

Policy papers



Moving from symbolic decisions to political actions to embody the state
Three possible scenarios
for establishing a Constituent Council



Jehad Harb

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Professor Jihad holds a master's degree in political science from the Faculty of Law and Political Science in Tunis Since 1999, he has been writing a weekly article specializing in Palestinian affairs and the Palestinian-Israeli conflict. And co-writer of Arab Security index Report, And the report on the state of reform in the Arab world, “The Arab Democracy Scale”, and a member of the main team of the Palestinian Integrity index report, and the Integrity index report in the Palestinian security sector, and he worked as a member of the team of experts supporting the work of the group to support and develop the path of national reconciliation/security sector. He published many studies in Palestinian and Arab institutions and research centers related to the Palestinian political system, good governance, parliamentary work, the integrity system, the security sector, and refugee issues.

THABAT Center for Research and Opinion Polls

Research institution, founded in 2024 as an independent center for research, public policy studies, and public consultation. It is an emerging institution for optimal investment in research, surveys, data collection, methodologies for developing representative samples, analyzing data, writing reports and research papers, and experts in various fields in order to reach the highest levels of accuracy and credibility.

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It restored recognition by Spain; Ireland, Norway, Slovenia, and Armenia in the Palestinian state, and the vote of the United Nations General Assembly in favor of the eligibility and readiness of the State of Palestine to acquire Full “active” membership in the United Nations and granting it the privileges of member states, with the exception of the right to vote and run for United Nations bodies. Last May, the discussion was once again opened on the mechanisms for moving from “symbolic” decisions to actions to build the political body of state institutions, allowing the Council’s decisions to be completed. National Council at its nineteenth session, held in Algeria in 1988, and embodying the Declaration of Independence, And the decision of the National Council at that time "Assigned Executive Committee of the Palestine Liberation Organization (PLO) the powers and responsibilities of the interim government until the formation of the government is announced Government of the State of Palestine" In a way that allows for the restoration of unity and an end to division by unifying the institutions of the future state through a national agreement, which will achieve the presence of all Palestinian factions, regardless of the nature and form of the government.

The idea of establishing a democratic state represented the “crown jewel” of the Palestinian national project. The concept of the state takes a central place in the thought of the central Palestinian factions and their political programmes. This is regardless of the methods for achieving its establishment, whether through armed struggle, popular resistance, negotiations, or disagreement over the national struggle strategy and not the national goal, not to mention global recognition of the two-state solution option, especially among the international powers influencing it. The concept of the Palestinian state requires ending the occupation and withdrawing from the territories occupied in 1967, which gives the Palestinians the ability to exercise their right to self-determination without influence from any external party on their choices regarding the form of their relationship with others and the form of their independence.

The same PLO documents appear, Like the Declaration of Independence, there are two issues: first; The goal of the Palestinian fight is to achieve the establishment of a state. The second; The PLO is a means to achieve this goal. In contrast, the concept of the imagined state was built into a document the Declaration of Independence focused on two fundamental issues: The first: relates to sovereignty that expresses the free will of citizens, and the second: building a democratic system of government based on the rule of law and social justice. That is, the state The coming Regardless of its geographical borders, it includes all Palestinians! The State of Palestine is for the Palestinians wherever they are” without detracting from belonging to the eternal relationship with the homeland and the legal bond with the state, while the PLO Organization “the vehicle” remains a moral homeland for all Palestinians and its function is transformed from a political one concerned

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with political representation. What remains today is the link or link between the Palestinians in the diaspora and the state and its institutions.

This paper reviews three possible scenarios for moving from symbolic decisions to...the Political actions to establish the Constituent Council within the framework of completing the embodiment of the future Palestinian state and building its political institutions as an input for Restoring national unity and ending division; The first scenario: requires the election of the Constituent Council, the second scenario: implementing and activating the Central Council by assuming the role and function of the State's Constituent Council, and the third scenario: agreeing to appoint members of the Constituent Council from different political spectrums and national competencies.

The state in Palestinian political thought and its embodiment

The idea of embodying the state declared in the Declaration of Independence is occupied by Forums International and international organizations a wide area in the work method of the PLO and the Palestinian factions; To obtain international support for the establishment of a Palestinian state, considering this matter internationally acceptable under the slogan of the two-state solution option on the one hand, and the desire to achieve a dream to Including the Palestinians in a state that expresses them and protects them from the suffering of the diaspora on the other hand.

On the external level, this process began in the corridors of the United Nations in 1974 and continued to develop Palestine's status in the United Nations. This came up Clearly in the insistence on resolving the agreement on the borders of the Palestinian state in the negotiations Conducted by Palestinian President Mahmoud Abbas with Prime Minister Ehud Olmert as the central starting point toward Discussing other negotiation files in 2008, and continuing attempts to request membership in the United Nations, which failed to be obtained in the Security Council in 2011, and then requesting that Palestine's status be upgraded to an observer state in 2012, which qualified the State of Palestine to join international organizations and agreements as a member as one of the tools of the conflict. In the year 2024, an application for membership in the United Nations was submitted to the Security Council But the United States used its veto power to prevent recommending to the General Assembly to accept the request.²In front of the American veto in the Security Council, the General Assembly was held on May 10, 2024, which issued its resolution

² The experiences of countries joining the United Nations indicate that it is a long battle that requires patience and deliberation unless there is an agreement between the five permanent members. South Korea obtained an observer state in 1948, and North Korea obtained it in 1971, while they obtained full membership within the framework of the 1991 deal. Voting in the Security Council is based on the nature of the existing conflict between the permanent members of the Security Council, so it does not matter if the country with the membership application is complete. The elements or fulfill the requirements of the United Nations Charter and the obligations arising from it. Rather, it is mostly a political vote with formal legal rules.

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No. 23/10.ES - Judge the eligibility of the State of Palestine for membership and ask the Security Council to reconsider in addition to grant the State of Palestine has exceptional privileges in the corridors of the United Nations.

It seems that the Palestinian political leadership has an awareness that membership in the United Nations gives it new tools in the political and legal struggle in the corridors of international institutions by moving from the conflict over occupied lands to the lands of an occupied state. We apply to it the application of Chapter Seven of the United Nations Charter, from requesting an advisory opinion from the International Court of Justice to resolving the dispute by a decision of the court in which the State of Palestine becomes a member in its statute.

On the internal level, during the last twelve years, symbolic political decisions have been taken to replace the institutions of the Palestinian Authority (PA) with state institutions. These measures were as follows: (1) replacing the name “Palestinian National Authority” with the State of Palestine in the official Palestinian institutions, and then deleting the word “President of the National Authority” from the President’s signature on decisions by laws, decrees and presidential decisions and appending them with the President of the State of Palestine and the Chairman of the Executive Committee of the Palestine Liberation Organization (PLO) on Following the raising of Palestine’s status to observer state in the United Nations pursuant to UN General Assembly Resolution No. 19/67 issued on November 26, 2012.

(2) The legislative wording according to which Palestinian legislation is issued by the President of the Palestinian Authority (PA) has changed, starting with Issue 152 of the Official Gazette issued on 2/19/2019, where the text was deleted based on the provisions of Article 43 of the Amended Basic Law of 2003 and its amendments from the introduction Decisions by law, and there is another wording: “Based on the statute of the Palestine Liberation Organization (PLO), and based on the provisions of the amended Basic Law of 2003 and its amendments.” The article was also deleted in the transitional provisions in the decisions by laws that stipulate that the decision by law shall be presented to the Legislative Council in its first session. It shall be held for approval, which must be included in every law decision, following the decision to dissolve the Legislative Council, in accordance with the interpretative decision of the Constitutional Court on December 12, 2018, which ruled “to dissolve the Legislative Council and call for legislative elections within six months from its date.

Three scenarios for embodying the Palestinian state through political institutions

Countries usually establish a Constituent Council or a National Assembly upon independence, as is the case in most countries of the world following their liberation from colonialism, or reconsider the constitutional structure during the transitional stages, as happened in Tunisia and Egypt after the Arab Spring. As for the Palestinian case, the establishment of such a council comes To move from the existing duality between the PA and the PLO, activate international recognition, including the resolution of the United Nations General Assembly, impose a fait accompli in the confrontation with the occupation and its procedures, and provide a unifying national container as an entry point to restore unity and overcome potential challenges to national integration in governance and its consequences and burdens.

(1) The first scenario: an elected Constituent Council

This scenario requires holding free and fair general elections to choose the members of the Constituent Council in accordance with the agreed upon General Elections Law, where General Elections Law No. (1) of 2007 and its amendments represent the basis for holding these elections. This scenario is consistent with the amendment to the election law in the year 2021, which amended the phrase “the Palestinian Authority and the President of the Authority” to “the State of Palestine and the President of the State of Palestine”. In addition to merging together the position of President of the State of Palestine and Chairman of the Executive Committee of the Palestine Liberation Organization, who will be elected in accordance with the provisions of Article 2 of the law.

Public opinion polls show that a wide majority wants to hold and participate in elections; Where 72% of the Palestinian public wants to hold both legislative and presidential elections, according to the results of the opinion poll (71) conducted by the Palestinian Center for Policy and Survey Research in March 2019, Two-thirds of the Palestinian public wants general elections to be held according to the results of the opinion poll (87) conducted by the Palestinian Center for Policy and Survey Research in March 2023, while 70% of the Palestinians say that they will participate in the general elections if they are held according to the results of the opinion poll (92) Conducted by the Palestinian Center for Policy and Survey Research in June 2024.

One of the advantages of this scenario is the existence of a national agreement on this law, as it was agreed between the Palestinian factions in the year 2021 to hold the legislative elections for the Palestinian Authority at that time. These elections also represent an opportunity in this case to know the political orientations of the voters/Palestinians, which express the ways and means of political action and the goals of the Palestinian people represented by ending the occupation, as the wide majority (88%) of citizens see that ending the occupation and the right of return are the basic goals of the Palestinians, while others see 12% say that the first and vital goal should be to build a good individual and a religious society, while 9% say that it should be the establishment of

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a democratic ruling system that respects Palestinian human rights. Representation within the Constituent Council shall be identical and similar to the vote of voters especially the electoral law adopts a proportional system that gives the electoral blocs the “factions” of the size they represent in society, and at the same time granted Citizens exercise their right to choose their representatives in the Constituent Council.

Despite the many advantages and importance of holding elections, the Israeli war on the Gaza Strip, the destruction of infrastructure and citizens’ property, and the conditions of the Gaza Strip do not allow holding general elections in the foreseeable future, as the requirements for reviving the Strip require attention to citizens’ priorities, including providing relief, rebuilding, and other necessities. life. This scenario also requires going beyond the voting process of voters in the city of Jerusalem and the national agreement on this matter.

(2) The second scenario: The Central Council takes over the function of the Constituent Council

This scenario stipulates the installation of the Central Council of the Palestine Liberation Organization and assuming the function of the Constituent Council, which is to draft the constitution of the State of Palestine, grant confidence to the government of the State of Palestine, and monitor its work. Also, the council chooses the head of state in accordance with the decisions of the Palestinian National Council. Where PLO enjoys as the sole legitimate representative of the Palestinian people in all their locations accepted by the majority of Palestinian citizens a majority of 51% says that the current Palestine Liberation Organization is its sole legitimate representative, according to the results of an opinion poll conducted by the Palestinian Center for Policy and Survey Research in March 2022.³ On the other hand, the majority of citizens (71%) are dissatisfied with... The role that get up with it organized Editing Palestinian To achieve Goals The people Palestinian in Independence according to the results of an opinion poll conducted by the Palestinian Center for Policy and Survey Research in September/September 2023.⁴

This scenario has multiple advantages including; that it does not require logistical or political complications in decision-making within the Palestine Liberation Organization, where the Palestinian National Council delegates The Central Council with full legislative and oversight powers stipulated in the statute of the PLO in accordance with the National Council’s decision dated 4/5/2018 announced in the “Declaration of Jerusalem and Return Issued by the Jerusalem Session and the Protection of Palestinian Legitimacy”.

In the thirty-first session, held on 6-8 February 2022, The Central Council decided “The need to continue working to adapt the legal status of the institutions of the Palestinian state and its international relations in implementation of General Assembly Resolution No. 19/67 of 2012” regarding raising Palestine’s status to an observer state in the United Nations. And the need for the Central Council to exercise its constitutional powers and its supervisory mandate over the executive bodies of the organization, its agencies and institutions, and over the Palestinian National Authority and the work of federations, unions and associations in accordance with the laws that

³ See Poll No. 83 of the Palestinian Center for Policy and Survey Research. <https://pcpsr.org/ar/node/907>

⁴ See Poll No. 89 of the Palestinian Center for Policy and Survey Research. <https://www.pcpsr.org/ar/node/956>

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regulate their work. The President also issued a decision⁵In the year 2022, that stipulates that “the General Secretariat of the Legislative Council, and all its components and facilities, be placed under the responsibility of the President of the National Council.” this scenario is most likely approved by the international community, especially the countries that recognize the Palestinian state.

The most notable drawbacks of this scenario are: to retreat in citizens’ confidence in the political leadership and its decisions which led to a decline in its status and the erosion of confidence in state institutions, “authority and organization.” Public opinion polls indicate dissatisfaction among citizens on the performance of the Central Council; According to the results of an opinion poll conducted by the Palestinian Center for Policy and Survey Research in March 2022⁶A majority of 56% agrees with the position of those boycotting the Central Council meeting that the meeting was illegal, while only 29% say it is legitimate. Also, the majority (almost 70%) of the public does not support the elections of the Palestinian figures who were elected during the Central Council meeting. In a survey conducted by the Palestinian Center for Policy and Survey Research in July 2018⁷ About two months after the National Council convened, a large majority (65%) said they were dissatisfied with the Council’s method of selecting members of the organization’s Executive Committee, and only 23% said they were satisfied with this selection method. Also, a large majority (71%) is dissatisfied with the ability of the Executive Committee members to represent the homeland and the diaspora, given their average age and the concentration of their place of residence in the West Bank. Only 20% say that they are satisfied with the ability of the Executive Committee members to represent the homeland and the diaspora.

Not to mention that the installation or assumption of the duties of the Central Council of the Legislative Council will express one approach without taking into account the political balances and transformations in the political and partisan structure of Palestinian society. This comes in the absence of national unity that provides opportunities for political forces outside the PLO to participate in it balancedly, and this decision will take on the character of exclusivity in drafting the future constitution of the State of Palestine. This scenario does not provide an opportunity to restore national unity and end division and obstructs the work of the government approved by it in the Gaza Strip.

(3) Third scenario: Establishing a Constituent Council by consensus appointment

This scenario requires the establishment of a founding council by consensus between the Palestinian factions and social forces, allowing for balanced participation of the political and social forces, and in a manner consistent with their position in Palestinian society. And its ability. This step comes in light of the weak possibility of holding general elections due to the war on the Gaza

⁵ See Resolution No. 31 of 2022 regarding the General Secretariat of the Legislative Council. https://maqam.najah.edu/media/uploads/2022/05/legislations/191_with_logo_compressed-36.pdf

⁶ See Poll No. 83 of the Palestinian Center for Policy and Survey Research. <https://pcpsr.org/ar/node/907>

⁷ See Poll No. 68 of the Palestinian Center for Policy and Survey Research. <http://pcpsr.org/ar/node/730>

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Strip and the lack of the necessary capabilities to conduct them in a way that guarantees equality, justice and the values of integrity.

Opinion polls conducted by the Palestinian Center for Policy and Survey Research indicate⁸ ending the division unifying The West Bank and the Gaza Strip, enjoys wide support among the Palestinian public as a supreme national interest. The results of Poll No. 75 conducted by the Palestinian Center in February 2020 showed that 90% of citizens support ending the division and unifying of the West Bank and the Gaza Strip. 84% of citizens believe that achieving immediate reconciliation, unifying the West Bank and Gaza Strip, and forming a national unity government are the two most important measures that must be taken to address the current war on Gaza (51% prefer reconciliation and 33% prefer forming a national unity government). Support rises to 90% in the Gaza Strip (61% prefer reconciliation and 29% prefer forming a national unity government) compared to 80% in the West Bank (44% prefer reconciliation and 36% prefer forming a national unity government).

One of the advantages of this scenario is that it is based on a national agreement that promotes the restoration of national unity and the establishment of a government whose form and nature are agreed upon under the supervision of the Constituent Council, and that dialogue and discussion related to the constitution, its provisions, rules of governance, and the form of the future political system are widely agreed upon by all Palestinian factions. On the other hand, this agreement provides the opportunity to unify state institutions in the West Bank and the Gaza Strip, which may accelerate the possibility of accelerating the supervision of the recovery and reconstruction program in the Gaza Strip under an internationally accepted government.

The most prominent defect of this scenario is the problems it may cause related to agreeing on the members of the Constituent Council in light of years of disagreement between the Fatah and Hamas movements in particular, and the prolongation of the internal Palestinian dialogue regarding political affairs and the requirements of the national integration process, which makes this step lose its importance. The idea of appointing members of the Constituent Council is not accepted by various popular sectors, and faces opposition from the international community to Hamas' entry into the "legislative" institution, in particular after the events of October 7, 2023. The merger or presence of the Hamas and Islamic Jihad movements in Palestinian political institutions may face opposition from some influential countries such as the United States of America and Israel, and the State of Palestine and its institutions may be exposed to pressure from regional parties as well.

⁸ See the public opinion polls of the Palestinian Center for Policy and Survey Research www.pcpsr.org

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Conclusion

It calls for the centrality of the idea of the state in the political path or the Palestinian-Israeli conflict. As one of the aspects of the Palestinian-Israeli conflict, making internal decisions in a manner consistent with the national interest, especially after the great sacrifices made by the Palestinian people in the Gaza Strip in the past nine months on the one hand, and on the face of attempts to undermine the Palestinian Authority and the occupation government's disavowal of the signed agreements on the other hand. Responding to international transformations Increasing international solidarity, especially among European peoples, and the transformation of this solidarity into a semi-organized popular movement, and the accelerating realization that recognition of the Palestinian state supports the forces of peace in the region and cancels the veto granted to Israel over the past years over the establishment of a Palestinian state by a third party. And to a coronation for the continuous political and diplomatic efforts of the Palestinians over more than a decade, for the "exceptional" status of the State of Palestine in the United Nations for overcoming the long wait to override the American veto in the Security Council in Submitting an application for membership in the State of Palestine in The United Nations, on the other hand.

Completing the work on embodying the State of Palestine requires the establishment of a Constituent Council whose mission is to adopt the constitution of the future State of Palestine, and form a Palestinian government responsible for managing and monitoring public affairs and money, and issuing necessary legislation to manage this transitional phase. This is for a limited and specific period at the end of which general elections will be held in accordance with a general elections law consistent with the rules regulating the political system and the governance adopted in the new constitution. In addition, the establishment of the Constituent Council has become a necessity as an entry point to restore unity and end the division, including unifying state institutions in the West Bank and Gaza, and consecrating the Palestinian state in a manner consistent with transforming international recognitions into reality, imposing it as one of the aspects and tools of the conflict, overcoming potential challenges to national integration, and moving on from the means "The Palestine Liberation Organization" to the end of "the future State of Palestine".

The comparison between the three scenarios, which were mentioned in this paper, indicates that the first scenario, represented by holding elections for the Constituent Council, is the optimal scenario because it is based on the will of the citizens and their choice of their representatives in the Council through direct voting, while the second scenario, represented by the installation of the Central Council of the Palestine Liberation Organization, is the easiest scenario for activating Presidential Resolution No. 31 of 2022, in addition to drafting the constitution, he is responsible for supervising the existing government, and the decision of the Central Council in February 2022. While the third scenario, based on the establishment of a constituent council through consensual appointment between Palestinian factions and social forces, is the best scenario. It is based on a Palestinian agreement that contributes to the process of national integration, helps restore national unity, ends division by unifying state institutions, and resolves the issue of the political program for all Palestinians, which is based on the establishment of a state on the borders of June 4, 1967, and United Nations resolutions. In this scenario, the issue of quotas in the membership of the Constituent Council between factions can be overcome based on the average support for political forces over the last ten years, for example, and the standards of social competencies in the Council can be determined in line with the average percentage of non-partisans in public opinion polls.

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