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Creation of the position of Vice President...

To ensure Succession, replacement or to retreat on embodiment the state!



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To ensure Succession, replacement or to retreat on embodiment the state!

Jehad Harb¹

(1) introduction

On March 4, 2025, Palestinian President Mahmoud Abbas announced in his speech before the Arab Summit (Palestine Summit) the "creation of the position and appointment of a Vice President of the Palestine Liberation Organization (PLO) and the State of Palestine, along with the legal procedures to implement this decision. This announcement came as a commitment to the Arab leaders and the public for a comprehensive reform process, as part of restructuring the leadership frameworks of the state, injecting new blood into the organization, Fatah, and the state institutions, and convening the Palestinian Central Council in the near future². However, the president's announcement did not clarify whether the newly created vice president position would have specific powers or if it would remain without constitutional authority, given the president's ongoing tenure. It was left unclear whether the vice president's role would only involve succession in the event of the president's death or vacancy for other reasons, or if this creation was aimed at preparing for a constitutional transition in the presence of the president.

This announcement followed multiple Arab pressures, the latest of which was the exclusion of the Palestinian side from the Riyadh Summit held on February 21, as well as repeated calls for reforms within the Palestinian Authority (PA). These calls were also included in the statement of the emergency Arab summit "Palestine Summit" (noting that the reform efforts within the State of Palestine and the PLO are necessary steps to enable Palestinian national institutions to carry out their duties effectively in facing challenges, preserve national decision-making unity, and enhance the Palestinian people's ability to endure and achieve their legitimate aspirations for freedom and independence).³

The importance of addressing the issue of creating the position of "Vice President of the Executive Committee and Vice President of the State" lies in the future impacts of the proposed changes and the trajectory of the Palestinian political system and its nature. This is particularly significant in the current political context that the Palestinian political system is experiencing, as well as the external interventions in shaping its future. These interventions resemble the circumstances and external pressures that occurred in 2003 when the Palestinian Basic Law was amended, and the position of Prime Minister was created. These amendments granted the prime minister significant powers, while reducing the constitutional powers of the president, with the aim of weakening the position of then-President Yasser Arafat and ultimately sidelining him from governance and management.

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² President Mahmoud Abbas's speech at the Arab Summit "Palestine Summit" on March 4, 2025

In his speech at the emergency summit, the President praised the Egyptian-Palestinian-Arab plan to rebuild the Gaza Strip.

³See: Statement of the Arab Summit "Palestine Summit" dated 3/4/2025 <u>Cairo Declaration - Palestine Summit - March 4, 2025.pdf</u>

This paper aims to present proposals that contribute to discussing the planned "constitutional" amendments based on the Palestinian president's commitment to the Arab summit. It also aims to ensure the integrity of the Palestinian political system, focusing on the need for political and constitutional reviews that correct the Palestinian political system's institutions and facilitate the transition toward statehood while ending the hybrid nature of the Palestinian political system.

The paper reviews the reasons for the concern about the vacancy of the position of the Vice president of the Executive Committee of the (PLO) / President of the State. It examines the legal frameworks governing the selection of the President of the State and the regulations for the powers of the Vice President of the Executive Committee of the PLO and the President of the State. The paper then presents the options for creating the position of Vice President, followed by scenarios for the nature of the Vice President's role. Finally, it explores the potential risks of creating the position of Vice President of the State in relation to the transition from authority to statehood.

(2) Reasons for interest in creating the position of Vice President

The vacancy of the position of the Vice President of the Executive Committee of the Palestine Liberation Organization (PLO) / President of the State presents an additional challenge to the Palestinian political system in an extremely complex context. On the one hand, the legitimacy of the political system is weakened due to the absence of elections. On the other hand, the ongoing division between Palestinians and governing institutions in the West Bank and Gaza Strip. Additionally, there is an internal and concealed struggle over succession and the reinforcement of power centers within the institutions of both the PLO and the state's civil and security institutions.

The concern over the vacancy of the position of the President of the Executive Committee of the PLO / President of the State primarily stems from the fact that the PLO represents the Palestinian people both domestically and internationally. The organization is a member of the Arab League and serves as the official representative of the State of Palestine at the United Nations. Furthermore, there are fears that President Mahmoud Abbas, who has reached the age of 90, may be unable to fulfill his constitutional duties due to his advancing age. This concern is exacerbated by the deep political division among Palestinians and the ongoing struggle over political representation.

Another key reason for this concern is the international community's interest in identifying and defining the successor to President Abbas. This is driven by increasing attention to the potential successor's political orientation and how their policies might influence the future of Palestinian-Israeli relations. President Abbas has been in power for over two decades, during which time, as is often the case in developing countries, the state has become synonymous with the political system and the leader himself. However, the Palestinian case is even more complex, as it also requires an understanding of the nature and future of relations with Israel and how these relations impact international interests that are more closely tied to Israel than to the Palestinians.

(3) Conflict of legal rules governing the selection of the head of state

The process of transferring power requires the activation of constitutional and legal principles, as well as respect for the role of existing political institutions in a manner that upholds the rule of

law and strengthens institutional legitimacy in preserving the political system's validity for one of the most important constitutional positions. However, introducing new "constitutional" foundations to ensure a smooth transfer of power—whether for presidential succession or to fill a vacancy in the position of the President of the State and the President of the PLO—could create a constitutional and political crisis. This crisis arises due to the existing conflict between the legal frameworks governing the selection of the President of the State. Under the legal system of the PLO, the appointment of the President of the State relies on a decision by the Palestinian Central Council. Meanwhile, in the legal framework of the Palestinian Authority, Article 115 of the 2003 Amended Basic Law (the Constitution of the State of Palestine) stipulates that "the provisions of this Basic Law shall remain in effect throughout the transitional period and may be extended until the new constitution of the State of Palestine comes into force."

The amended Decree-Law No. (1) of 2021, which modified Decree-Law No. (1) of 2007 on general elections, introduces another legal complication. This amendment abolished the position of the President of the PA while retaining the position of the President of the State, who also serves as the Chairman of the Executive Committee of PLO. The law explicitly states that the President of the State of Palestine shall be elected directly by the Palestinian people, applying to both the West Bank and the Gaza Strip. At the same time, Article 3 of the amended 2021 law stipulates that the individual responsible for calling elections is the President of the State of Palestine and Chairman of the Executive Committee of the PLO. According to the revised text of Article 2 of the original law, as stated in Article 3 of the decree-law: "The President of the State of Palestine, the Chairman of the Executive Committee of the PLO, the sole legitimate representative of the Palestinian people, shall issue a presidential decree no less than three months before the expiration of his term or the term of the Legislative Council, calling for presidential and legislative elections, or either of them, in the State of Palestine. The decree shall specify the election date, be published in the official gazette, and be announced in local newspapers." ⁴

Furthermore, Constitutional Declaration No. 1 of 2024, which stipulates that the President of the Palestinian National Council (PNC) shall assume the interim leadership of the authority in the event of a vacancy in the position of the President of the Palestinian Authority, will further exacerbate the conflict between constitutional rules.

If the position of the President of the State/Palestinian Authority becomes vacant in the future, this conflicting legal framework will place the Palestinian political system in a constitutional dilemma.

(4) Two Options for Establishing the Position of Vice President and Defining the Powers of the President of the State and the Chairman of the Executive Committee of the PLO

According to President Mahmoud Abbas's announcement, amendments will be made to establish the positions of Vice President of the Executive Committee of the PLO and Vice President of the State of Palestine. These two positions differ in terms of the selection process, authority,

⁴See: Law Decree No. (1) of 2021 amending Law Decree No. (1) of 2007 regarding general elections. http://muqtafi.birzeit.edu/pg/getleg.asp?id=17403

jurisdiction, and legal term of office⁵. However, the announcement did not clarify whether President Abbas intends to separate these two positions, appointing different individuals to each, or to continue the practice of having one person hold both roles. Historically, this has been the case since 1989, when Yasser Arafat was chosen as the President of the State of Palestine, and later in 2005, when Mahmoud Abbas assumed the same role.

The creation of the Vice President of the Executive Committee of the PLO does not require constitutional amendments to the PLO's Basic Law ("Constitution of the Organization"). Instead, it can be achieved through an internal decision within the Executive Committee, which has the authority to distribute roles among its members. Article 19 of the PLO's Basic Law grants the Executive Committee the power to establish new departments as needed⁶. Article 13 of the Basic Law of PLO outlines the procedure for electing the Chairman of the Executive Committee, stating that the Executive Committee members elect the chairman, and responsibilities within the committee are assigned by internal consensus. If the position of Vice President of the Executive Committee is established, the Executive Committee itself would serve as its reference authority. On the other hand, the PLO's Basic Law does not explicitly define the powers of the Chairman of the Executive Committee. This means that the Chairman is essentially the first among equals within the Executive Committee, or more precisely, a spokesperson for the Executive Committee of the Palestine Liberation Organization (PLO). The Chairman oversees the implementation of the committee's decisions and presides over its meetings.

Roles and Responsibilities of the Executive Committee

- Article 16 of the PLO's Basic Law states that the Executive Committee is the highest executive authority within the organization. It is responsible for implementing policies, programs, and plans determined by the PNC and is collectively and individually accountable to it.
- Article 17 specifies that the Executive Committee is tasked with:
 - 1. Representing the Palestinian people.
 - 2. Overseeing the organizational structures of the PLO.
 - 3. Issuing regulations and directives, as well as making decisions related to the organization's operations, provided they do not contradict the PLO Charter or its Basic Law
 - 4. Executing the PLO's financial policies and preparing its budget.

The Palestinian National Council decision establishing the position of President of the State did not specify the legal term of the President of the State.

⁵ The term of office of the Chairman of the Executive Committee of the Palestine Liberation Organization is the period between two sessions of the Palestinian National Council, which is basically set at three years according to the Basic Law of the PLO, as Article 8 of which states: "The term of the National Council is three years. It shall convene periodically upon the invitation of its President once every year, or in extraordinary sessions upon the invitation of its President, upon the request of the Executive Committee or a quarter of the Council's members. The place of its convening shall be in Jerusalem, Gaza, or any other place, according to the circumstances. If the President of the Council does not call for such a meeting, the meeting shall be deemed to have been held at the place and time specified in the request of its members or the request of the Executive Committee.""

⁶ See: <u>Basic Law of the Palestine Liberation Organization</u>

Overall, the Executive Committee is responsible for carrying out all duties of the PLO in accordance with the general plans and decisions issued by the Palestinian National Council⁷.

The position of President of the State was established by a decision of the Palestinian National Council (PNC) following the Declaration of Independence in 1988. At that time, the PNC delegated the authority to appoint the President of the State to the Palestinian Central Council (PCC). Similarly, during the 23rd session of the PNC in Ramallah (April 30 – May 3, 2018), known as the "Jerusalem and Protecting Legitimacy" session, the PNC granted the PCC full authority to act on its behalf. This delegation was outlined in the "Jerusalem and Return" declaration, which empowered the PCC to assume all the PNC's powers between its sessions to strengthen and activate the PLO, improve its performance, and enhance its ability to navigate growing challenges⁸.

The President of the State was thus appointed by a decision of the Palestinian Central Council, yet no official document was publicly issued to define the President's powers and responsibilities. In contrast, the 1988 PNC decision explicitly assigned the PLO Executive Committee the powers and responsibilities of a provisional government until an official government was formed.

The authority of the Palestinian President—whether Yasser Arafat or Mahmoud Abbas—has primarily stemmed from three key factors:

- 1. Leadership of the ruling party, Fatah.
- 2. Role as the Commander-in-Chief of the Palestinian military forces.
- 3. Powers outlined in the Palestinian Basic Law, which he exercises as the President of the Palestinian Authority.

(5) Two scenarios for the nature of the vice presidency

The establishment of the position of Vice President of the Executive Committee of PLO and Vice President of the State of Palestine, whether held by one individual or two separate individuals, firstly requires a clear definition of their powers, duties, and responsibilities. Following this, constitutional and legislative amendments must be made to regulate these newly created positions and establish the legal framework governing their functions. This initiative is being pursued in line with President Mahmoud Abbas's commitment during the Arab Summit ("Palestine Summit") held in Cairo, Egypt, on March 4, 2025.

Scenario 1: Establishing the Position of Vice President of the PLO Executive Committee and Vice President of the State for Succession

This scenario requires amending both the PLO's Basic Law and the Palestinian National Council's (PNC) decision regarding the election of the President of the State of Palestine. The amendment would specify that the Vice President assumes the presidency in the event of the President's death or vacancy of the position for any other reason, ensuring the continuation of the legal mandate. However, under this scenario, the Vice President would not be granted any specific powers as long as the President remains in office. This would effectively position the Vice President as the designated successor, assuming the roles of President of the State and President

⁷ See: <u>Basic Law of the Palestine Liberation Organization</u>

⁸ See: Text of the announcement on the website of the Palestinian News Agency "Wafa" http://wafa.ps/ar_page.aspx?id=44C019a819631600293a44C019

of the PLO Executive Committee in the event of a vacancy. This proposal is similar to the 2005 constitutional amendment proposal that sought to introduce the position of Vice President of the Palestinian Authority (PA).

That proposal aimed to establish a Vice President elected directly by the people, tasked with assisting the President in managing responsibilities and completing the remainder of the presidential term in the event of a vacancy. Additionally, the proposal included a special exception for the current President, allowing him to appoint a Vice President, subject to approval by the Legislative Council with a majority vote.

The suggested amendments thus aim to create a Vice President position without specific powers while the President is in office. However, the Vice President would automatically assume the presidency in the event of the President's death or a vacancy in office. ⁹

Scenario 2: Establishing the Position of Vice President of the PLO Executive Committee and Vice President of the State with Powers for Potential Replacement of the President.

This scenario requires amendments to both the PLO's Basic Law and the Palestinian National Council's (PNC) decision on electing the President of the State of Palestine. The amendments would stipulate that the Vice President is granted broad delegated powers while the President remains in office. These powers could be assigned either by law or through a direct decision by the President. Additionally, the Vice President would automatically assume the presidency in the event of a vacancy in the President's position, ensuring the continuation of the legal mandate.

However, this scenario raises concerns that the Vice President could effectively replace the President through various mechanisms, even in the absence of a formal justification for the President's removal or vacancy.

(6) Conclusion

There is no doubt that unifying the institutions of the Palestinian political system and solidifying statehood—by transitioning from the means (the Palestine Liberation Organization and the transitional Palestinian Authority) to the ultimate goal (the State of Palestine)—represents a key aspect of the Israeli-Palestinian conflict. At the same time, this transition aligns with:

- 1. Comprehensive political reform within the Palestinian political system.
- 2. Reducing external pressures on Palestinian governance.
- Culminating years of political and diplomatic efforts aimed at securing exceptional recognition of Palestine's statehood within the United Nations and increasing international recognition of the State of Palestine.

However, the creation of a Vice President position for both the PLO Executive Committee and the President of the State, while legal mechanisms for the peaceful transfer of power already exist

⁹For more see: Khalil Shaqaqi and Jehad Harb, **The proposed amendments to the amended Basic Law strengthen the presidential system and eliminate parliamentary accountability.** Assessment of the Palestinian political situation, Paper No. (23), dated 7/24/2005.

within constitutional and legal frameworks, could undermine the political and institutional structure of the Palestinian system—despite its existing flaws.

Establishing the Position of Vice President: A Step Back from the Transition to Statehood President Mahmoud Abbas's announcement of the creation of the Vice President of the State and the PLO has sparked debate over the newly introduced mechanisms within the hybrid Palestinian political system ("the PLO and the State/Authority") for the transfer of power in case of a presidential vacancy—instead of fully consolidating statehood.

The introduction of Constitutional Declaration No. 1 of 2024, which stipulates that the President of the PNC would assume temporary leadership in the event of a presidential vacancy ¹⁰, was intended as a constitutional safeguard to prevent a power vacuum and avoid internal conflict over succession, particularly given the advanced age of the President.

This move also served as a short-term response to external pressures, indirectly rejecting international demands for President Abbas to appoint a Vice President as a designated successor. However, this approach still requires constitutional review to assess its legitimacy and legal soundness. The decision blurs the lines between PLO institutions and Palestinian Authority institutions, creating an unclear and hybrid governance structure that may lack solid constitutional legitimacy.

At the same time, this step represents a setback in the efforts made over the past thirteen years to transform the Palestinian political system by integrating PLO institutions into the governance structure as a replacement for the Palestinian Authority institutions, which were established in 1994 under the Basic Law. The ultimate goal of these transformations was to solidify the envisioned Palestinian state by shifting from authority-based institutions to fully sovereign state institutions.

These transformations include¹¹:

- The first transformation began after Palestine was granted non-member observer state status at the United Nations, following UN General Assembly Resolution 67/19 on November 26, 2012¹². One of the key manifestations of this shift was the replacement of the name "Palestinian National Authority" with "State of Palestine" in official Palestinian institutions. Additionally, the title "President of the Palestinian Authority" was removed from official documents, including laws, decrees, and presidential decisions, which were thereafter signed under the title "President of the State of Palestine and President of the Executive Committee of the PLO."
- The second transformation occurred following the dissolution of the Palestinian Legislative Council (PLC), as per the interpretative ruling of the Constitutional Court on December 12, 2018. The ruling mandated the dissolution of the PLC and the call for new

¹⁰See:mjr.ogb.gov.ps/Decrees/Download/?p=94637a41-4705-4858-9685-fcf582bcd1e4.pdf&d=Constitutional-Declaration-No.1-of-2024-Palestine

See: Jehad Harb, Are There Realistic Options for Secure Succession Arrangements in Light of the Transformations in the Structure of the Palestinian Political System?
Brief 1 2022 succession Jehad ARABIC.pdf

¹²See: United Nations General Assembly Resolution 19/67 of 26 November 2012 Document Viewer

<u>legislative elections</u> within six months¹³. This transformation was reflected in changes to the legislative framework governing laws issued by the President of the Palestinian Authority. Starting with Issue No. 152 of the Official Gazette, published on February 19, 2019, the reference to Article 43 of the Amended Basic Law of 2003 was removed from the introduction of presidential decrees and laws.

Instead, a new wording was introduced: "Based on the Basic Law of the PLO and the Amended Basic Law of 2003 and its amendments." Additionally, the transitional provision, which stipulated that any decree-law must be presented to the Legislative Council for approval in its first session, was also removed from all newly issued laws.

• The third transformation stemmed from the 31st session of the PLO Central Council (PCC), held from February 6–8, 2022¹⁴. During this session, the PCC issued a decision emphasizing the need to continue adapting the legal status of Palestinian state institutions and their international relations in accordance with UN General Assembly Resolution 67/19 (2012), which granted Palestine non-member observer state status at the United Nations.

The decision also reaffirmed the PCC's constitutional authority and oversight jurisdiction over the executive bodies of the PLO, its institutions, and the Palestinian National Authority, as well as over the operations of unions, syndicates, and associations, in accordance with their governing laws.

One of the key outcomes of this decision was a presidential decree transferring the General Secretariat of the Palestinian Legislative Council (PLC), along with all its departments and facilities, under the authority of the President of the Palestinian National Council (PNC) ¹⁵.

- The fourth transformation was the issuance of Decree-Law No. (1) of 2021, which amended Decree-Law No. (1) of 2007 on General Elections. This amendment explicitly stipulated that the President of the State of Palestine would be directly elected by the Palestinian people, applying to both the West Bank and Gaza Strip. Additionally, the amendment replaced the title "President of the Palestinian National Authority" with "President of the State of Palestine" in all official legal and electoral references¹⁶.
- The fifth transformation relates to the presidential decree issued on August 21, 2024, concerning the visit of the President of the State of Palestine and Palestinian leadership members to the Gaza Strip¹⁷. This decree assigned the committee established under Article 3, Clause 5 the task of developing concrete mechanisms for advancing the realization of the State of Palestine, drafting a constitutional declaration, and forming a transitional council.

¹³See: WAFA publishes the text of the Constitutional Court's decision regarding the dissolution of the Legislative Council and holding elections.

¹⁴See: Final Statement of the Palestinian Central Council at its Thirty-First Regular Session - Ramallah 2/2022/8-6

¹⁵See: Resolution No. (31) of 2022 regarding the General Secretariat of the Legislative Council

¹⁶ See: Decision-Law

¹⁷See: Decree on the President of the State and members of the Palestinian leadership's visit to the Gaza Strip

Recommendations

Reducing the risks of illegitimacy in the hybrid Palestinian political system, which may arise due to a potential vacancy in the presidency—whether due to incapacity or death—requires proactive measures. The absence of a democratically elected Legislative Council, the possibility of internal power struggles, and the risk of external interference in shaping or reshaping the Palestinian political system all underscore the need for a structured approach.

To address these challenges, one of the following two options should be considered:

- Holding early legislative elections to establish constitutionally recognized mechanisms for power transition, ensuring adherence to legal principles and maintaining the legitimacy of the political system. This approach would also reduce the risks associated with the succession of President Mahmoud Abbas, preventing potential threats to public security and the disruption of essential services for Palestinian citizens. Additionally, holding early legislative elections would:
 - Comply with the Constitutional Court's ruling, which mandated parliamentary elections.
 - Protect Palestinians from international isolation or potential diplomatic and economic repercussions, such as international boycotts or the collapse of agreements with Israel.
 - Uphold the democratic right of citizens to elect their representatives and participate in governance.
- Establishing a Constituent Council for a Transitional Period¹⁸, with a fixed and limited duration, after which general elections would be held. The primary task of this council would be to adopt a constitution for the future State of Palestine. This proposal requires several key steps:
- 1- Issuing a constitutional declaration for the transitional period, specifying its duration. This declaration would suspend the Palestinian Authority's Basic Law and the PLO's Basic Law while establishing a Constituent Council.
- 2- Forming a Government of the State of Palestine, based on the decision of the Palestinian National Council (PNC) in Algiers in 1988, when the Palestinian Declaration of Independence was announced. This is consistent with the letter sent by the PLO's Permanent Observer to the UN, Ambassador Zuhdi Tarzi, to the UN Secretary-General on December 9, 1988, which stated that "the PLO Executive Committee is entrusted with the powers and responsibilities of a provisional government until a formal government is established" 19.
- 3- Unifying all existing political institutions and placing them under the authority of the transitional government, ensuring a coherent and functional state structure.

¹⁸ For more on how to establish the Constituent Assembly, see: Jehad Harb, Three Possible Scenarios for Establishing the Constituent Assembly. <u>Three possible scenarios for the embodiment of the state.pdf</u>

¹⁹ See: Text of the letter of the Permanent Observer of the Palestine Liberation Organization Mission to the United Nations, Zuhdi Tarazi, to the Secretary-General of the United Nations. <u>Document Viewer</u>

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