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Will the government of Mohamed Mustafa succeed in overcoming the reform challenges?



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Will the government of Mohamed Mustafa succeed in overcoming the reform challenges?

Alaa Lahlouh

The government of Dr. Muhammad Mustafa was formed by a decree of the President of the Palestinian Authority (PA), Mahmoud Abbas. It was formed at one of the worst moments for the Palestinian people; a moment of great challenges and a perceived threat of genocide in the Gaza Strip. The war in Gaza has been accompanied by the escalation of Israeli attacks in the West Bank, including daily killings by the Israeli army and settlers, forced displacement out of area C, destruction of homes, confiscation of land, and the arrest of thousands since October 7, 2023. On top of that, the PA is going through one of its worst times since its inception in terms of its perceived and actual weakness and inability to fulfill its obligations towards the Palestinian people, in addition to the decline in public trust and confidence in the entire PA, its institutions, and its leadership standing today at the lowest level since its creation 30 years ago. The formation of the new government came in response to international pressure, essentially American and European. These PA donors emphasized the need for a "revitalized" PA with which they can cooperate to shape the Palestinian future, especially for the "day after" the end of the war on the Gaza Strip, requesting that it should be a non-political government, one consisting of respected professionals and technocrats.

The government presented its platform, which included 7 main articles, including institutional reform. A quick look at the institutional reform article shows that it contained two items:

- The development of an institutional reform plan, one that would address economic, security, judicial, financial and public administration sectors. It outlined specific financial areas, such as fiscal responsibility, budget transparency, efficient allocation of resources and expenditure management, as well as health and education.
- The formation of a ministerial working group or committee to coordinate and lead the reform process. The Government approved the mission and work plan of the Ministerial Committee, as well as the relevant sectors of reform, which can be grouped in ten areas: strengthening the principles of government, transparency, accountability and combating corruption; improving the justice sector and strengthening the rule of law; strengthening democracy and human rights; enhancing the efficiency and capabilities of the public sector; reforming the security sector and promoting civil peace; improving the quality of services such as health and education; reforming public financial conditions; improving the local government sector; integrating digital transformation into the productive and service sectors; and strengthening and developing the economic sector.

So far, about three months after the publication of the government's platform, the government has not published any further statements about the content of the reform plan. The ministerial statement omitted any reference to how this government will be able to carry out reforms and what distinguishes it from other previous governments. The government has not explained to us why it thinks it can succeed in carrying out reforms and fighting corruption. Does it think that American support for the government is sufficient to help it overcome various challenges it will most likely confront. Is there enough support from President Abbas, different this time from the support he gave to the previous government, so that the Mustafa's government can implement its program.

This Brief aims to do two things:

- 1) Examine the challenges and obstacles that could prevent the current government from implementing the reforms proposed in its program. The Brief will do so by reviewing the reasons for the failure of the various previous reform programs of successive Palestinian governments; and,
- 2) Propose recommendations on how to move forward on the reform process in all institutions of the Palestinian political system.

The Brief benefited from meetings with various Palestinian parties with knowledge of the developments in the reform process, the results of public opinion polls conducted during the past two years, and a review of a number of specialized reports issued by various competent authorities. The Brief concludes with an assessment of the prospects of Mustafa's success in overcoming the daunting challenges facing the reform process.

Many challenges and limited success:

Calls for reform in PA institutions date back to 1997, when the General Audit Institution's (GAI) report on corruption in PA institutions was issued. This report had a great resonance in the Palestinian society as well as the PA institutions. It was followed by the release of a follow up report by a committee formed by the Palestinian Legislative Council (PLC) to study the GAI report and the claims of administrative and financial corruption in PA institutions. These reports were followed by calls for reform. Externally, there have been several such calls, most notably the report issued by the Independent Working Group for the Strengthening of PA Institutions in 1999 (the so-called Rocard report).

Palestinian calls and efforts for reform have continued over the past years, as all previous Palestinian governments have adopted ambitious reform programs that have been shattered by a set of challenges and obstacles that prevented the implementation of the reform agenda. The challenges and their sources are varied. Some of these challenges are external, such as the Israeli occupation and external pressure from donors, and some are internal, such as the absence of political will among the top Palestinian decision-makers, the absence of integrity in governance, the financial and political costs of reform, in addition to a diminished public trust in the Palestinian political system since 2010, when the term of the parliament and the president expired.

The Palestinian society demands a set of reforms, including the need to hold general legislative and presidential elections, respect for the rule of law, building effective governance institutions with accountability, applying the principle of separation of powers in the political system, ensuring the independence and professionalism of the judiciary, and implementing the principles of transparency in the practice of governance and the management of public affairs and funds.

Internal challenges:

- (1) *Lack of political will*: Political will is the main pillar of any viable reform process. But it is clear that in the Palestinian case, such will does not exist on the part of PA leadership. This absence is reflected in the fact that throughout the years of the previous government there was no serious will to reform. Had it existed, we would have seen it. What has been clear in the past is that reform comes only with external pressure. This absence is also evident in the fact that while the current new government was presenting its platform (which was based on the letter of assignment from the president) announcing the suspension of appointments in the public sector, several laws by presidential decrees were issued to create new public institutions¹ and to appoint new advisers to the president.² The lack of political will is driven by several reasons, perhaps the most important of which is the absence of accountability and oversight in the entire Palestinian political system. Without a parliament since the split between the West Bank and the Gaza Strip in June 2007, the ruling elite in the PA saw a threat to its interests in any serious reforms. It goes without saying that the institutional reform plan proposed by the new government will be derailed by the absence of political will.
- (2) *Failure to empower the government*: The Basic Law defines the prime minister's jurisdiction.³ But in the absence of the PLC, the Palestinian president has become the only source of powers and legislation. As a result, governments come and go without exercising their real power and jurisdiction granted to them by the Basic Law and the vote of confidence from the parliament. Legislation, in the form of laws by decrees, has in fact contributed to depriving the government of its constitutional mandate and weakened the provisions of the Basic Law thereby contributed to weakening the government or depriving it of its powers in favor of the institution of the presidency, or institutions associated with the presidency. In light of this current situation, the current government is constrained in its actions and unable to implement its reform program.

¹ The previous government worked within a reform program to try to rationalize public institutions and attach them to the ministries of competence. Yet, at a time when President Abbas assigned Mohamed Mustafa to form the government, the president issued a law by decree at the request of the former Minister of Social Development, Ahmed Majdalani, in the resigned government regarding the Palestinian National Foundation for Economic Empowerment. An amendment was made in the new law pertaining to the chairman of the board of trustees of the foundation. It stated in Article (2) of the amended law that "the Foundation shall have a board of trustees headed by a legal person appointed by a decision of the President." The president appointed Majdalani as chair. In other words, the Social Development Ministry is no longer leading the institution, thereby reducing institutional accountability and oversight.

² Advisers to the president, former ministers and officials, were appointed at the time that the government was announced a halt to public sector appointments.

³ *Powers of the Prime Minister*: To form the Council of Minister, to amend its formation, to dismiss its members, to accept the resignation of any member, to preside over and manage the sessions of the Council, to supervise the work of ministers and public institutions affiliated with the government, to issue decisions within the limits of his/her competences, and to sign and issue regulations. (Article 68). *Powers of the Council of Ministers*: Setting public policies in the light of the ministerial program approved by the Legislative Council, implementing the established public policies, preparing the draft general budget, following up on the implementation of laws and ensuring compliance with their provisions, supervising the performance of ministries and other units of the administrative apparatus, maintaining public order and internal security, establishing or abolishing bodies, institutions, authorities and other units of the administrative apparatus of the government, appointing their heads, determining the competencies of ministries and authorities of the government, and preparing and submitting draft laws to the Legislative Council (arts. 69-70). Each minister is responsible for proposing the general policies of his/her ministry, supervising their implementation, supervising the progress of work in the ministry, implementing its budget, and preparing draft laws related to it (65).

This reform program, as noted below, may even be rejected by power centers within the PA and the ruling elite, if they fear that their interests and influence are threatened by it.

- (3) *Financial cost*: Some administrative reforms require a financial cost that the PA is unable to provide, especially in light of the punitive measures imposed by the Israeli occupation on the PA and the decline in international financial support during the past ten years. For example, the judiciary needs to appoint judges, administrators and technicians in courts, in addition to building courts and other facilities that meet the needs of the justice system in many governorates. Reforming the civil service law, or retiring a large number of civil servants, would also require significant financial costs. In light of the PA's fiscal deficit, it will not be able to carry out many administrative reforms with high financial costs.
- (4) *Political cost*: The political cost of the reform process, meaning the potential harm to the interests of power centers, groups close to the decision-maker, will pose a fundamental challenge to this process. The past years have witnessed the establishment of an alliance between the political class that leads the PA and the business class, and thus the regime has become unable to take decisions of economic-social nature that benefit the largest segment of the Palestinian public, in order to preserve the interests of businessmen linked to the interests of the political class. For example, the previous government studied the legal, financial and administrative conditions of 109 non-ministerial governmental institutions in order to ensure their integration in the government work in a manner that ensures the agility, vitality and the productivity of these institutions.⁴ But it was able to achieve this in only 30 institutions and could not accomplish more in this area due to the financial and political cost of this process and the association of these institutions with the centers of power within the PA, which prevented these institutions from being integrated with the Council of Ministers. Given this current reality, the new government will not be able to succeed in this particular issue due to the likely resistance from other PA actors, most notably the president's office and other power centers.⁵ Clearly, the government can succeed only if it is granted its full jurisdiction as stipulated by law, as noted above.
- (5) *Lack of integrity in governance*: A review of AMAN's report⁶ on the reality of integrity and anti-corruption in Palestine for the year 2022 depicts a disturbing picture in which the ruling elite persists in adopting policies and procedures aimed at strengthening its power positions, and acquiring additional centers of power. It does so by controlling appointments in public institutions without relying on the principle of transparency and standards of competence and eligibility, and by adopting policies and making decisions that serve its own political interests at the expense of the public interest. For example, the PA issued several laws by decrees contrary to the rules of integrity in the government, as indicated in AMAN's annual report, including a decree amending the General Intelligence Law, a decree amending another decree on the judiciary of the security forces, and a decree amending the consular fees law, which exempts employees of the Ministry of Foreign Affairs and their first-degree relatives from the majority of consular fees without a clear justification for the reason for this exemption, which violates the concept of equality stipulated in Article IX of the Basic Law. These measures have contributed to weakening citizens' confidence in political officials and institutions as well as the statements and plans issued by them. This was clearly demonstrated by a public opinion poll conducted at the end of May 2024, when 67% of the public believed that the government of Muhammad

⁴ See, Reform Agneda, April 2022, PA government website: <http://www.palestinecabinet.gov.ps/portal/publication/7/1>

⁵ Interview with Ammar Dweik, Director-General of the Independent Human Rights Commission, , 8 June 2024

⁶ See, <https://www.aman-palestine.org/reports-and-studies/20711.html>

Mustafa would not succeed in reforming the institutions of the PA and 77% believed that the new government would not succeed in combating corruption.⁷

- (6) *The political system's perceived lack of legitimacy*: The Palestinian political system has been suffering from a loss of constitutional and popular legitimacy since 2010, when new elections were supposed to take place for the parliament and the president. These elections did not take place since then due to split, at times, and due to objection from the Israeli occupation at other times. Additionally, the PA ruling elite showed a lack of seriousness intention to hold elections. Those who claim to preserve the legitimacy of the regime are the regime's ruling class and the social forces benefiting from it, which have lost their legitimacy and public trust. Polls in recent years have shown a rise in dissatisfaction with the performance of President Abbas, who is the head of the executive authority but also serves as the legislature due to the absence of the PLC, with only 12% expressing satisfaction with his performance and 86% expressing dissatisfaction. On the other hand, the percentage of those calling for the president's resignation increased to 89% in mid-2024.⁸ General election, leading to the renewal of legitimacy, is the most important key to political reform while addressing the problem of the absence of an independent legislature.
- (7) *Poor government performance*: Palestinian governments have suffered from poor performance, especially in the financial sector, as these governments have failed to address a number of basic public concerns, such as the Social Security Law, and failed to preserve the funds of the public employees' pension fund when they failed to transfer the contributions of employees during the past twenty years or more. The findings of the most recent Arab Barometer survey, conducted at the end of 2023, show that there is great discontent among the majority of Palestinians regarding the government's performance in terms of delivering basic services: 64% said they are dissatisfied with this performance in general, 51% indicated that they are dissatisfied with the educational system, 52% are dissatisfied with the healthcare system, 57% are dissatisfied with the quality of the streets, and 53% are dissatisfied with public hygiene. A wide majority of 79% believes that the government is not very responsive or not at all to what people want. These findings show a decrease in satisfaction compared to the seventh Arab Barometer round, which was conducted two years earlier.⁹ In light of the Palestinian public's dissatisfaction with the performance of the successive governments, the reform steps that the government plan to implement will be viewed with suspicion and may be met with popular rejection, as happened when the PA efforts to implement the social security law several years ago.
- (8) *Lack of citizens' confidence in the political system*: Citizens' confidence in the government and other public institutions has declined significantly over the past decade. This development has led to the creation of protest movements and strikes by professional groups and unions when the PA tried to implement reforms that were viewed as having the potential to harm the interests of certain groups. For example, the government of Rami al-Hamdallah failed to implement the Social Security Law due to the protest movement carried out by groups and segments of the society targeted by that law. These groups rejected the law because of their lack of trust in the government. An opinion poll conducted by the Palestinian Center for Policy and Survey Research on the reasons for the opposition to the law, carried out at the time, showed that opponents were divided into three groups: (1) about half (49%) said it was unjust and unfair; (2) nearly a third (32%) said they do not trust the government and fear corruption, theft, and wasta

⁷ See, [Press Release: Public Opinion Poll No \(92\) | PCPSR](#)

⁸ Ibid.

⁹ See, PSR's report on the eight round of the Arab Barometer: <https://www.pcpsr.org/en/node/975>

(or connections); and (3) 14% said that the current income is too small for any further deductions. Even if the law were amended, as some have demanded, public confidence that the Social Fund or the government will pay pensions did not exceed 31% while 56% said they would not pay pensions.¹⁰ This is consistent with the findings of the public opinion polls over the past decade which have shown a decline in trust in the Palestinian government and a high level of belief in the corruption of PA institutions. At the end of 2023, 74% said they do not trust the Palestinian government, while only 22% said they have trust or little trust in the government. Two years earlier, in the seventh round of the Arab Barometer, trust in the government stood at 27%.¹¹ On the issue of corruption in PA institutions, the overwhelming majority of Palestinians (85%) believed that corruption exists in PA institutions; only 2% said it does not exist at all and 11% believe it exists but only to a small extent.¹² The limited efforts in combating corruption has exacerbated the crisis of distrust between the citizens and the PA.¹³ In light of the continued decline in confidence in the institutions of the Palestinian political system, including the government, one must not assume that the public will rally around the new government's reform steps.

External Challenges:

The Israeli occupation and donor pressure are additional challenges that constrain the reform process, although donor pressure can sometimes be a driver of reform. The Israeli occupation still imposes its military and administrative control over the largest area of the West Bank, Area C, which constitutes 62% of the territory of the Palestinian Authority. Israel separates the two parts of the PA territories in the West Bank and the Gaza Strip from each other, in addition to controlling the crossings and commercial movement of imports and exports, and thus collects Palestinian taxes to be returned to the PA. In recent years, however, it has imposed various financial sanctions on the PA, plunging it into an escalating financial crisis that has weakened its inability to fulfill its obligations to its citizens. The PA cannot carry out many economic reforms related to the tax system or modify them in line with Palestinian conditions due to the restrictions of the Paris Agreement signed between the Palestinian and Israeli sides, which made the Palestinian economy dependent on Israel's.

Over the past years, donors' pressure have been placed on the PA to carry out reforms within PA institutions. This pressure has varied between financial and political. Most donor reform demands have been linked to political developments with Israel raising suspicion among the Palestinians about the real agenda of the donors. These reform demands were seen as the donors' means of evading responsibility for pressing Israel to implement its own commitments.¹⁴ Western demands for reform began with the end of the Interim Period of the Oslo process and intensified during the second intifada. Steps that Israel was required to take were occasionally linked to reforms that the PA was required to make despite the fact that these reforms were not part of PA commitments under the various peace agreement with Israel. Nonetheless, despite the politicization of the reform process by donors to appease Israel, donor pressure has sometimes succeeded in forcing the PA ruling elite

¹⁰ See, [Public Opinion Poll No \(70\) | PCPSR](#)

¹¹ See, [ARAB BAROMETER 8 in Palestine | PCPSR](#)

¹² Ibid.

¹³ Interview with Ammar Dweik

¹⁴ Interview with Azmi Shuaibi, consultant, AMAN, 5 June 2024

to embrace the reform agenda, especially when donor pressure coincided with growing internal pressure on the same reform agenda, such as the approval of the highly significant 2003 amendments on the Basic Law in. On the other hand, the PA's response to external reform pressure while ignoring internal demands demonstrates its weakness to its citizens and contributes to undermining confidence in it and its institutions.

Confronting the challenges that hinder the reform process

After 30 years since the establishment of the PA, it has become necessary to face these challenges and overcome the obstacles to the reform process in order to build strong and accountable institutions capable of advancing the interests of the Palestinian society. Only success in this effort can strengthen the society's steadfastness in the face of the Israeli occupation, both in the Gaza Strip and the West Bank. The following proposed measures are steps the Mustafa government can explore today:

- (1) *Renewing the legitimacy of the political system:* The renewal of legitimacy can naturally be achieved only through the holding of general elections, legislative and presidential. However, due to the inability of the PA to hold elections today, as a result of the war in the Gaza Strip and the destructive consequences of this Israeli aggression, it is necessary to propose a national program, one that can achieve the greatest level of consensus from all Palestinian social and political forces, including those responsible for the continued Palestinian division, Fatah and Hamas. Such program, once developed, might require changes in the make up of the current government. Prime Minister Mohamed Mustafa can seek this consensus, especially with those forces that opposed his appointment, such as Hamas, in order to reduce doubts about his independence and credibility. Open public meetings, including townhall meetings, with these opposition forces, inside and outside the country, particularly if they lead to progress in the development of common reform agenda, no matter how small and limited, may contribute to the renewal of legitimacy and open the door for greater consensus in the future. It might also demonstrate to the public that Mustafa can and will confront the most basic of challenges, namely the absence of political will and the absence of integrity in governance.
- (2) *Empowering the government:* The Basic Law, which clearly details the mandate and jurisdiction of the various authorities in the political system, must be adhered to. It provides a detailed description of the functions and responsibilities of the two institutions of the executive authority, the presidency and the president and the prime minister and his council of ministers. Sadly, since 2007 the presidency has confiscated the powers of the government, granted to it by the Basic Law, which has made the government lose its effectiveness and ability to work independently. The Palestinian government derives its legitimacy from the constitution and the parliamentary majority, not from the PA president, who does not have the constitutional right to determine its policies. The amended Basic Law granted the government almost total independence and far more powers, than those of the presidency. To achieve the required empowerment, the Mustafa must demonstrate, by words and deeds, his independence from the PA president. He must ensure that his council of ministers has the final say without submitting to the dictates of the president. By doing so, Mustafa may then be able to begin the first baby steps toward a meaningful reform process, especially if he has, by that time, already begun to forge a consensus from various forces on his government's reform program.

- (3) *Forming a Popular Coalition to Support the Reform Process*: Even under the current circumstances in which the government has little or no popular legitimacy or trust, the Mustafa government can build a coalition with civil society groups in support for its reform agenda. Azmi Shuaibi, a consultant to AMAN¹⁵ proposes such a coalition as a stopgap measure to help the government and the prime minister to gain some needed public support. There is no doubt that the reform process will affect the interests of many groups in society, and in such cases of conflict, the government usually seeks a mandate from the representatives of the people. But in the absence of a functioning PLC, the government must seek the cooperation of the largest popular base available in an attempt to overcome the loss of legitimacy and trust. Weighty community forces representing the components of civil society can participate in this coalition and form a public body from various sectors of society that participate in the initiation and debate of reform priorities based on expert reports. Public opinion polls can be used to help determine such priorities. A secretariat for this proposed body, made up of a group of experts in various fields of reform, should be formed. It should be tasked with one mission: debate and make recommendations to the government, monitor performance and report to the plenary, thus obtaining the greatest participation in an attempt to compensate for the absence of the legislature. To enhance the chances of success of this coalition, the prime minister should personally work to build trust, not only with civil society leaders, but also with ordinary citizens and their elected representatives wherever possible. To gain credibility, the prime minister must take concrete, bold, and transparent steps in the fight against corruption, even if it affects former and current senior officials.
- (4) *Empowering existing PA audit and oversight bodies*: To face the danger embodied in the absence of integrity in governance, the government needs the assistance of existing Palestinian supervisory bodies, both official and popular. Among others, these could include the State Audit and Administrative Control Bureau, the Independent Commission for Human Rights, and the AMAN Coalition. They can be mandated to submit to the government and simultaneously make public periodic reports containing assessments, findings and recommendations of steps that the government can take to ensure compliance with existing laws and the requirements of good governance. By following transparent procedures in addressing these findings and recommendations, the government can demonstrate responsiveness and gain greater public trust.
- (5) *Adopting more effective fiscal policies*: On the fiscal side, the government must work on two fronts. On the one hand, it needs to continue its efforts to raise funds from donors while continuing to improve performance in tax collection, not an easy task. Secondly, it needs to take visible measures aimed at reducing government expenditures. It goes without saying that the government should adopt more transparent practices with all matters related to the use of public funds. In this regard, it makes no sense to abstain from publishing the full details of its budget, as required by law. It is worth pointing out that the previous government has not been forthcoming with this issue during the past four years; it has not published the budget and has not been placed it on the website of the ministry of finance leading to loss of public trust and greater public perception of corruption in PA institutions.
- (6) *Forming a regional and international coalition to confront Israeli annexation measures*: Having secured greater public and factional consensus on its reform agenda and after demonstrating its independence and building a broad civil society coalition, the Mustafa government can exploit the current global shift in support of the Palestinian cause to work jointly with the PLO on

¹⁵ Interview with Azmi Shuaibi

forming a coalition with neighbors and friendly countries, and even unfriendly countries committed to upholding international law, not only to stop the war in Gaza and provide immediate assistance to it, but also to confront the increased efforts imposed by the current extreme Israel government to diminish its jurisdiction while creating facts on the ground to consolidate the creeping annexation of the West Bank and destroy the two-state solution through the consolidation of the Israeli settlement enterprise. The purpose of this coalition should be to enforce international law through the effective use of sanctions.

Conclusion

Can the government of Mohamed Mustafa overcome the reform challenges addressed in this Brief? Needless to say, the current government has no popular support, no factional mandate, no meaningful public trust, and have not received a vote of confidence from a parliamentary majority. So far, it has not articulated a clear vision for moving forward, one characterized by willingness to take the initiative or boldness in facing the reform challenges. Without such attributes, the Mustafa government will not be able to face the various challenges, foremost among them is the lack of political will for reform. The government continues to operate as if it derives its powers and legitimacy from the president, whose electoral legitimacy expired fourteen years ago, and not from the constitution, as it should. Other than lip service, there are no signs of a serious change on the part of the president or the new prime minister regarding the introduction of serious reforms. Neither the prime minister nor his ministers have indicated any desire to challenge those who have appointed them to office, even if it is to demonstrate their independence or to affirm their loyalty to the Basic Law that they have sworn to uphold.

However, we should not give in to despair. This Brief presented a set of recommendations capable of opening a window of hope for the required reforms. Even a limited success today can open the door to a greater and more vital tasks in the future: providing critical support to the residents of the Gaza Strip, reunifying state institutions in the West Bank and the Gaza Strip on a professional basis, preparing for general elections, and opening the door toward an inclusive political future for the Palestinian people in organizing their relationship with the international community. To get closer to such goals, the government must not only exercise its full powers and jurisdiction in choosing its course of action, but also receive the support it deserves through accountability and oversight over its actions.

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