POLICY BRIEF | POLITICS

Neopatrimonialism, Corruption, and the Palestinian Authority: Pathways to Real Reform

By: Marwa Fatafta · December, 2018

Overview

Palestinians recently ranked corruption as the second largest problem they face after the economic crisis – higher than the Israeli occupation, which ranked third. Indeed, Palestinians generally view Palestinian Authority (PA) officials as a self-serving, elitist group disconnected from the Palestinian national struggle and the daily sufferings of the people. Such perceptions are fostered by the failure of the Oslo Accords, the death of the Palestinian statehood project, and the continued fragmentation of political leadership in the context of Israel's ongoing oppressive occupation and its violations of Palestinians' fundamental rights.[1]

Despite this dissatisfaction, there has been little change in the last two decades, whether at the top leadership level or within the ranks of PA institutions. What remains a constant are the "old guards" maintaining a tight grip on power, rampant and systemic corruption, and the alienation of Palestinians from participation in decisions that impact their lives and future.

The present reality of the PA in no way resembles the kind of Palestinian government promised since the heady years of the Oslo Accords. As Nathan Brown observed, "Palestine is, in short, a model liberal democracy. Its most

significant flaw is that it does not exist." This discrepancy between envisaged democratic leadership and reality can be explained by the neopatrimonial nature of the Palestinian political system. Neopatrimonialism is a hybrid model in which state structures, laws, and regulations are formally in place but overridden by informal politics and networks of patronage, kinship, and tribalism. Instead of being organized according to merit, public function, or administrative grades, a neopatrimonial regime finds its glue in bonds of loyalty to those at the top of the political hierarchy.

In an institutional context in which Palestinians have no mechanisms to hold their leaders accountable, Palestinian neopatrimonialism has created a situation impervious to serious change in leadership or political system. Though the PA, after the onset of the Second Intifada, began to make attempts at reform, Palestinian political structures have remained corrupt and captured by one political faction, Fatah. The assets and resources of the Palestine Liberation Organization (PLO) and the PA have been channeled toward serving the interests of the few at the expense of the majority.

The question of what can be done to remedy this crisis cannot be answered without understanding the nature of Palestinian political corruption and how it has led to the failure to serve the Palestinian people and rendered any attempt at reform useless. This policy brief examines Palestinian neopatrimonialism and corruption through a consideration of PA overreach, patronage practices, and collusion with Israel, as well as pressures from the international community. It ultimately proposes avenues for genuine reform, with the goal of building a truly democratic leadership and a governance system that represents all Palestinian people.

The PA: Overstepping its Mandate

A Weakened Legislature and Judiciary

The two main Palestinian political bodies, the PLO and the PA, in principle should be democratic and representative as set out in the Palestinian Basic Law and the PLO's constitution. However, the PLO has not only failed in the mission it carries in its name, but has also failed to act as the "sole, legitimate representative of the Palestinian people." The PLO's weakness can be seen in the fact that its legislative arm, the Palestinian National Council (PNC), convened in May 2018 after 22 years of inaction. The absence, during which the Oslo "peace process" proved a total failure, demonstrates how the Palestinian leadership impeded the PLO from fulfilling its duty as a representative of Palestinians inside and outside the occupied territories.

The PA, on the other hand, has overstepped its role as an interim government as stipulated in the Oslo Accords, and has increasingly become an authoritarian governing force in the West Bank. Hamas has followed suit in suppressing political dissent in the Gaza Strip.

PA President Mahmoud Abbas enjoys almost absolute power as the highest executive authority – an arrangement inherited from former President Yasser Arafat, who is often credited for institutionalizing the neopatrimonial regime. During his presidency, Arafat maintained power via political cooptation and suppression.

Since the 2007 shutdown of the PA's legislative arm, the Palestinian Legislative Council (PLC), Abbas has consolidated more power by assuming the roles of both the executive and the legislative branches of government, issuing legislation through presidential decrees and often in a process that lacks transparency and proper consultation with the public.

Among Abbas's most recent legislative decrees is the Palestinian cybercrime law of 2017. The law, despite being amended following a public outcry, allows

authorities to block websites and conduct surveillance on ordinary social media users. Palestinians can be arrested for expressing their opinions and political views online and charged with "cybercrimes," punishable by up to 15 years in prison.

The executive capture of power also extends to the judiciary. In April 2017, Palestinian judges, lawyers, and prosecutors gathered in Ramallah to protest a draft amendment that would grant the Palestinian president the authority to appoint the head of the High Judicial Council and the head of a committee that oversees judges. The amendment would also allow for the early retirement of judges, opening the door for the executive to interfere and threaten judges' independence. Under such a provision, judges would have to think twice before issuing a ruling that challenges or opposes the executive authority. In an example of such forced pressure from the executive, former Supreme Court Chief Justice Sami Sarsour signed an undated letter of resignation shortly before he was sworn in.

The constant failure to reach a reconciliation agreement between Hamas and Fatah, despite announcing a national unity government in early 2017, also speaks volumes in regard to Fatah's power monopoly and its marginalization of other Palestinian political actors and their constituencies. Power sharing is a prerequisite to the establishment of a solid national unity government, and requires fundamental changes to the current political setup.

Patronage and Loyalty

As a result of Fatah's control of the PA and the PLO, the Palestinian administrative and political machines run on dynamics of inclusion vs. exclusion and reward vs. punishment – fundamentally, according to loyalty. Appointments of public positions and promotions, for example, are awarded or withdrawn not on the basis of performance or professional merit but on the level of loyalty to the leadership.

For instance, holders of senior positions in the PA have invariably been appointed. Position descriptions are not publicly posted, nor are there openly established criteria for determining job scales, salaries, promotions, benefits, and bonuses. According to the Coalition for Accountability and Integrity-AMAN, the salaries and bonuses of the heads of some non-ministerial institutions have been higher than the salary of the president of the PA, whose monthly income, as stipulated by law, stands at $10,000. The appointment of freed Palestinian prisoners in the cadres of the civil workforce as compensation for their contribution to the Palestinian liberation movement is another example of the informal nature of PA positions.

Relatedly, in 2017 President Abbas forced 6,145 PA employees in Gaza into early retirement to pressure Hamas to cede control of the Strip. The number of PA employees in Gaza – both civil and security – is estimated to be around 50,000. Despite Hamas seizing control in Gaza, their salaries continue to be paid – albeit at a lower rate – to secure their loyalty to the PA. At the same time, Abbas uses government resources for political exclusion and punishment. A particularly abominable instance of this was the cutting of PA payments to Israel for electricity in Gaza, reducing the electricity supply to the Strip's two million inhabitants to four hours a day.

Covert Dealings

The dysfunction of the PLC and the PNC, two toothless legislative bodies, has resulted in the executive monopolizing and signing secret negotiations and agreements. The Oslo Accords are a prime example of how the PLO executive monopolized negotiations with Israel and took decisions in the name of the Palestinian people that proved disastrous. In a similar vein, the PA's executive ignored on numerous occasions the PLC's decisions mandating that the leadership must immediately stop negotiations with Israel in response to its

continuous oppression of the Palestinian people and the expansion of illegal settlements in the West Bank.

The PA's clandestine signing of agreements with Israel on matters related to energy, electricity, water, and communications demonstrates how far the leadership will go in ignoring formal processes and consultation with the public. These agreements have catastrophic political, economic, social, and environmental implications. One electricity-related agreement signed between Israel and the Palestinian private sector in September 2016 settled the PA's outstanding $550 million debt to the Israel Electric Corporation with the aim of transferring the responsibility of providing electricity in the West Bank to the PA.

The PA, which celebrated the agreement as a national victory and a step toward liberation, kept the agreement confidential despite public demands to disclose its terms. Palestinian civil society, media, and electric companies wanted to know: How will the power to distribute electricity be transferred to the PA? How will it be regulated? What are the implications? Every Palestinian citizen, as service recipients, should have the right to know of such an agreement. In the absence of basic transparency, Palestinians are denied their right to access information that impacts their daily lives and the basic services delivered to them by their government. This also impedes them from exercising any accountability over the PA.

The Red Sea-Dead Sea agreement, signed by the PA, Jordan, and Israel, was also completed in secret. Palestinian water and environment experts protested, warning that the agreement would cause irreversible environmental damage if implemented, as it will destroy what little is left of the Dead Sea's ecosystem. Palestinians also protested the pact because it will entrench Israel's denial of Palestinians' rights to water, as the agreement undermines Palestinian sovereignty over the West Bank and part of the Jordan River basin. The PA, represented by the Palestinian Water Authority, excluded

Palestinian experts from consultation and ignored them when they questioned the motivation behind signing such an agreement that achieves nothing for – and in fact damages – Palestinians.

This lack of transparency and accountability has translated into the misappropriation, misuse, and waste of public funds. For example, Abbas constructed a presidential palace on a 4,700 square meter parcel of land (with another 4,000 square meters for auxiliary buildings, including a helipad) to host guests and foreign delegations. He decided last year to convert the building into a national library, to the cost of $17.5 million. While a national library is a noble idea, the investment in costly infrastructure by a government who is heavily in debt and dependent on foreign aid is a testament to misplaced priorities.

International Pressures and Partnerships

The PA's reliance on foreign aid has also undermined the Palestinian political system by making it accountable to international donors rather than the Palestinian people. The PA's reform agenda and anti-corruption efforts have mostly stemmed from US and EU pressure since the outbreak of the Second Intifada, when the security situation on the ground deteriorated. The intent behind the agenda has been clear: Emphasize security over administrative reform and thus ensure the security of Israel at the expense of the security and basic civil and political freedoms of Palestinians. This has been reflected in the prioritization of security in the PA's budget allocations, with that sector taking 28% of the annual budget at the expense of other, more vital sectors such as health, education, and agriculture.

In his critique of the Oslo aid model – a model based on the neoliberal policy of investing in peace – Alaa Tartir argues that the donor-driven development agenda has worsened the economic and political circumstances for Palestinians. For example, agriculture – a lost, key pillar of the Palestinian economy –

received only 1% of the PA's annual budget between 2001 and 2005, while around 85% went to staff salaries. Consequently, the agricultural sector's contribution to GDP shrunk from around 13.3% in 1994 to 5.9% in 2011.

Palestinians have launched grassroots campaigns and union strikes, demanding better education and health services, including a massive teacher strike, a campaign against medicine shortages led by a coalition of Palestinian civil society organizations, a campaign against the electricity cuts in Gaza, and a campaign urging the PA to address medical negligence. The PA often leaves these public demands unanswered, and they are rarely reflected in its fiscal planning and public policies. As one member of the National Social Security movement, which leads the opposition to the controversial national social security law, said, "The government is not listening to our concerns." The law, which obliges private sector employees to pay 7% of their monthly salary and employers to pay 9% of salaries in exchange for social security coverage, has caused a wave of anger among Palestinians, who have protested mainly against the high monthly deductions as well as the lack of a guarantee to safeguard their money in the context of political and economic instability.

In February 2017, the PA adopted a new agenda, "National Policy Agenda: Citizen First 2017-2022," that aims to prioritize the Palestinian citizen in the government's policies, promoting accountability and transparency in managing public funds and affairs. This is a US- and EU-supported financial and administrative reform that began during the tenure of former Prime Minister Salam Fayyad; the agenda states that it is a second phase, following the previous one of building state institutions and enhancing their capacity. It proclaims that it is now time "to improve our citizens' quality of life by providing high-quality public services, fostering job creation in the private sector, and protecting the vulnerable."

The PA's new agenda does not acknowledge that Fayyad's state-building phase failed to lead to statehood, let alone democracy. The international donor

community hailed Fayyad as the Palestinian good governance messiah as his cabinet led efforts to create a *de facto* Palestinian state under the Israeli occupation in the context of a major political schism between the two largest Palestinian political factions. Fayyad's reforms did not go beyond technical and administrative parameters to ensure that whatever shakeup the cabinet made did not rock the entire boat.

The 2003 restructuring of the prime minister position itself under US and EU pressure to loosen Yasser Arafat's executive grip is another example of how futile these structural reforms are in such a context. The prime minister's role, decisions, and policies must be in line with Fatah and the president, as the prime minister simply implements the president's decisions and has no political standing of his own. When Fayyad filled the position in 2007 and embarked on his reform plan, he became the target of senior Fatah officials who continuously pinned the PA's ailments and the effects of the economic crisis on Fayyad's policies. The international community's strong financial and political backing of Fayyad also constituted a threat to Abbas, who did not defend his premier against the attacks of his party and challenged his authority by overruling some of his decisions.

The international community also dictates which Palestinian political figures are in power through financial and political support. This was the case when the US attempted to overturn Fayyad's resignation, and when it withdrew funds to suffocate unwanted authority even if it was fairly and legitimately elected, such as when Hamas won the majority of seats in the 2006 legislative elections.

Any additional reforms dependent on international approval will not address the legitimacy crisis in leadership, nor will they lead to the much-needed rebirth of a united Palestinian national movement that could fulfil the aspirations of the Palestinian people. These reforms reinforce the same neopatrimonial dynamics that underlie systemic corruption in the Palestinian Authority by acting as a band aid rather than a solution that tackles corruption from the root.

Essentially, any PA effort to end the occupation and achieve independence – often the stated goal in many of these reform agendas – translates into the PA simply continuing to override the role of the PLO. By doing so, it continues to marginalize if not ignore altogether the voices of the millions of Palestinians who live in the diaspora and have a direct stake in whatever course of action the PA's executive takes vis-à-vis the Israeli occupation and the "peace process."

Out of the Quagmire

If Palestinians are serious about democratic, representative, and transparent leadership, they must end the farce of reform and build a representative and democratic system from the bottom up. Palestinians, especially the youth living in the occupied territories, in Israel, and in the diaspora, have a significant role to play in mobilizing and initiating national grassroots dialogues to debate and build a common vision for future democratic Palestinian leadership. This task requires a massive effort given the existing challenges. However, the continuation of the status quo offers only a bleak future.

To ensure that a new model, whatever its shape or form, does not recycle the same neopatrimonial dynamics, three fundamental elements must be considered:

1. Decentralization and separation of powers

To break the monopoly of one group or party, there must be a healthy political ecosystem of counterbalancing powers. The limitations of the PLO as an umbrella body representing all Palestinians invites the question of whether such a central authority infrastructure is capable of representing Palestinians everywhere. Any Palestinian governance model must be agile enough to lead and be responsive to the Palestinian polities living in different geographical, juridical, and administrative jurisdictions in the West Bank, Gaza, East Jerusalem, Israel, and the diaspora. The experience of the PA thus far suggests that a central authority, as it exists, cannot

fulfill such a role.

Decentralization of power, through empowering grassroots and local community leadership, is essential to break the existing power monopoly. The leadership and organization during the First Intifada, albeit belonging to a different political and social context, offers one example of what a collective leadership could look like.

2. Vertical and horizontal accountability

Corruption and abuse of power thrive when those in power cannot be held to account. Any new governance model will be vulnerable to capture of power without the following parallel accountability mechanisms in place:

First: A vertical accountability line that enables the Palestinian people to question their leaders and participate in the decision making process. This is not limited to local and national elections but can extend to grassroots public committees and hearings, shadow councils, robust protection of freedom of expression and the media, and Palestinian civil society taking an active role in monitoring not only Palestinian government institutions but also the private sector and service providers.

Second: Horizontal accountability – such as an independent parliament, independent audit organizations, and so forth – is important to investigate and stop the wrongdoings of public officials.

While the current system has these institutions formally in place to some extent, the neopatrimonialism of the Palestinian political system renders these internal accountability mechanisms useless. This is why power sharing, decentralization, and public scrutiny are important first steps to ensure that no Palestinian authority can abuse its power.

3. End impunity

To restore the Palestinian public's trust in leadership, the impunity of the corrupt must be eliminated. Despite the various attempts and claims of the Palestinian anti-corruption committee to investigate and prosecute corrupt officials, Palestinian officials and politicians remain largely immune to any serious consequences for their actions. Impunity of the corrupt makes individuals hesitant to report corruption they witness or experience because they see no value in, or change resulting from, taking such action.

There are existing hotlines and legal centers available to Palestinians in the West Bank and Gaza to report corruption cases in a safe and confidential manner, such as the one operated by the Palestinian anti-corruption organization, AMAN. However, encouraging Palestinians to report corruption must be accompanied by the availability of solid anti-corruption laws and an independent judiciary that can hold the corrupt to account regardless of their political, financial, or social position.

To end corruption and ensure accountability in the Palestinian context, an institutional and political overhaul, rather than limited and fragmented political and legal reforms, is necessary. The repeated patterns of Fatah's power monopoly, systemic corruption, and informal politics, in addition to the current political stagnation, suggests that it is past time for Palestinians to build new institutions that are more democratic and more representative of their rights and needs.

1. To read this piece in French, please click here. Al-Shabaka is grateful for the efforts by human rights advocates to translate its pieces, but is not responsible for any change in meaning.

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