



Conference on

***Political Rights in Palestine:
Between the Anvil of Internal Political Divide and Prospects of National
Reconciliation***

15 December 2014

Concept Paper

Conference Goals

1. Review the Palestinian political context after the Palestinian national reconciliation effort has materialised, including reflections on legal, administrative and political structures.
2. Examine the current context of public rights and freedoms within the Palestinian legal system, with a particular focus on political rights following the Palestinian national reconciliation.
3. Review and provide a potential approach to dealing with legal and administrative consequences and positions created after the internal Palestinian political division.
4. Discuss the right of assembly within the Palestinian system, relevant variables on the Palestinian scene, and current regulation of political parties.
5. Provide a treatise on the Palestinian electoral system and outlook for future legal and partisan approaches.

Introduction

Over the past few decades, various aspects of human rights have emerged on the global scene. Serving as a lifeline for the humankind, who have suffered countless tragedies and atrocities, human rights are the most recurrent expression in relevant domestic and international activities. Numerous symposiums have been organised and research papers published on human rights. These are well enshrined in preambles and preliminary provisions of constitutions across the world.

To ensure protection against abuse, persecution or encroachment, human rights, including political rights in particular, have been a hub of international, regional and domestic attention. Political rights are of pivotal significance as a pillar of modern democracies. Giving rise to a broad debate in comparative jurisprudence, the content of political rights is closely associated with the rights embraced by the international community. As they are embedded in national constitutions, political rights reflect the nature of a society's socio-political system. Also mirroring the state's civilisational attitude towards its subjects, political rights are identified by constitutionally enshrined principles that safeguard human rights and freedoms, ensuring that people are an effective and efficient component of their society.

In spite of domestic and global interest, some countries deny or publicly impinge on political rights. To serve their own interests, governing authorities justify themselves by a capricious interpretation of political rights. First and foremost of political rights is the word *freedom*, which haunts governments. The majority of these rights are sacrificed by most governments of the Arab World, particularly in countries that have seen a surge of violence and a popular revolution. Although they are safeguarded by respective constitutions, provisions on political rights are of no effect.

Like many constitutions, the Palestinian Amended Basic Law of 2003 provides for political rights. Title II of the Basic Law includes a set of provisions on political rights, including protection mechanisms and tools as well as significant guarantees against the violation of these rights.

However, the Palestinian legal framework has been affected by several internal setbacks. Most notably, the internal Palestinian political divide has disrupted the majority of political rights. In several spheres, the principle of the rule of law has been manipulated so as to infringe on political rights, including the right of assembly, right to run for office, etc. Public rights and freedoms have seen a major decline in terms of public participation, right to freedom of expression, and other political rights.

Encroachments on fundamental human rights, including the right of assembly, right to freedom of association and right to vote, have manifested even after the internal Palestinian political divide came to an end and the national reconciliation agreement was concluded. Recurrent impingements have affected fundamental human rights and freedoms. The national consensus government has encountered many challenges, most

notably the future of legal and administrative positions created by the internal Palestinian political split. The government is also challenged by national elections, political parties, and consolidation of dichotomous public authorities.

In the Palestinian context, a legal environment espouses public accountability. However, this framework is incomplete, defective or absent. In addition to lacking a law on political parties, the Law on Public Assembly imposes constraints or allows unconstitutional encroachments on political rights. An integrated package of legislation that safeguards enjoyment and exercise of political rights is lacking. Absent legislature and oversight bodies have negatively impacted public accountability.

In addition to bringing the internal Palestinian political divide to an end, the Palestinian context has seen a series of events. Palestine has acceded to several international conventions, including the International Covenant on Civil and Political Rights. Clearly affecting political rights, these international instruments prescribe a set of obligations and consequences, including alignment of Palestinian legislation with respective international treaties.

This Conference is the end product of a research project entitled, *Political Rights in Palestine: Between the Anvil of Internal Political Divide and Prospects of National Reconciliation*, implemented by the Legislative Support Department (LSD) at the Institute of Law - Birzeit University. The project is also informed by research papers produced by the LSD team over the past three years. Organised with support from Konrad Adenauer Stiftung Office, Palestinian Territories, the Conference comprises four main sessions:

Session 1

Political Rights: Between the Internal Palestinian Political Divide, National Reconciliation, and Politics Law

Addressing their current status within the current Palestinian legal system, this session investigates reflections of the Palestinian national reconciliation effort on public rights and freedoms. In this session, presentations provide a realistic treatise on the Palestinian political scene and explore political rights in some Arab countries with revolutionary movements.

Session 2

Legislation, Reconciliation and Principle of Legitimacy: A Treatise on Legal and Administrative Positions

This session examines how the Palestinian national reconciliation has affected functions of public authorities, particularly in legislative and administrative domains. Presentations devise potential solutions for the current legislative context in the West Bank and Gaza

Strip, investigate challenges created by duplicate institutions, explore potential solutions facilitated by the national reconciliation, and attempt to introduce the official position towards these challenges. Finally, presentation assess role the Judicial Authority plays in light of the principle of legitimacy.

Session 3

Political Rights: Between Philosophical and Textual Decoration and Realistic Application

By introducing the regulatory framework, this session provides a political and legal treatise of political rights in Palestine, including the right to form political parties, right to freedom of association, and right of assembly. Presentations make clear the impact of the internal Palestinian political split on these rights, highlight consequences of the Palestinian national reconciliation, and elaborate on Palestine's accession to relevant international conventions.

Session 4

The Electoral System between National Reconciliation and Party Quotas: What Electoral System do We Want?

Casting light on the electoral system in Palestine, this session covers a key political right – the right to vote – and provides a legal review of Palestinian electoral laws. Also presenting several perspectives on relevant regulations, presentations in this session highlight impact of the national reconciliation on the Palestinian electoral system.