

## **BADIL Occasional Bulletin No. 21**

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### **Palestinians have been demanding democracy for 80 years**

*This Bulletin aims to provide a brief overview of issues related to Palestinian Refugee Rights*

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Palestinians have been demanding democracy for more than 80 years and now the world is demanding democracy from the Palestinians. What do the British, the Americans, the Israelis and others want? Do they mean by “democracy” elections that give them the result they want?

Before and after the death of Yasser Arafat on 11 November 2004, there were many questions about the ability of a new leader to emerge and whether a transition was possible. Palestinians had set up a number of mechanisms many years ago to make such a transition quick and transparent along with its demands for an open, democratic system.

Yasser Arafat was elected in a democratic election declared free and fair by election monitors from all over the world. He might have been re-elected but maybe others didn't want this result. Many in the world did not want the result of the recent U.S. election but they accepted it as the will of the majority of the American people.

#### **Demands for a Democratic State even before 1948**

The election for President of the Palestinian Authority on 9 January 2005 will not represent, in the words of British PM Tony Blair (12 November 2004), the “first beginnings of democracy to take hold on the Palestinian side.” The Palestinian people have a long-standing demand for an independent and inclusive democratic state based on rule of law:

- February 1922: Palestinian Arab leaders informed the British Secretary of State for Colonies that the people of Palestine could not accept the 1917 Balfour Declaration and the Mandate, which aimed to facilitate the establishment of a Jewish national home in Palestine, and demanded their independence. They asked that the constitution of Palestine should safeguard the civil, political and economic interests of the people; provide for the creation of a national independent government; safeguard the legal rights of foreigners; guarantee religious equality to all peoples; and, guarantee the rights of minorities.
- March 1930: a delegation selected by the Palestine Arab Executive went to London for discussions with British officials. Among other demands, the Palestinian delegation requested the establishment of a democratic government with representation on a population basis.
- November 1935: Palestinian leaders of five united Arab parties presented a memorandum to the British High Commissioner in Palestine demanding the establishment of a democratic government.
- March 1946: Palestinian Arabs testifying before the Anglo-American Committee of Inquiry investigating the future of Palestine stated that the future of the country should be decided in accordance with democratic principles by the will of the population. The only way by which the will of the population can be expressed, they said, was through the establishment of a responsible representative government, based on the principle of absolute equality of all citizens irrespective of race and religion.
- September 1946: Arab state delegations attending the Palestine Conference in London put forward constitutional proposals for a democratic state with an elected legislature. The constitution was to provide

guarantees for the sanctity of the Holy Places and freedom of religious practice.

- September 1947: the Arab Higher Committee in Palestine called for a democratic state, observance of human rights, fundamental freedoms and equality of all persons before the law, protection of the rights and interests of all minorities, and, freedom of worship.
- October 1948: the Palestine Arab Higher Committee issued the first Palestinian Proclamation of Independence for a free and democratic sovereign state in which citizens would enjoy their liberties and rights.

### **Continued Demands for a Democratic State**

The demand for a democratic state continued after the mass displacement of Palestinians from their homeland in 1948. The 1964 Covenant of the Palestine Liberation Organization (PLO), which called for the liberation of historic Palestine, and its 1968 amended version reaffirm the Palestinian commitment to “justice, freedom, sovereignty, self-determination, human dignity and the right of peoples to practice these principles.” It also reaffirms that “Holy Places will be safeguarded, and the free worship and visit to all will be guaranteed, without any discrimination of race, color, language or religion.”

Between 1969 and 1973 the PLO called for the creation of “free democratic society in Palestine encompassing all Palestinians, including Muslims, Christians, and Jews.” “All those who wish to live in peace shall enjoy the same rights and duties.” In 1973 the PLO called for the establishment of a state in which all citizens would enjoy the right to work and to a decent life, so that they live in equality, justice and brotherhood, and which will be opposed to all kinds of ethnic, racial and religious fanaticism. It would also ensure freedom of opinion, assembly, demonstration, and the freedom to strike and form political and trade union institutions and to practice all religions.

In 1974, the PLO began to shift policy from a single democratic state in all of Palestine towards the idea of two states. Palestinians thus called for the establishment of a Palestinian authority on part of the historic land of Palestine in pursuit of the establishment of a Palestinian democratic state. The idea of a two-state solution, with two democratic states, Israel and Palestine, in the land of historic Palestine continued to be developed until 1988 when the PLO issued the second Palestinian Declaration of Independence on 15 November in Algiers.

The 1988 Declaration calls for a “parliamentary democratic system of governance, itself based on freedom of expression and the freedom to form parties.” It affirms that the rights of minorities will be duly respected by the majority. And it calls for governance “based on principles of social justice, equality and non-discrimination in public rights on grounds of race, religion, color or sex under the aegis of a constitution which ensures the rule of law and on independent judiciary.”

The Preamble to the 1988 Declaration begins with language similar to the American Declaration of Independence, “when in the course of modern times, a new order of values was declared with norms and values fair for all...” Unlike Israel’s Declaration of the Establishment of the State of Israel, which focuses primarily on the Jewish character of the state, the 1988 Palestinian Declaration, while recognizing that Palestine is part of the Arab world, affirms the diversity of the country. “Palestine is the land of the three monotheistic faiths...The call went out from temple, church, and mosque to praise the Creator, to celebrate compassion, and peace was indeed the message of Palestine.”

The 2003 draft Constitution of the State of Palestine states that Palestine is an independent state with full sovereignty, of a republican form of government. The Palestinian political system shall be a parliamentary representative democracy, based on political pluralism. It shall guarantee the rights and liberties to all citizens, including the right to form political parties and to engage in political activities, in accordance with law. The Constitution guarantees equality in rights and duties to all citizens irrespective of their religious belief.

The draft Constitution also emphasizes that the foundation for the democratic government in Palestine is the principle of the rule of law and justice. All actions of governmental authorities shall be subject to administrative, political, legal and judicial review in normal and exceptional circumstances. The independence of the judiciary and its immunity are basic guarantees for the protection of rights and liberties. The State of Palestine shall abide by the Universal Declaration of Human Rights and shall seek to join other international instruments that safeguard human rights.

### **Democratic institutions**

Palestinians also have a long history of democratic institutions and a vibrant civil society. After the first mass displacement of Palestinians in 1948, political parties and civil society organizations regrouped under the umbrella of the Palestine National Organization (PLO) as the representative of the Palestinian people. The PLO Constitution called for the creation of a Palestinian parliament in exile elected by direct ballot, known as the Palestine National Council (PNC) to define the PLO's policies and programs, and an Executive Committee elected by the National Council.

The geographic dispersion of Palestinians in many places of exile, and restrictive political conditions in many host countries have made elections by direct ballot for the Palestine National Council impossible, however, the different sectors of Palestinian society elect their own representative for a seat on the Council. This includes political parties, independents, and various mass movements and associations including trade unions, women's, teachers and student associations, professional unions, etc. The Executive Committee elects its own chairman, thus, after the passing of Chairman Yasser Arafat, the Committee elected Mahmoud Abbas (Abu Mazen) as the new Chairman.

Palestinian demands for democratic institutions continued in the period leading up to the signing of the 1993 Declaration of Principles between Israel and the PLO. In series of proposals between early 1992 and mid-1993, Palestinian negotiators called for the establishment of an interim self-government authority with an elected legislative assembly of 180 members, a 20-member executive council whose chairman would be elected by the legislative assembly, and an independent judiciary.

These proposals state that all Palestinians in the occupied territories, as well as detainees in Israeli prisons, deportees, and 1967 refugees who were displaced from the West Bank, eastern Jerusalem and the Gaza Strip be permitted to participate in the elections. The March 1992 expanded proposal states that "The Palestinians in the OPT, including Jerusalem, have the right and the wish to govern themselves according to democratic principles, through free elections. [The self-government authority] should be the embodiment of the principle of democratic government – "By the People, of the People, for the People."

Proposals emphasized the need for Israel to guarantee full freedom of political expression, including the end of military censorship; access to, and establishment of, all forms of audio-visual or print media; public assembly; and, freedom of movement through the occupied Palestinian territories. All proposals affirmed the importance of rule of law. The March 1992 proposal, for example, "emphasizes once again that the only way to pursue negotiations and engage them on the path of progress is a commitment, on the part of Israel – the occupying power – to abide by the provisions of international law and to implement, *de jure*, the Fourth Geneva Convention."

The 2003 draft Constitution of the State of Palestine states that "National sovereignty belongs to the People, who is the source of all authorities. The People exercise their powers directly by referenda and general elections or through elected representatives, within its three public authorities: legislative, executive, and judicial, and via its constitutional institutions. No individual or group shall claim for itself the right to exercise such powers." It calls for the establishment of 150-member elected house of representatives, a 150-member advisory council formed through election or appointment

based on the ratio of the distribution of the Palestinian population in Palestine and in exile, an elected President who will appoint the Prime Minister based on “the proposal of the party that obtained the greatest number of seats in the House of Representatives, after consultations with leaders of other parties represented in the House,” and an independent judiciary.

### **The Demand for a Democratic Palestine is a Palestinian One**

While many pondered over who might ‘succeed’ Yaser Arafat after his death, Palestinians found a simple answer within their own existing democratic institutions. The fact that the Palestinian people do not have a democratic state of their own after more than 80 years is not for lack of want or effort. When Palestinians demanded a democratic state after the end of WWI, the British told them it was against the Mandate and against the 1917 Balfour Declaration which aimed to establish a new state, an exclusive Jewish state, in Palestine.

Then British Secretary of State for Foreign Affairs commented that “in the case of the ‘independent nation’ of Palestine ... we do not propose even to go through the form of consulting the wishes of the present inhabitants of the country. Zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present needs, in future hopes, of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land.”

When the United Nations adopted a plan for a two-state solution to the conflict in 1976, after the PLO began to shift away from a single democratic state, the United States used its veto in the UN Security Council to quash the idea. While the Oslo agreements eventually enabled Palestinians to set up a much reduced in size and powers legislative council, the first elections in 1996 did not allow refugees who originate from the occupied territories as well as deportees and prisoners to participate as requested by the PLO. It is unlikely that these Palestinians will be able to participate in the election scheduled for 9 January 2005.

The Oslo agreements also set up an independent judiciary, but with limited powers. The former Clinton administration pressured and then endorsed the establishment of state security courts run by the Palestinian Authority. In March 1995 former Vice President Al Gore hailed the plan to set up the security courts as “an important step forward in helping to build confidence in the peace process.” The Courts were closed to the public, lasted only a few hours, and lacked almost all due process rights.

The internationally-supported peace process still excludes Palestinian refugees displaced in 1948 from the political process, including elections. In other words around 50 percent of the Palestinian people are disenfranchised by a process that many western states like to think of as democratic. The Bush administration basically endorsed this approach when it issued a letter of assurance to Israel, drafted by members of Prime Ariel Sharon’s office, in April 2004 stating that Palestinian refugees would have to be resettled in a future Palestinian state – in other words, refugees would not be able to freely participate in determining their own future.

All this makes Palestinians and others wonder exactly what kind of democracy George Bush and Tony Blair speak about when they publicly commit themselves to the realization of democracy, reform, rule of law and the establishment of a Palestinian state in the next four years. International efforts in the neighborhood do not give much confidence. When it comes to democracy in Palestine/Israel, the international community has been decades behind the Palestinian people.

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