restructure it, so that it represents all factions and sectors; and consolidating its role as a higher national reference by holding general elections based upon a fully proportional representation system.
8. The Palestinian people have the right to resist occupation using all forms of resistance approved by international law. Although such a right is unquestionable, all forms of resistance should be guided by a political agenda in line with justice of the Palestinian cause, and accompanied by multi-form political action to achieve the common objectives of resistance.

According to one party in the working group, developing a Palestinian political agenda may include developing a new national charter (higher national interest pillars), while a second party indicated that there is no such need. A third party said that priority should be given to representation and leadership issues.

Moving to the political agenda of the PA/government, it is too late now, especially after the signing of the national reconciliation agreement, to say that such a government lacks any political agenda other than the political agenda determined by the PLO under the provisional leadership framework agreed upon in the Cairo meetings and the reconciliation agreement.

Undoubtedly, the PA should have its own political agenda, especially as long as it complies with all related commitments (e.g. the Oslo Agreement) and enjoys international support. In addition, there are two conditions for having a successful agenda: 1) consensus on a national political agenda for the PA, taking into account national objectives and rights, as well as the ability to deal with the international community; and 2) ensuring the establishment of a real partnership which includes Hamas and other factions within the political system.

Avoiding the establishment of a national unity government and adding to the reconciliation agreement a provision stating that the coming Palestinian government should be made of independent ministers both represent political actions, as they are attempts to avoid US and international boycott of such a government.

However, there is no choice but to agree upon a joint political agenda which maintains national rights and objectives, and promotes the role of the PA at the Arab, regional, and international levels. In this respect, it is important to distinguish between two phases:

Phase I: Adoption of bilateral negotiations as a strategy for Palestinian action. This phase has almost been completed, as September 2011 is supposed to be the deadline for such a phase, during which Palestinians

did not manage to attain the minimum level of their objectives and rights in spite of their concessions.

Palestinians will remain committed to the agreements reached during this phase and have to condition their compliance with that of Israel with the principle of reciprocity provided for in international law. This means that any failure to fulfil the commitments by any side, as in the case of successive Israeli governments since signing the Oslo Agreement, will relieve the other side from its commitments.

Phase II: This phase should start by freezing all political, security, and economic commitments of the PA in the context of adopting a new strategy based upon several strategic options such as reconsideration of the form and functions of the PA, which should be based upon Palestinian legitimacy, national interest and political agenda. In addition, the PA can assign some political and security duties such as national security and intelligence to the PLO, so that the PA can become an administrative and service-based entity which is concerned with internal security through police, civil defence, and internal security. By doing so, political action and decisions will transfer from the PA to the PLO, which should always be the higher political and legal reference to the PA.

Considering the PA as a tool for the PLO does not contradict its compliance with the Basic Law enacted by the Parliament, which was elected by the Palestinian people in the West Bank, Gaza Strip, and Jerusalem. Therefore, the overall national political agenda is not limited to the status quo. Instead, it should focus on the fundamental Palestinian interests and objectives provided for in the agreed national documents, especially the Prisoners' Document .

II: Government

The reconciliation agreement, concluded in Cairo on 4 May and signed by all factions, is more like a memorandum of understanding (MoU) between the Fatah and Hamas movements on establishing a government of “national competent persons” and appointing the Prime Minister and ministers by consensus. According to the agreement, the government’s duties include: preparing for holding presidential, legislative, and National Council elections; addressing internal reconciliation issues; implementing a reconstruction process and ending the Israeli blockade of the Gaza Strip; implementing the related steps provided for in the Palestinian National Settlement Agreement; addressing civil and administrative issues resulting from the division; unifying the PA institutions in the West Bank, Gaza Strip, and Jerusalem; and addressing the situation of private institutions, organisations and charities. In addition, the signed MoU included the establishment of a central electoral committee and electoral court; setting the dates of presidential, legislative, and National Council elections after one year; and promoting the Parliament in accordance with the Basic Law during this period.

Such agreements are based upon previous consensuses. However, there is a need to hold talks on the agreement items in order to agree on their implementation mechanisms and timetable, except for the election date. Moreover, it appeared that the signed agreement requires a new deal, and there were some delays in forming the government and nominating the prime minister.

Under the agreement, the duties and functions of the government were defined as mentioned above, while there was an absence of any political, economic, and social programmes, as the aim was to establish a “non-

political” technocrat government. Addressing the Israeli and US rejection of reaching a settlement with Hamas, the Palestinian President Mahmoud Abbas denied that the coming government would have political duties, and he emphasised that such a government will comply with the “political” agenda of the president. For its part, Hamas rejected the president’s comments, according to some of its leaders. In addition, the difficulties faced in agreeing on the name of the prime minister clearly show that such a position is purely political, and the eagerness to nominate certain names shows the nature of the political directions that the government should reflect, especially with respect to the Quartet conditions.

Although the government’s duties, as defined in the agreement, are not considered a programme, they are included in the core of the government’s daily political work. Moreover, under international relations, governments around the world deal with any government based upon its political agenda and vision, rather than just its functions.

Avoiding the bottlenecks facing the reconciliation agreement requires addressing the issues not covered in the agreement through calling the higher dialogue committee to convene to address such issues, to develop mechanisms to implement the agreement under a certain timetable, to help form the government as soon as possible, and to define the role of the government in the coming period. This can be done through reaching an agreement on a number of critical issues, mainly:

First: Political agenda

Agreeing on a political agenda based upon international law and the UN charter and resolutions, away from the Quartet conditions. Such an

agenda should govern the framework of government actions, whether with respect to its relations with the international community or its defined duties, taking into account dealing with the PA as a tool of the PLO, under the proposed political agenda attached to this document.

Second: Security

It is not possible for any government to play its role in rebuilding the political system at the PA level without rebuilding and unifying the security institutions in both the West Bank and Gaza Strip. Otherwise, the coming government will not end the division. The proposal attached to this document on restructuring the security institutions by using an incremental methodology, within a certain timetable, is a feasible solution for addressing this issue.

Third: Elections

A. Separate PA and PLO jurisdictions: The reconciliation agreement included assigning the government to prepare for the coming presidential, legislative, and National Council elections, while it is assumed that the coming government will be a caretaker of West Bank and Gaza Strip affairs. This means that it only represents the Palestinians in the West Bank, including Jerusalem, and the Gaza Strip. Therefore, it is not reasonable to assign a caretaker government to prepare for the National Council elections, which should be assigned to the PLO, whether in or outside Palestine. This situation requires developing a clear mechanism for the National Council elections and the role of the PA and the Central Elections Committee in holding such elections in the West Bank and Gaza Strip.

B. Take a final decision on the issue of dual membership in the parliamentary and National Council: if the members of the parliament are natural members of the National Council, why is it not possible to

hold simultaneous elections for both councils in the Palestinian territories? In other words, who the Palestinians will vote for in the National Council elections, as long as they will vote in the parliament ballot members, who will be members of the National Council. Therefore, it is important to take a final decision on the dual membership issue, as the separation justifies voting in two ballots (see the proposal on political representation attached to this document).

C. Take a final decision on the difference between the parliament and National Council with respect to the electoral system. For example, the National Council uses the full proportional representation system, while the Legislative Council uses the mixed law as mentioned in the Egyptian Paper. This requires eliminating such a difference by applying the full proportional representation system to both councils. In addition, some participants indicated that it is important to comply with what was agreed on in the Egyptian Paper on elections, so that the National Council should use the full proportional representation system, while the parliament should use the mixed system (i.e. 75% proportional representation and 25% individual representation).

D. Prepare for presidential, legislative, and National Council elections according to what has been agreed upon with respect to establishing an Electoral Committee and an Electoral Court, as well as holding local elections by consensus, provided that such elections are held simultaneously in the West Bank, including Jerusalem, and the Gaza Strip.

Fourth: Promote the role of the Parliament

Promoting the role of the parliament is a necessary step in highlighting the role of Palestinian institutions on the one hand, and promoting legislation, monitoring, and accountability mechanisms with respect to the government vote of confidence; monitoring performance of the government and the security institutions; and enacting necessary

legislation during the transitional period and elections, on the other hand.

Problems and challenges

In addition to the above, the coming government will face significant challenges during the transitional phase, mainly:

1. Taking necessary measures to re-unify the ministries according to the recommendations made by the committee established for this purpose, and solving the pending problems of some employees, caused by the division.
2. Developing an action plan and timetable for the reconstruction of the Gaza Strip, starting with the demolished houses.
3. Taking necessary measures to regain confidence through implementing the mechanisms developed by the reconciliation committee.
4. Implementing the decisions made on political detention, dismissed employees, security and safety, media freedoms, incitement, and court rulings.
5. Developing a programme for enhancing the ability of the Palestinian people to face any potential international financial and economic sanctions against the national consensus government. Such a programme should include economic and financial plans to face all forms of potential international pressures.

Success factors

In order to ensure the success of the government in re-unifying the civil and security institutions of the PA, there should be a focus on the following issues:

1. Agreeing on the political agenda of the coming government as well as the headlines of its socio-economic programme.
2. Developing a detailed programme for the government's duties as defined in the agreement.
3. Rebuilding public sector institutions in the West Bank and Gaza Strip in accordance with the Civil Service Law through forming a committee to consider ministerial structures and appointment based upon professional standards.
4. Unifying the functions of the Staff Bureau and its president.
5. Unifying the State Control Commission.
6. Providing financial and moral support to the reconciliation committee according to the mechanisms agreed upon in the Cairo Agreement.
7. Forming a committee to address the issue of closed institutions and societies.
8. Addressing internal reconciliation issues according to the agreed mechanisms and enhancing confidence through addressing the issues of political detention, dismissed employees, security and safety, media freedoms, incitation, court decisions, and so on.
9. Preparing for the local, presidential, and legislative elections.

III: Security

Phased implementation

The proposed plan on the implementation of the security agreement under the May reconciliation deal, depends on the agreements reached among Fatah, Hamas, and other Palestinian factions and independent persons during the national dialogue rounds. According to the agreement reached by Fatah and Hamas after signing the reconciliation agreement in May 2011 in Cairo, the structure and functions of the security institutions will remain unchanged for one year (i.e. until after holding the presidential and legislative elections). If this agreement is implemented, it will lead to reinforcing the division and distrust in one of the most critical areas related to the national and people's security in both the West Bank and the Gaza Strip.

The proposed plan aims to build on the suggestions and ideas raised in several closed-room meetings, seminars, and workshops. In this context, the most successful events were the workshop held in Ankara during 20–22 May 2011 and another workshop held in Istanbul during 19–29 July 2011, both organised by CMI. During these workshops, there was a proposal to use a phased methodology in rebuilding and restructuring the security institutions in both the West Bank and Gaza Strip under a one-year timetable. This methodology aims to overcome the obstacles resulting from the division through developing effective mechanisms which include phased procedures for all security institutions. In addition, there will be mechanisms to ensure evaluation, monitoring, and accountability; enhance trust and security; and to ensure professional and responsible conduct. These mechanisms will be implemented with Arab, regional, and international support under full Egyptian supervision and follow up.

Moreover, this proposal is based upon the general principles agreed under the National Accord Agreement (2009, Cairo), which states that the Palestinian people still live in a national liberalisation phase. Therefore, security institutions in the West Bank and Gaza Strip should ensure national and public security by adopting the principles stated in this agreement such as drafting legislation for security institutions according to their duties and national interests; defining standards of restricting and unifying all security institutions; holding all security institutions accountable before the Parliament; denouncing political detention; considering communication with Israeli on information affecting the nation as a punishable crime; stopping security coordination with Israel as this contradicts the basic function of these institutions; maintaining confidentiality of state information; preventing external influence on security institutions; providing security institutions with their financial requirements; preventing any military structures outside the agreed institutions; and respecting the right of the Palestinian people to defend their country with security institutions.

The proposal in this document also takes into account the additions and modifications made and agreed upon on 26–27 April 2011 in Cairo, such as “establishing a Higher Security Committee, for which the Palestinian President will issue a decree, comprising professional officers with agreement by the stakeholders”, as well as the importance of enacting the Palestinian National Security Council Law by the Parliament. The discussions held in the Ankara workshop and among the participants who addressed the draft of this document during the Istanbul workshop, focused on six important areas to implement the security agreement during the proposed three stages, along with establishing a Higher Security Committee, for which the Palestinian president will issue a decree. These areas are:

1. Agreeing on a phased security plan by both Fatah and Hamas, in order to unify the security institutions, especially in Gaza, emphasising that the restructuring should include all security institutions in the West Bank and Gaza Strip.
2. Forming an expert group from Arab and international countries to support the Higher Security Committee in restructuring the security institutions in the West Bank and Gaza Strip.
3. Building trust between the security institutions and the public.
4. Providing appropriate training and development activities.
5. Focusing on the quality and professional standards of the security officers.
6. Promoting human rights and the rule of law.

According to this proposal, the necessary actions under the security plan will be implemented in three phases, each of which will last for 3–4 months. The smooth transition from one phase to another will accelerate the restructuring process. In this regard, it is preferable to take preparatory measures for each phase according to the above-mentioned areas, especially building trust, improving performance of security institutions in the West Bank and Gaza Strip, implementing unified training and development programs, and addressing overstaffing based upon professional standards in the West Bank and Gaza Strip.

The three phases are as follows:

Phase I: Integration and unifying of police and civil defence institutions.

Phase II: Integration and unifying of the national security institution.

Phase III: Integration and unifying of preventive and internal security institutions and resumption of the intelligence operations in the Gaza Strip.

Significant problems

The period of division has raised several problems, obstacles, and distrust that the proposed mechanisms and procedures in the three phases should focus on in order to ensure proper implementation of the security agreement. In this respect, it is necessary to do the following:

1. Develop professional standards and controls for the staff of security institutions in order to eliminate partisan affiliations. This should start with the leadership and proceed to apply to the other ranks.
2. Eliminate the negative image that has created a gap between the security institutions and public, especially with regard to human rights and the rule of law.
3. Regain confidence among the staff of security institutions in both the West Bank and Gaza Strip.
4. Develop the administrative and professional performance and build the capacity of security institutions.
5. Unify the judiciary and laws in accordance with the Amended Palestinian Basic Law.
6. Urge the Parliament to enact the Police Law and amend some articles of the Law of Service in the Palestinian Security Forces.
7. Gather reputable staff from police and civil defence through involving an appropriate mixed number of their staff for three months (Phase I) in preparation and training activities.

8. Gather reputable staff from national police through involving an appropriate mixed number of their staff for three months (Phase II) in preparation and training activities.

9. Gather reputable staff from internal and preventive security by involving an appropriate mixed number of their staff for three months (Phase III) in preparation and training activities. The same should be done with the staff serving in intelligence functions.

Legal reference

The security plan is based upon the Basic Law and other related Palestinian laws. As for the legal reference, it was agreed to adopt the Law of Service in Palestinian Security Forces No. 8 of 2005, which governs the functions and duties of the security institutions. Other related legislation includes:

- Article No. 84 of the Amended Palestinian Basic Law of 2003 on organising the functions of security institutions by law
- Presidential Decree No. 12 of 2002 on reporting of police, investigative security, and civil defence to the Ministry of Interior
- Law No. 3 of 1998 on civil defence
- Presidential Resolution No. 84 of 1994 on the Palestinian National Security Commission
- Law No. 17 of 1926 on establishing and defining bylaws and authorities of Palestinian police in Gaza governorates
- State Intelligence Law No. 24 of 1964 (effective in the West Bank governorates)
- Provisional Public Security Law No. 38 of 1965 (effective in the West Bank governorates)

Accordingly, security institutions belong to the Palestinian people, and they should be loyal to the nation, people, and political leadership. Through governing the organisation, reference and reporting of security institutions, the Law of Service in the Palestinian Security Forces aims to ensure the following:

1. Reinforce rule of law by all
2. Protect community security from illegal acts
3. Protect national security from any internal or external attacks
4. Protect the Palestinian political democratic system, as well as its geographic and national unity
5. Ensure there is no overlapping of powers and responsibilities of security directorates, while maintaining integration and compatibility in their duties.
6. Establish a higher reference to regulate public security policies
7. Organise rights and duties of Palestinian security institutions
8. Define the legal reference for security institutions

Duties of security forces

The rebuilding and merger process to be implemented during the three phases is based upon the reconciliation agreement, especially in terms of the number of security institutions under Article 3 of the Law of Service in the Palestinian Security Forces No. 8 of 2005. According to this article, the following security directorates and commission shall be established:

1. Internal Security Commission: Internal Security Directorate, Police Directorate, and Civil Defence Directorate
2. National Security Directorate and Palestinian National Liberation Army
3. External Security Directorate (general intelligence), which was put in parentheses because “any force, existing or new, shall be under one of the three forces” according to the law.

In addition, Article 10 of the same law states that “internal security is an organised security commission, which exercises its functions under the supervision of the Minister of Interior and is managed by the Director-General of Internal Security who issues the decisions necessary for the running of its affairs”. Therefore, under the reconciliation agreement, the duties of internal security will be as follows:

1. To maintain public order and ethics
2. To maintain the security of people and private institutions
3. To respect and implement the law
4. To conduct civil defence, rescue, and fire-fighting work
5. To combat spying activities inside the country
6. To protect the internal front from any external interference or threats
7. To enforce judicial rulings or any legal decisions issued by the competent authority in accordance with the law

Duties of the police:

1. To maintain order and security, and protect lives, property, and public ethics
2. To prevent and solve crimes and send their perpetrators to justice
3. To manage and protect reformatories
4. To implement laws, regulations, and orders, helping public authorities to conduct their duties in accordance with the provisions of the law
5. To monitor and control traffic
6. To protect legal gatherings and demonstrations

Duties of preventive security (internal security):

1. To combat spying within the PA territories
2. To track and prevent crimes threatening internal security in the PA
3. To track crimes targeting public institutions and their staff
4. To provide guiding information to the political leadership

Security and protection unit:

1. To protect officials during their travels in and outside the country
2. To provide protection to foreign delegations

3. To protect official meeting venues
4. To check safety of official vehicles
5. To escort conveys inside the country
6. To provide protection at national crossings and facilitate travelling procedures for the VIP
7. To provide safe accommodation for officials in case of emergency
8. To develop emergency plans for official government communication and transportation in case of emergency

Duties of civil defence

As defined under the Palestinian Civil Defence Law.

General intelligence

An independent organised security commission reporting to the Palestinian President under whom it exercises its functions. In addition, the president issues the decisions necessary to govern its affairs, provided that a law is issued to define the reference, functions, and specialisations of the general intelligence.

Duties of general intelligence:

1. To take necessary measures to protect the safety of Palestine
2. To track external threats that may affect Palestinian national security, such as spying, conspiracy, sabotage, etc.

3. To cooperate with counterparts of other countries to combat acts affecting common safety and security, provided that reciprocal treatment is applied.

National security An organised military commission exercising its functions under the supervision of the Minister of National Security and under the command of the General Commander who issues the decisions necessary to organise its affairs in accordance with the relevant laws and regulations.

Duties of national security

1. To protect state integrity and the safety of its territories
2. To protect the country from any external attack.

Philosophy (Doctrine) of the security institutions

It agrees with Article 84 of the Amended Basic Law of 2003, with the addition of the sentence “protect its legitimate rights”. This philosophy should be applicable to all security institutions in all circumstances, and should maintain the unity of the Palestinian people.

Foundations of the philosophy:

1. Full affiliation to the nation and legitimacy represented by the president, government, and parliament according to the Basic Law and other related laws, provided that the management of security institutions deals with the legitimacy (i.e. the president and the

government) as an executive branch and the parliament as a legislative branch in all circumstances

2. It is not permissible for the staff of security institutions to join any party, faction or movement during his/her service
3. Independence of the general commander of the national security forces, directors of security institutions, and central department directors from any tribal or partisan affiliations, and accountability for breaching such independence. In addition, all concerned parties should conduct themselves with full professionalism and patriotism.

Building confidence

Eliminating all the negative features which created a gap between the security institutions and the public requires providing the security staff with qualities that can be acquired by courses as well as experience. These qualities include: awareness of human rights and the rule of law, appearance, discipline, good conduct, integrity, justice, equality, firmness, self-confidence, role-modelling, compliance with the law, solidarity, sacrifice, human relations, respect, and professional behaviour.

Training and development

Training is composed of systematic procedures through which people can learn skills and acquire knowledge for certain purposes. In this case, the purpose will be the need for officers to be trained due to being out of action as a result of the division, as well as the need for integrating security institutions. To do so, the following should be done:

1. Select a large number of officers from both Fatah and Hamas and send them to Egypt or any other country offering assistance in order to take certain courses to overcome differences among them. Such courses should be regular and last for at least three months.
2. Conduct local and international courses in the fields of human rights and management, involving around 50 officers, provided that such courses are held at least bi-weekly.

By doing so, security staff will be prepared professionally to conduct their work.

Human resources

Upon forming the security committee responsible for implementing the security agreement, as well as the sub-committees (such as interview sub-committee, medical sub-committee, training sub-committee, pension sub-committee, end of service sub-committee, etc.), the following points should be taken into account:

1. Select the appropriate staffing under the structure of security institutions
2. Select other staff to conduct the following:
 - a. Forming units called “public service units”, comprising all officers and personnel who cannot be absorbed in the security institutions according to the structure, in order to protect state property, work with the Ministry of Public Works and Ministry of Local Governance (i.e. municipalities), and protect public institutions, schools, and borders.

- b. Transferring a number of officers holding university degrees in disciplines such as history, geography, Arabic, mathematics, and so on, to other ministries such as the Ministry of Education and Higher Education. In addition, the transferred officers should take courses in their new workplaces, provided that their previous years of service are taken into account.
 - c. In case of inability to absorb the other officers, their service will be terminated, and they will be paid end-of-service compensation according to the regulations and their years of service.
 - d. Determining the legal age of retirement after being examined by the commission examination committee.
 - e. Ceasing recruitment in security institutions for two years, except for necessary cases, in order to carry out the restructuring.
3. The Higher Security Committee will be responsible for setting the standards and criteria related to the occupational rights of staff of the security institutions (absorbing, retirement, military ranks, moving to civil jobs, etc.)

Measures related to security institutions

1. Establish a framework of cooperation and coordination between the three security institutions: national security, general intelligence, and Ministry of Interior bodies, so that they can perform their duties effectively without duplication or overlapping of duties.
2. Adopt a clear mechanism in issuing commands at the leadership and executive levels.
3. Develop security training for all staff in line with the duties of each institution, focusing on training processes which use modern methods of decision-making.

4. Emphasise that the efforts of security institutions are affected by the political situation in order to develop such efforts without deviation from their main duties.
5. Adopt professional competency in recruiting officers to leading positions, adopt a rotation method in leading positions, and adopt a system of providing officers with training before assigning them any managerial tasks.
6. Establish a centre for research and studies on security affairs, and issue strategic studies in order to protect Palestinian national security and to help leaders of security institutions solve related problems in the future.
7. Prevent leaders of security institutions from being involved in politics.
8. As mentioned in Paragraph 3 above, the Higher Security Committee will be responsible for setting the standards and criteria related to the occupational rights of staff of security institutions (absorbing, retirement, military ranks, moving to civil jobs, etc.)
9. Dismiss corrupted or suspected officials from the security institutions in order to regain confidence in the positive change of rebuilding security institutions.

Stakeholders involved in implementing the security agreement:

The Higher Security Committee is responsible for implementing the security agreement, while the institutions which should practically, legally, and politically support the phased implementation of rebuilding and unifying the security institutions in the West Bank and Gaza Strip include:

1. an Arab-Egyptian committee assigned to monitor the agreement's implementation
2. the Palestinian government
3. the Parliament
4. the Palestinian factions, Egypt, and the countries involved with the supervisory committee, with respect to providing political support to the implementation process.

Proposals to support the restructuring and unification process

1. Hold a specialised workshop outside Palestine on the security issue entitled "Sound Implementation Mechanism of Security Plan Under the Palestinian Reconciliation Agreement". Such workshop should be attended by:
 - 5 members of the Parliament representing the different political affiliations (i.e. two parliamentarians from Fatah, two parliamentarians from Hamas, and a fifth representing another bloc)
 - 2 security specialists
 - 3 Palestinian officers representing all security organisations
 - 2 officers from the Egyptian Intelligence Agency
 - a political analyst and specialised writer
 - legal and media professionals.
2. Form a committee to follow up implementation of the recommendations made in the internal and external workshops such as the Istanbul workshop, especially with respect to the following areas:

- a. Specialised courses for police officers in cooperation with the different stakeholders
 - b. Development courses
 - c. Courses on media and public relations with the public, public/private institutions, and human rights organisations, in order to promote the role of the Ministry of Interior
-
3. Raise public awareness via mass media of future risks, and of their role in dealing with the police
 4. Pay more attention to the media in order to promote the role of the police in providing security and protection to the people, and enhance self-confidence of policemen and confidence between them and the public.

VI: Palestinian political representation

The Palestinian national representation has become a pressing issue following the exclusion and marginalisation of national institutions at various levels, especially after the Oslo Accords. The representation issue needs to be addressed at different levels, not only on the national political level, but also at the level of Palestinian communities, the local levels, and at the level of associations and trade unions, as well as on the level of political organisations.

The role of the PLO has declined, to a point where it is no longer the Palestinians' all-inclusive organisation. It has dissolved into the Authority that has, with all its components, been under occupation. Therefore, there is an urgent need to re-mobilise the Palestinian liberation movement and rebuild its unified leadership on the basis of maintaining the natural and historical rights of the Palestinian people, and ensuring the achievement of their goals to end the occupation and to exercise their right to self-determination, which includes the right to establish an independent Palestinian state with sovereignty and with Jerusalem as the capital city, the right of refugees to return and compensation, and the right of the Palestinian people in the lands of 1948 to live in dignity and equality and to achieve their individual and national rights.

The concept envisaged below seeks to find a way to rebuild the institutions of the Palestine Liberation Organization on the basis of re-drafting the National Charter in a way that would respond to the experiences, lessons learnt and the developments that have taken place, and would reflect the common factors, preserve the natural and historical national rights, and meet the aspirations, interests, priorities and needs of the Palestinian people in different places. The PLO must be a national, united, partnership-based front. It should adopt elections for the National Council within the occupied homeland and abroad, on the basis of proportional representation law.

In addition, there is a need to conduct presidential and legislative elections at the level of the PLO, as agreed upon in the discussions that led to the signing of the Reconciliation Agreement, and based on a review of the Legislative Council past elections, as well as concurrence to hold local elections before the elections of both the national and legislative councils.

First: The National Council

The importance of holding elections for the Palestinian National Council becomes prominent in light of the recent political changes in the Palestinian arena, and the urgent need to rebuild the PLO as the sole legitimate representative of the Palestinian people. Among the most important problems facing the PLO is the absence of the democratic process, including the periodic elections for membership of the National Council, membership of the Executive Committee and membership of the Central Council. This situation led to a fatal defect in terms of legitimacy of the PLO representation, keeping membership without renewal, the lack of accountability of the Executive Committee and the rule of the "quota" system, which in turn led to the control of one party over the political decisions, the domination of political organisations in determining the membership of the National Assembly and the Executive Committee of the PLO, where its statute provides that the membership of the National Council shall last for three years provided that the Council holds an annual meeting. This led to the exclusion of the role of a sizable segment of the Palestinian people and to the loss of any effective role played by the Organization and its institutions on the ground.

To re-legitimise the PLO, a new system must be developed, allowing for the representation of Palestinians wherever they are and securing the representation of all their interests and aspirations without exception. Ensuring periodic elections—after having consensus on their function and regulating relations among the competing forces and parties—is the best way to end the division and unify the national efforts.

In the light of the discussions held in the two workshops held in Ankara and Istanbul, as well as in other meetings, there is almost a consensus on the following principles for the next National Assembly elections:

- The national representation within the PLO should be on three levels, namely: the National Council of full membership, the Central Council, and the Executive Committee. The adoption of the elections in the rebuilding of national representation in accordance with the principle of proportional representation and an approved law would ensure decisions are representative of all Palestinian people. To ensure the effectiveness of the National Council, it is proposed to review the number of Council members so as not to exceed, say, three hundred (300) members, and the number of members of the Executive Committee should be 15.
- The term of the National Council should be four years. It should convene periodically at the invitation of its Chairman at least once a year.
- Proportional representation should be adopted as the basis for the election of members of the Council (taking into account the representation of all Palestinian communities, or not adopting decisions that conflict with their views and aspirations if not possible, for one reason or another, to have periodic elections). The National Council shall elect the Executive Committee provided that it reflects the representation in the National Assembly.

- The Executive Committee shall elect its President. The Executive Committee members shall be dedicated entirely to this task. The Chairman of the Committee or any member thereof may not occupy any other official positions.
- There should be a distinction between membership of the Legislative Council (in case of a continued role of the Palestinian Authority) and membership of the National Council by virtue of differentiation of their respective tasks.
- Membership of the National Council should primarily be determined through direct election. However, the disbursement of the Palestinians over different countries may require a diversity of ways to vote and develop a formula for each pool. For example, there might be election via the Internet, and the agreement with the Arab countries having Palestinian communities, or through popular conferences, or otherwise.
- The Central Election Commission, in its new form and according to the principles and mechanisms established by the provisional leadership, shall supervise and manage the election process of the National Council. The same Commission, or a sub-committee, could supervise the Legislative Council elections and local elections. It should undertake to prepare the electoral register for all Palestinians who are entitled to vote. It should begin work immediately. For the purposes of this register, a Palestinian shall be defined as stated in the National Charter and the Statute.
- The Arab League and the local and international control institutions shall monitor the National Council elections to ensure free and fair elections and the integrity of the results.
- We recommend holding elections this year 2011 for all trade unions, frameworks and mass organizations, in order to end the division, strengthen the Palestinian internal democratic life, and contribute to the democratisation of Palestinian life in general.

- The voting margin shall be determined at 2% of voters. However, the determination of a ceiling for representing any group in the National Assembly is a point of contention, as such determination of a ceiling for a certain group may contradict with the principles of democracy and explicitly misrepresent the will of Palestinian people everywhere. However, this may represent a necessity in light of the stage of national liberation and prevent domination of the Organisation and its decisions. Therefore, the provisional leadership shall decide on this topic within the principles and criteria that will determine the electoral process, to ensure the maintenance of the PLO as a body with the largest possible number of political forces, sectors, institutions and national events.

Second: The Legislative Council

Wisdom calls for a review of the experience of past Legislative Council elections and the electoral system and its role in creating the divide. It is necessary to extract measures, procedures and concepts about why and under what terms and conditions the elections are held, so as to avoid them leading to individuality, and to avoid placing the elected authority under the extortion of the occupation authority, especially in light of the negotiations deadlocked and the continued siege of the Gaza Strip. The process of elections, the electoral system and the timing of elections should serve the national unity (necessary at the stage of national liberation), serve the process of struggle, and inhibit any tendency of political individualism.

The following are steps that should be adopted by the Legislative Council following a review of the electoral system and function at the current stage:

- Election of a Presidium composed of a chairman, two assistants and a secretary, taking into account, if possible, representation of more than one group in the Presidency.
- New Legislative Council elections to include both the Gaza Strip and the West Bank (including Jerusalem). It goes without saying that these elections will be free and fair, and their function and the function of the Palestinian Authority at this point should be agreed upon in advance.
- Revision of all laws, decrees and resolutions approved during the period of division in the West Bank and Gaza, taking into account their adherence to the Basic Law and other laws, and ensuring the uniformity of the law to safeguard the rights of citizens.
- Amending the election law so that the next election should be according to the electoral system agreed upon by the political forces, although some participants in the discussion preferred the adoption of full proportional representation for both the National and Legislative Council elections.

Third: local and municipal elections

The importance of municipal elections is in their role in facilitating people's daily life and improving the direct services provided to citizens. They also represent one aspect of reform and control over public funds within the limits of their jurisdiction.

To ensure the democratic process, it is proposed that the municipal and local elections be held by agreement prior to the National Council, the presidential and the Legislative Council elections, be based on proportional representation, and be held simultaneously in the West Bank, including Jerusalem, and the Gaza Strip.

V: Judiciary, rule of law, and protection of human rights

The judicial system is one of the most important pillars of justice and the rule of law. It is the principal safeguard for human rights and against the violations of the executive authority and individuals alike, as well as the keeper of law and the constitutionality of legislation. Therefore, it is necessary to have an integrated judicial system to ensure access to justice, equity and protection of public and private rights and freedoms. The judicial system here is meant to be in the wider context, which includes not only courts, judges and the Supreme Judicial Council, but also the staffs of the courts, lawyers, and the police when they exercise the role of the judiciary, and public prosecution.

Based on this, and due to the impossibility of ensuring the rule of law and bringing about justice without the effectiveness and independence of the judiciary, efforts must be made to secure the success of this system. This requires a set of principles that should build up toward the desired goal. To ensure the desired end of access to a genuine national reconciliation on the one hand, and can be implemented on the other hand, there must be agreement on clear terms of reference, given the various disputes. It also ensures that any reconciliation of disputes would not be subject to the narrower interests, be they party-related or individual, only, as may be prescribed to complex legal situations. Therefore, the Basic Law must be adopted as a reference to any understandings reached, where the provisions of the Basic Law must be dealt with as constitutional bases with superseding reference, not to be violated, thus avoiding damage to the principle of the rule of law from the beginning.

Judiciary:

The Impact of the Division on the Judicial System

In December 2007, after Hamas took over the Gaza Strip, and following the refrain from work by judges, prosecutors and the judiciary staff who were working before the control of Hamas, the movement, represented by the government in Gaza, established the Higher Judiciary Council and appointed a Chairman and new judges and prosecutors.

At this time, orders were issued from the Supreme Judicial Council to judges, prosecutors and all employees in the judicial system to suspend work "until things return to the old situation." The Bar Association also issued a decision to halt the work of lawyers before the courts and related activities in the Gaza Strip. This situation lasted for almost six months.

The Supreme Judicial Council issued a decision to the citizens not to file any case to the judiciary in the Gaza Strip and consider the judicial system there as illegal and unconstitutional. It was announced that any decision issued by the Council there is null and void and cannot be applied. However, the courts in the Gaza Strip continued their work, new judges have been appointed, and citizens have filed suits before them.

The Legal Framework of the Supreme Judicial Council

Article 100 of the Palestinian Basic Law provides for the establishment of a Higher Council of Magistracy. The law specified its composition, terms of reference and rules of action. It is consulted about draft laws, which regulate any affairs of the judiciary, including the Attorney General. The Palestinian Authority shall provide an independent budget for the Council.

In 2002, the Judicial Authority Law No. (1) was issued and entered into force on June 14 2002. This law put an end to the duplication existing then in the management of the judiciary. The old laws pertaining to the judiciary system were repealed. Management of the judiciary has been entrusted to the president of the Supreme Judicial Council, who is also the president of the Supreme Court. He has been granted the power to manage the judiciary authority, including the appointment and promotion of judges, making jurisdiction formations such as transfer and secondment, organising the work of the courts and dividing them into specialised departments, and training of judges and other relevant judiciary issues.

For the application of Article (37) of the Judicial Authority Law, the President on May 14 2003 issued Presidential Decree No. (8), providing for the formation of the permanent Supreme Judicial Council, which consists of 9 members whose status shall be determined by the law. This was very important for the judiciary, especially for the unification of management, promotion of independence and reinforcing the principle of separation of powers.

This achievement, which was considered an important step forward, and which greatly enhances the principle of the rule of law and the administration of justice, must be protected and promoted, and thus the output of the negotiations on the application of national reconciliation must not undermine it in any way.

Recommendations:

- Unifying the judicial system to ensure its independence in accordance with the law, particularly relating to the appointment of judges and Supreme Judicial Council issues.
- Coordinating between all institutions of the Palestinian judicial system (Supreme Judicial Council, Attorney General, the High Judicial Institute, Ministry of Justice, Ministry of Interior, Bar Association, and human rights institutions).
- Complying with the requirement of not presenting civilians before military courts or the military prosecutor, and not accepting the applicability of any laws not in force by the regular courts in the territory of the Palestinian Authority, where everyone has the right to be tried before an ordinary court, that is, the regular courts or tribunals using prescribed legal procedures. Judicial bodies that do not duly apply the prescribed legal procedures and measures may not be established to remove the jurisdiction enjoyed by the ordinary courts or judicial bodies (such as military courts that prosecute non-military civilians in accordance with the Revolutionary Penal Code of the Palestine Liberation Organization, which is outside the Palestinian legislation applicable in the Palestinian Authority), with the necessity to enact a special law for areas of the Palestinian Authority to try civilians in relation to the security cases, such as collaborating with the enemy and foreign parties.
- Deciding on the issues raised to the judicial authority without bias, on the basis of facts and in accordance with the law, without any

improper changes or influences, or any inducements, pressures, threats or interferences, whether direct or indirect, from anybody or for any reason.

- There is a need for the Legislative Council, when in session according to the reconciliation agreement, to consider any legislation enacted, amended, or issued in the form of decrees during the period of division.
- No intervention may be allowed in the judicial proceedings, particularly with regard to the intervention by police and security services (some forces get involved in solving the problems according to their own vision, even with cases already filed to the judiciary).
- Restructuring of the judicial system (civil and religious) in a transparent and impartial manner in accordance with the law, securing the promotion of the principle of independence of the judiciary and non-interference in their work.
- Providing adequate resources to enable the judiciary to properly and independently perform its functions, so as to ensure the advancement of the judiciary's situation, particularly in the Gaza Strip. Currently, courts and prosecutors' premises, security measures, and the services supplied to lawyers and judges do not provide suitable conditions for work.
- Considering the cases where citizens have been seriously harmed as a result of the division of the judiciary, and putting in place an agreed mechanism to address the allegations of citizens who claim they have been affected by this state of division that has damaged the judicial system.

Human Rights and the Rule of Law

The principle of the rule of law means the subjugation of all individuals and institutions to the law, and that no one is above the law – rulers or the ruled. All people are subject to the rule of law in their rights and duties. In this context, the Palestinian Basic Law provides that the principle of the rule of law is the basis of government in Palestine. All authorities, agencies, bodies, institutions and individuals are subject to the law.

The period of division has witnessed serious violations of human rights and the rule of law. The following are the key recommendations in this regard:

- Enable the Legislative Council and its committees to exercise their jurisdiction with regard to legislation, control and accountability, as provided for under the Basic Law.
- We should not wait for reconciliation to put an end to the violations committed, which are fuelled by the existing division, but rather take immediate actions to build trust, which will necessarily create an atmosphere that encourages reconciliation. To achieve this, it should be possible to start immediately the release of detainees, especially those who are considered political opponents—regardless of disagreement over the profiling—and to stop summoning them for investigation, to lift restrictions on political opponents, especially regarding their right to obtain passports, and to ensure the freedom of movement and the freedoms of expression and of peaceful assembly. Among the important issues, too, are the ending of torture and ill-treatment in places of detention; the suspension of the principle of security; the reopening of associations and institutions that have been

closed in violation of the law, the spreading of freedoms (particularly the freedom of expression), and the facilitation of the work of the media.

- Form a committee by agreement, the members of which are characterised by integrity, impartiality, and expertise in law and human rights, for the development of mechanisms to remove the effects of violations resulting from the division, and address the cases mentioned above.
- There is a problem with the laws issued during the period of division, when the President issued decrees of laws; laws were modified in Gaza and regulations implementing the laws were approved. To solve this problem, a review is required of all such laws and procedures to assess their compatibility with the Palestinian law .
- Form a technical independent committee in consensus with all parties to undertake the review.
- Provide an opportunity for those affected to resort to the judiciary to achieve justice and remedy, according to what is agreed upon within the framework of the social reconciliation committees.
- Legal references related to the occupied Palestinian territories must be emphasised so as to maintain their legal status, invalidate any actions taken or to be taken by the occupying authority against the Palestinians, as individuals, people, land and property, ensuring no repeat of what happened in the Goldstone Case, and establish effective and professional management in the cases related to war crimes.