Arab Reform Brief

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Palestinian Reconciliation is Delayed and Tied to the Fate of Negotiations

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Procedural issues are overwhelming the Egyptian document for Palestinian national reconciliation. The document disregarded the content of the National Charter and the political programme of the Palestinian Liberation Organisation (PLO) and the government, for example, which represents the lowest common denominator, and the formation of a national unity government or national accord during the transition period. The national unity government is supposed to assume its role at the moment a reconciliation agreement is signed, and terminate with the legislative and presidential elections, to be held in conjunction with elections to the Palestinian National Council (PNC), which are to be conducted on the basis of full proportional representation. Can any agreement on national reconciliation omit to specify a concrete stance on the aforementioned issues? Must an agreement specify a stance on negotiations, the resistance, and whether or not the Palestinian Authority (PA) should remain as it is, be dissolved, or be modified to assume a position as one of the instruments of the PLO?

From October 2009, when Egypt handed the Egyptian reconciliation document to Fatah and Hamas for signature, to the eve of Eid ul-Fitr some weeks ago, reconciliation has stalled because of Hamas's refusal to sign before numerous amendments are made to the document, on the grounds that it differs from what was originally approved. In response, Fatah and Egypt have insisted that Hamas sign the document first, and that its comments be taken into consideration during implementation. They have also denied Hamas's claim that the document that presented differed from the original draft.

The crux of the matter is that Hamas's comments, notwithstanding their importance, are procedural in nature and relate to the establishment of the Supreme Elections Commission, the Elections Tribunal, and the

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Higher Security Commission by national consensus, as well as the role of the PLO's provisional leadership framework, the creation of which was agreed at the comprehensive national dialogue sessions in Cairo. Hamas is demanding that the decisions made during these sessions be effectual and inviolable. Despite their importance, these observations neglect the fact that the Egyptian document has been engulfed by merely procedural matters.

However, in this context we are sorely mistaken if we believe that it is these comments by Hamas that are preventing it from signing the Egyptian document. The real issue is the belief that the objective of the Egyptian document is to use elections as a means of resolving the conflict and the Palestinian division, and addressing the effects of the coup. However, holding elections is inopportune for the Hamas movement, given that they would be conducted in the shadow of the siege, hunger, and boycott, and the non-recognition of Hamas by most Arab states and most states in the world. This fact has prevented it from governing despite its victory in the legislative elections, when it formed its government single-handedly following the elections of early 2006, and when it headed the national unity government that was formed following the Prisoners' Document and the signing of the Mecca Agreement.

If Hamas were to agree that elections are the only mechanism for resolving the dispute and ending the division, it would lay itself open to a potentially major loss by departing from government from the same door through which it entered: the ballot box. In such case, Hamas would become a minority with the power to oppose but not obstruct the government. It has to accept this situation, or else choose to put itself out of power and return to the situation it was in prior to the decision to participate in the PA and the PLO following the Cairo Declaration of March 2005.

The choice before Hamas if it wishes to participate in the Palestinian political regime (the PA and the PLO) is really whether to agree to the terms of the Quartet, which include recognising the existence of Israel, abiding by the agreements signed between Israel and the Palestinians, and renouncing violence and terrorism (i.e. resistance).

If Hamas were to accept these conditions without gaining anything in terms of the acknowledgement of Palestinian rights, it would be in exchange for mere recognition of itself as a major Palestinian player. Hence it would have forsaken its agenda and spirit to achieve a factional self-interest, which would cause it to collapse and be abandoned by the Palestinian people. If it does not agree to these terms, which are unfair and unjust, then it is left with accepting the role of junior partner (an opposition representing the minority), unable to exert a decisive influence over the course of government and the Palestinian leadership. Thus what is demanded of Hamas is to renounce its coup and hand power in Gaza to the legitimate authority as recognised in the Arab world and internationally, and the most it can aspire to is accepting the role of minority without even a guarantee of being an active partner in the West Bank or the PLO.

Palestinian reconciliation is an Israeli matter…

No sensible person can ignore the fact that the Israeli occupation is the main player in the West Bank. Thus if Israel does not approve of what is agreed among the Palestinians under Egyptian and Arab auspices – in particular what is agreed between Fatah and Hamas, and especially in relation to the composition, mode of leadership, and organization of the security apparatus in the West Bank – then it can use its veto, either by applying pressure to preclude a Palestinian-Palestinian agreement, or by preventing its implementation on the ground.

Thus it is reasonable to assume that the reconciliation agreement would include the restructuring of the security apparatus in the West Bank and Gaza Strip in order to include Hamas. However, such an agreement will not see the light of day due to Israel's opposition.

The above, and much else, illustrates that Palestinian national reconciliation is not a strictly internal Palestinian affair, but also an Israeli affair. Israel sowed the seeds of division and is constantly trying to feed and deepen it, since Palestinian division provides it with invaluable advantages (Shimon Peres, the president of Israel, counted the division as one of the three historic achievements of the Zionist movement, on par with the establishment of the country and the war of June 1967).

… as well as an Arab, regional and international matter.

Palestinian reconciliation is also heavily influenced by Arab, regional, and international factors. As a result of the American bias towards Israel, both the previous and current American administrations have stipulated acceptance of the terms of the Quartet as a condition for the international green light for a reconciliation agreement. These terms are not designed to facilitate a settlement or reconciliation; rather, their primary objective is to isolate Hamas, help topple it, and deny it any major role. In addition, the fact that the Arab world is split along two axes, with the Palestinian sides each aligned to one of these two axes, means that reconciliation requires an Arab resolution, as well as an international resolution. Moreover, the ability of Iran first and foremost, followed by Turkey and other countries with interests in the region and influence in international decision-making, to impact the course of reconciliation on the strength of their links to one or another of the Palestinian parties, makes it an Arab, regional, and international matter.

The Palestinian division and the blockade have made Hamas more reliant on Iranian, Syrian, and Qatari support, which is not – like any support provided by the world's states – a simple act of charity but a political act with political objectives. As such, there cannot be reconciliation if it does not satisfy Syria, Qatar, and Iran. And these countries will not be satisfied unless their own objectives and special interests are met. The Palestinian division has also made the PA dependent on the Arab and international support it receives, which it fears may cease were it to agree to reconciliation without adopting the conditions of the international Quartet. As the foregoing demonstrates, the Palestinian division developed because of local, Israeli, Arab, regional, and international reasons and factors, and their agreement or consent and will are required if it is to be brought to an end.

Furthermore, reconciliation is tied to the fate of the West Bank and the fate of the current settlement process, which has sought for decades, without success, to achieve a signed Palestinian-Israeli, Israeli-Syrian, and Lebanese-Israeli peace accord. There can be no reconciliation if the results of negotiations are unknown, and if it unclear whether or not they will lead to a settlement and whether they will reflect the Israeli solution, as expected, or will be a balanced settlement.

The motives and incentives of the Hamas movement

If there were a will to reach reconciliation among the warring Palestinian parties, either at their own initiative or due to political and popular pressure (from the various active forces), it would be possible to imagine reconciliation without the approval of all the international actors involved. However, the

lack of such self-will among the Palestinian parties – and the lack of a third popular political movement capable of exerting pressure on the two warring parties and transcending, or even balancing out the pressures being exerted on them by their allies and Israel – means that reconciliation has been delayed until further notice. Further, because each Palestinian party wants reconciliation to be on its own terms, it has not been achieved.

Significantly, the Hamas movement originated outside the PLO and presented itself as an alternative. It attempted to create a framework that differed from that of the PLO in terms of its ideology, agenda, goals, and alliances. However, Hamas has a dual identity, both a part of the Palestinian national movement and an extension of the global Muslim brotherhood movement. There is therefore a contradiction between its national role and its "Islamic" role. And if it does not define itself as a movement that is Palestinian first and foremost, and Arab second, in striving to fulfil the Palestinian agenda, then it will be unable to acquire the legitimacy it seeks. When Hamas chose to participate in the PLO and the PA, it did so because it had come up against an Arab and international resolution to prevent the formation of a second or parallel PLO. It therefore decided to enter the PLO and sought to establish its control over the organisation and its leadership from within, rather than working from the outside and attempting to form an alternative, as before. Its decision followed its approval of the Cairo Declaration in 2005, which set forth the steps and stages for participating in the PA through legislative and local elections, and provided for the restructuring of the PLO to include the various Palestinian factions. However, the implementation of the declaration as it relates to the PLO has not been completed, and the provisional leadership framework stipulated in the declaration, which was supposed to reform, activate, and restructure the PLO, has not been convened. Hamas expressed its willingness to enter the PLO when it gave its approval to the National Accord document, which affirmed the status of the PLO as the sole representative of the Palestinian people.

Hamas wagered on the failure of the Oslo Accords, the negotiations, and the peace process to achieve Palestinian national goals, just as it wagered on the influence of the bad and corrupt example provided by the PA and the absence of Yasser Arafat, the historic leader of the Fatah movement and the modern Palestinian national movement, with his vast leadership qualities and capabilities. It also wagered on the disputes that broke out between the various wings of the Fatah movement, which weakened the movement and allowed Hamas to take on the leadership of the PA and the PLO quickly.

Hamas is in the midst of an internal conflict, not only regarding its standing as a Palestinian movement and as an extension of the Muslim Brotherhood movement, but also over whether as a movement it is closer to moderation and secularism or an extremist Salafi movement that believes itself and its government to be divine, that does not recognise pluralism or the transfer of power, and for which democracy was a marriage for one time only, the time that allowed it to come to power by election. Hamas is wavering between Erdogan's Turkey and the Taliban's Afghanistan. And until this matter is settled, the Palestinian situation will be left facing a difficult test.

On the one hand, Hamas has come very close to accepting the political programme of the PLO, the programme of a state within the borders of 1967. After the latest Israeli war on Gaza (in late 2008 and early 2009) it began to enforce a truce with Israel without signing an agreement with it, in order to demonstrate that it had begun to focus on maintaining power in Gaza above anything else. It is also seeking to prove

to the United States and the world that it is a reliable party. It announced its willingness to give President Abbas back the mandate to negotiate with Israel on behalf of the Palestinians as part of any new Palestinian agreement, as stipulated in the Prisoners' Document, as long as what was agreed upon is submitted to popular referendum. Hamas has tried to show that it is capable of adopting democratic positions, as reflected in the agendas of its unilateral government and the national unity government. On the other hand, however, Hamas assumed power single-handedly in Gaza, excluding even the forces and parties that are allied to it and that fall within the ambit of political Islam, such as the Islamic Jihad. Hamas has also taken numerous steps towards the Islamisation of society, for example by imposing the veil on school girls and female lawyers, prohibiting women from smoking *nargila* (hookah), and banning mixed parties on the grounds they are a sign of moral decay. It has even resorted, directly or indirectly, to burning or closing down a number of venues used for parties, exhibitions, and summer camps. Hamas also proceeded to issue laws via members of Hamas in the Palestinian Legislative Council (PLC), despite the fact that such an act is clearly illegitimate and unlawful, as the PLC can only convene in law by summons and in the direct presence of a majority of its members. And although there are disputes within Hamas, both between the movement and its government and within the government, over the Islamisation of society or the appropriate time for it, such disputes represent an intensification of the conflict over its identity that Hamas entered into once it entered the Palestinian political regime.

In light of the above, Hamas is not very enthusiastic about reconciliation without a guarantee that it will be able to use it as a platform from which to lead the Palestinian people. Therefore it is behaving, as more than one of its leaders has stated, as if "a bird in the hand in Gaza is worth two in the bush in the West Bank." Thus it welcomed the establishment of a factional agreement committee (primarily Fatah-Hamas) to take charge of managing the Palestinian division during the transition period, from the moment of the signing of a reconciliation agreement until elections are held.

The factional committee: Living with division

The idea of a joint factional committee, as provided in the Egyptian document, emerged following the failure to reach agreement during the Cairo Dialogue on the formation of a national unity government. It developed against the backdrop of a dispute over the government's political agenda, between those who want to stick to the agreements signed with Israel and those who refuse to do so and agree to pay lip service to these agreements without abiding by them.

In this context, the factional committee can be regarded as a form of recognition of and way of living with division, and the beginning of efforts to manage it rather than bring it to an end. I do not think I am mistaken to say that Hamas would have signed the Egyptian document, or would sign it now, if it had avoided setting a close deadline for elections. Hamas needs time to put its affairs in order, regroup, regain its popularity, break the blockade, rebuild Gaza, finalise a prisoner-swap deal, and gain Arab and international recognition for itself as a major player.

Without recognition of Hamas as a major player, and regardless of the outcome of elections that may be held in the future (and whether or not it wins them again, which is unlikely but not impossible), we will return to the same point we got stuck at following its victory in the last elections. Hamas wants to ensure that the results of any elections will be

respected before it takes part in them. And the Palestinians alone cannot guarantee that, despite the importance of Palestinian guarantees. It also needs the international community, under pressure from the Arabs, since it is the international community that can compel Israel to allow the Palestinians to conduct free and fair elections and respect their outcome – instead of returning to the blockade, boycott and the arrest of parliamentarians and ministers – should Hamas win for a second time.

Hamas began to accept the idea of reaching Palestinian-Palestinian understandings in February 2010, during a visit by a delegation of independents led by Munib al-Masri at the height of the crisis over the signing of the Egyptian document. But it insisted that these understandings should be regarded as part of and an addendum to the Egyptian document, and that they be guaranteed by Egypt and the Arab League. Hamas made the same demand in the document drafted by Amr Moussa during his visit to Gaza in June 2010, which also included its agreement to form a technocrat government to comprise all parties. Hamas's position then evolved after the presidential delegation established on 5 June 2010 by President Abbas – which was chaired by Munib al-Masri and included a number of representatives of PLO factions, five members of the Executive Committee, and a number of independent national figures – proposed the idea of reaching Palestinian-Palestinian understandings to be guaranteed only by the Palestinians. According to this proposal, the Palestinians should adhere to these understandings during implementation, and they should not to be considered an addendum to the Egyptian document or be signed by Egypt or the Arab League.

Egyptian fickleness

Egypt opposed the idea of reaching understandings before Hamas had signed the Egyptian document; however, its position shifted with the meeting held in Mecca on the eve of Eid ul-Fitr between Minister Omar Suleiman and Khaled Mashal, head of the political bureau of Hamas. The meeting concluded with an agreement that Suleiman would contact President Abbas to convince him to send a delegation from Fatah to Damasus to meet with a Hamas delegation in order to reach Palestinian-Palestinian understandings, after Egypt withdrew its reservation to the latter - and that is what happened. A meeting was held between delegations from the two movements in Damascus, following which a joint statement was issued confirming their agreement over a number of points. It also stated their intention to continue the dialogue at a later date, and that what was agreed would be considered binding only upon signature of the Egyptian document.

What was behind this shift in Egypt's position? Was it a domestic Egyptian matter, related to the approach of presidential elections in Egypt amid competition over who is to succeed President Mubarak and whether or not he will resubmit his candidacy? Or was it the result of an Egyptian-Saudi agreement, perhaps with American approval, designed to bolster President Abbas in the negotiations with Israel, which face major Palestinian opposition even within Fatah and the PLO, due to the intransigence of the Netanyahu government?

The revival of reconciliation helps Abu Mazen appear as someone who has other options and is capable of achieving reconciliation, which in turn helps undermine Israel's excuse that the Palestinian President is weak since he does not represent all the Palestinians and is not in control of the Gaza Strip. Is it a purely tactical matter designed to improve the conditions for the negotiations, while the fate of reconciliation will become apparent before or after the publication of this document, when the fate of

the negotiations and the prospects of national reconciliation are announced? A month after the recent Arab summit held in Sirte, it will become clear whether the negotiations are heading for collapse or whether they can be resumed on the basis of a partial or temporary settlement freeze. All options remain open, though it is likely that negotiations will be resumed and efforts at reconciliation will stall.

Fatah has been positive from the outset about reaching Palestinian understandings. However, it does not want to anger Egypt, which was opposed to the idea as it thought it would impair its own role and status, having invested much time and effort in the proposed document but not succeeded to effect reconciliation. It does not want the document to end up in the graveyard of endless amendments and observations.

The task of overcoming the obstacles to the signing and implementation of the Egyptian document has become imperative for the resumption of dialogue. However, the signing of the document – even if it were to take place following an agreement on reaching internal Palestinian-Palestinian understandings that are binding on implementation – does not mean that the road to reconciliation will be clear. Indeed, implementing the Egyptian document may prove even more difficult than signing it.

The Egyptian document, as stated above, sidestepped the issue of the political agenda of the government and the PLO, as well as the issue of the formation of a national unity government or national accord during the transition phase, which in turn makes the possibility of reaching a genuine reconciliation extremely doubtful. What sort of reconciliation can be achieved if it does not address these issues? Such reconciliation, if achieved, would be no more than a new and temporary truce, soon to collapse, or else a cover for the reality of living with and managing the ongoing division, instead of tackling it and bringing it to an end.

Conditions for achieving national reconciliation

Until such time as national reconciliation is achieved, there is a need to reach agreement over a single, integrated package composed of the following elements:

- First, agreement over a new national charter to include fundamental national rights and goals and the main forms of struggle with which to achieve them, as well the rules that govern joint work within the framework of the political regime. Such a charter is to serve as a national minimum standard that cannot be conceded, and provide a formula for the reunification of the Palestinian people both within its homeland and abroad, and safeguarding of its rights.

- Second, agreement over a political agenda for the next government, be it during the transition phase or after elections, to safeguard national rights and interests, including the rights to self-determination, return, freedom, and independence. Such an agreement should gain international approval, since the PA was the outcome of a Palestinian-Israeli accord that enjoyed Arab and international support and receives enormous Arab and international assistance. Therefore it cannot continue to function unless its government is internationally accepted. And by no means does such approval have to come through agreement to the terms of the Quartet. It could also come through the adoption of international law and United Nations resolutions, and insistence on the application of the principle of reciprocity in international

law, which exonerates one party under contract with another party from the obligations stipulated in the agreement signed between them if the other party fails to abide by it.

- Third, to maintain, reinforce, and strengthen the democratic foundations of the Palestinian political regime, in order to ensure true political partnership, the entrenchment of all forms of pluralism and implementation of the principle of the peaceful transfer of power. A minimum level of national consensus should also be preserved, commensurate with the fact that Palestine remains under occupation and is in a process of national, democratic liberation. General human rights and freedoms must be guaranteed, together with the rule of law, the principle of transfer of power, and the adoption of periodic elections at all levels and in all local and public sectors.

Without a national consensus that embodies the unity of the people and the leadership, and which is based on an approved national programme representing the lowest common denominator, there can be no democracy, freedom, rule of law, or genuine reform.

Any reconciliation, if it is to succeed and endure, must incorporate the pillars of the supreme national interest in a new national charter, as well as the national agenda, political partnership, and the democratic foundation of the regime. It must be based on what was agreed upon during the various rounds of dialogue, from the Cairo Declaration of March 2005, the National Accord Document of 2006, the Mecca Agreement and unity government agenda of 2007, and the Egyptian document of 2009. It will thereby develop the elements of the National Agreement in reaction to recent experiences and developments, to allow the obstacles that have thus far prevented the achievement of national reconciliation to be overcome.