**Hamas-Fatah reconciliation: The ICC elephant in the room**

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(February 15, 2021 / JCPA) The Palestinian reconciliation talks in Cairo ended on Feb. 9, with a declaration of success and the confirmation of the May 22 parliamentary elections previously announced by Palestinian Authority chairman Mahmoud Abbas. Hamas Political Bureau head Ismail Haniyeh was quick to thank Abbas for supporting the reconciliation, but talking to people in Ramallah, the P.A.’s seat of power, one gets a different picture.

Firstly, there is the “elephant in the room”—the International Criminal Court’s decision that the court may investigate Israel for war crimes also allows it to investigate Hamas for war crimes. This came as a surprise to Hamas, which has demanded that the PLO somehow remove this part of the ruling, though it is unclear how the PLO would do that.

Then there is the serious and as-yet unsolved problem of the Palestinians’ requirement to establish a joint political list that will express the return of the National Union. This demand is acceptable to Fatah and Hamas, but it has not been agreed upon, and there will be further dialogue regarding this issue. A joint list between rivals is acceptable in Palestinian culture and is called tazkiya, or “partnership agreement.”

Hamas will wait to see what happens in The Hague. If the tribunal decides to launch an investigation, a violent confrontation in the West Bank between Fatah and Hamas could break out. Fatah would fear that a partnership with Hamas could hurt its legitimacy since Israel would be able to make the claim that due to the formal connection between Fatah and Hamas, the Palestinian state recognized by the ICC is a terrorist state, the leaders of which must all be held accountable for war crimes.

Beyond Cairo

By hosting the talks in Cairo, Egypt seeks to display its leadership in the Arab world and turn Gaza’s energies northward toward Israel and the West Bank and away from the Sinai Peninsula and Egypt.

Ramallah takes pride in its achievements in the Istanbul talks in September 2020, in which Hamas and Qatar agreed to recognize the PLO as the sole representative of the Palestinians, but doing so allowed Hamas leaders from the West Bank (in exile) such as Khalid Mashaal and Saleh al-Arouri to gain legitimacy in the race to succeed Abbas.

Will Fatah accept this? And what will happen with Fatah’s internal differences, the status of Marwan Barghouti and Muhammad Dahlan?

It is doubtful if these problems will be resolved by May—if at all.

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