

Palestinian Centre for Human Rights
Consultative Status with the ECOSOC of the United Nations
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Member of the International Federation for Human Rights (FIDH) - Paris
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Palestinian Centre for Human Rights

The Centre is an independent Palestinian human rights organization based in Gaza City. The Centre enjoys Consultative Status with the ECOSOC of the United Nations. It is an affiliate of the International Commission of Jurists-Geneva, the International Federation for Human Rights (FIDH) and The Euro-Mediterranean Human Rights Network, a recipient of the 1996 French Republic Award on Human Rights. The Centre was established in 1995 by a group of Palestinian lawyers and human rights activists in order to:

- * Protect human rights and promote the rule of law in accordance with international standards.
- * Create and develop democratic institutions and an active civil society, while promoting democratic culture within Palestinian society.
- * Support all the efforts aimed at enabling the Palestinian people to exercise its inalienable rights in regard to self-determination and independence in accordance with international Law and UN resolutions.

The work of the Centre is conducted through documentation and investigation of human rights violations, provision of legal aid and counseling for both individuals and groups, and preparation of research articles relevant to such issues as the human rights situation and the rule of law. The Centre also provides comments on Palestinian Draft Laws and urges the adoption of legislation that incorporates international human rights standards and basic democratic principles. To achieve its goals the Centre has recruited a committed staff of well-known human rights lawyers and activists.

The Philosophy of the Centre's Work

The Centre determined after a thorough legal assessment of the peace accords signed by the PLO and the Israeli government that the occupation would continue both physically and legally. According to these agreements Israel has redeployed its forces inside the West Bank and the Gaza Strip, while Israeli settlements and military installations maintain their presence in Palestinian territory. The major legal aspects of the Israeli occupation remain in place. Israeli military orders that safeguard Israeli control over the Palestinian people and their land remain valid in accordance with the peace agreement. The Israeli military court is still functioning and to this day thousands of Palestinians languish in Israeli prisons.

The essential elements of the Palestinian issue remain unresolved -- the right to self-determination, the right to an independent Palestinian state with its capital in Jerusalem, the right of return for Palestinian refugees, and the right to remove illegal Israeli settlements from the Occupied Territories. All of these constitute basic unfulfilled rights of the Palestinian people. In light of this wide-ranging disregard for Palestinian rights, the Centre concludes it must continue its work to protect Palestinian human rights from ongoing violations by the Israeli government and courts.

The peace accords and the major political changes resulting from the agreement, including the establishment of the Palestinian National Authority in part of the Occupied Territories, has led to a vital and active role for the Centre in protecting civil and political rights and in promoting the development of democratic institutions, an active civil society, and a democratic legal system in Palestine.

Work Units of the Centre

The Centre is composed of specialised working units which carry out their activities in an autonomous but integrated manner.

*** Field Work Unit**

The field work is considered the basic activity of the Centre. Well-trained field workers located in different areas of the Gaza Strip obtain accurate and documented legal information on human rights violations in the Gaza Strip. They gather information in the field from victims and witnesses of human rights violations. The information is received by the co-ordinator of the unit and other researchers to verify accuracy. Through the field workers' presence in the field the Centre has been able to maintain close contacts with the community. In this way, the community is able to influence the work of the Centre and the Centre is able to meet the community's interests and demands.

*** Legal Unit**

This unit is composed primarily of a team of lawyers who give free legal aid and counselling to individuals and groups. The unit also carries out legal intervention with concerned bodies and makes legal representations before courts in cases that involve broad principles of human rights that affect not just the individual before the court but the community as a whole. Furthermore, the unit attempts to support the independence of the judiciary and the rule of law.

*** Democratic Development Unit**

This unit specialises in the promotion of democracy and the promotion of civil society and the rule of law. The unit's team carries out research and organises workshops and seminars to discuss issues on human rights and democracy. The unit's team also prepares comments on draft laws prepared by the Palestinian Authority in an effort to influence the decision-making process and the adoption of democratic laws. The unit has been also involved in providing training on human rights and democracy for youth groups.

*** Economic and Social Rights Unit**

This unit seeks to ensure the importance of economic and social rights through research and study. Such work is particularly important because it tends to be neglected, to some extent, by other human rights organisations. To achieve its goals the unit conducts studies, workshops, and seminars that focus attention on economic and social rights in the West Bank and Gaza Strip. The unit seeks to develop recommendations and standards for each of these rights to be fulfilled in the Palestinian situation. Moreover, the unit reviews and assesses the legislation and draft laws pertaining to these rights adopted by the Palestinian Authority in an effort to secure legislation that is in harmony with international standards. The unit further seeks to provide an informative training base for governmental and non-governmental personnel who are empowered to set plans and implement programs and policies relevant to these rights. The goal of such training is to help bring economic and social rights into alignment with the standards accepted internationally and to ensure the maximum degree of implementation of these rights.

*** Woman Rights Unit**

This Unit was established as a pilot project in May of 1997 for one year, renewable upon assessment of its accomplishments. The initial project was established after a thorough and comprehensive study of the conditions of Palestinian women and the work of women's institutions in the Gaza Strip. The Unit aims to provide legal aid for women and women's organisations. Intervention on behalf of women in *Shari'a* courts is included in its mandate. The Unit further aims to raise awareness of women's rights established by international human rights conventions and to raise the awareness of Palestinian women in regard to their rights under local law. Finally, the Unit is carrying out studies on Palestinian women and the law, while supporting the amendment of local laws inconsistent with women's rights.

*** The Training Unit**

The Training Unit is a main instrument in PCHR's work in disseminating and developing a human rights culture, and promoting democratic concepts in the local community with all its various segments. The Unit organizes and holds training courses and workshops in order to develop theoretical knowledge and provide professional skills that can contribute to a real change in the behavior of the society, which in turn can promote respect for, and protection of human rights and participation in community building. The target groups of the training courses and workshops are particularly the youth, including university students, activists of political parties, lawyers, media, union members, and other civil society groups.

*** The Library**

The Centre has established a specialised legal library in subjects related to local and international law, human rights, and democracy. The library includes books and periodicals in both Arabic and English and includes all Palestinian laws and Israeli military orders. Documents pertaining to laws of neighbouring Arab countries are also available. Furthermore, the library includes a variety of books and periodicals detailing the Palestinian question and the Arab-Israeli conflict. The library is open for the free use of researchers, academics, and students.

*** Funding of the Centre**

The Centre is funded by the generous contributions of a number of international non-governmental organizations in the fields of human rights, democracy, and social justice and a number of Governments which has friendly relationships with the Palestinian people. The funding organizations include:

1. The Swedish International Commission of Jurists - Sweden
2. Ford Foundation - U.S.A
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5. Christian Aid - U.K
6. CAW Social Justice Fund - Canada
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8. Grassroots International - U.S.A
9. European Commission
10. Royal Danish Representative Office
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The Palestinian Centre for Human Rights is an independent legal body dedicated to the protection of human rights, the promotion of the rule of law, and the upholding of democratic principles in the Occupied Territories. Most of the Centre's activities and interests concentrate on the Gaza Strip due to the restriction on movement between the West Bank and Gaza Strip imposed by the Israeli government and its military apparatus.

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The Palestinian Centre for Human Rights

The Palestinian Centre for Human Rights is an independent legal agency dedicated to protecting and promoting human rights, respect for the rule of law, and democratic principles in the Occupied Palestinian Territories. Established in April 1995 by a group of Palestinian lawyers and human rights activists in the Gaza Strip, the Centre enjoys Consultative Status with the ECOSOC of the United Nations, the Centre is an affiliate of the Geneva-based International Commission of Jurists, a member of the Euro-Mediterranean Human Rights Network, and partner to the Paris-based Federation Internationale des Ligues des Droits de l'Homme. The Centre is a 1996 recipient of the Republic of France's Human Rights Award, "Liberte, Egalite, Fraternite."

International Commission of Jurists

The International Commission of Jurists (ICJ), headquartered in Geneva, is a non-governmental organisation in consultative status with the United Nations Economic and Social Council, UNESCO, and the Council of Europe and the OAU. Founded in 1952, its task is to defend the Rule of Law throughout the world and to work towards the full observance of the provisions in the Universal Declaration of Human Rights. It is composed of 30 distinguished jurists from around the globe and has 75 national sections and affiliated organisations.

Federation Internationale des Ligues des Droits de l'Homme

The Federation Internationale des Ligues des Droits de l'Homme (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, FIDH has eighty-nine national affiliates in all regions.

Euro-Mediterranean Human Rights Network

The Euro-Mediterranean Human Rights Network (Euro-Med Network) is a network of human rights organisations and individuals from the Middle East, North Africa and the European Union, established in 1997. The overall objective of the Network is to contribute to the

protection of the human rights principles embodied in the Barcelona Declaration of 1995.

Palestinian Centre for Human Rights

PALESTINIAN LEGISLATIVE COUNCIL

Performance

Evaluation of

Fifth Term

(March 2000– March 2001)

Series Study (27)

Consultative Status with the ECOSOC of the United Nations
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This Report

As part of its ongoing work to promote democracy and good governance in areas under the control of the Palestinian National Authority (PNA), the Palestinian Centre for Human Rights (PCHR) has followed the activities of the Palestinian Legislative Council (PLC, or “the Council”) since its inception in 1996.¹

Continuing in this vein, this report focuses on the evaluating the performance of the PLC during its fifth session, from 7 March 2000 to 7 March 2001, a unique period in the Council’s history. This report is distinguished from previous ones by the context of the al-Aqsa Intifada, which has had a severe impact on the ability of PNA institutions, including the PLC, to carry out their tasks efficiently and fulfill their mandates.

Since 29 September 2000, the Occupied Palestinian Territories (OPT) have witnessed the most violent clashes between Palestinian civilians and occupying forces since the signing of peace accords between the Palestine Liberation Organisation (PLO) and Israel in 1993. Since then, Israeli occupying forces have waged a war against the civilian population, committing systematic and widespread violations of international human rights and humanitarian law.

Such measures by Israeli occupying forces have included: willful killings (including political assassinations), torture, widespread destruction of land and housing, and various forms of indiscriminate and excessive use of force and collective punishment. These measures, especially the comprehensive siege and closure policy, have had a negative impact on relations between Israel and the PNA, which had developed in the framework of various agreement and memoranda commonly known as the Oslo accords.

¹ The Centre has published three other reports evaluating the Council’s performance during the previous four sessions, covering: the first and second terms (March 1996-March 1998, published November 1998); the third term (March 1998-March 1999, published December 1999); and the fourth term (March 1999-March 2000, published December 2000).

Since the beginning of the al-Aqsa Intifada, Israeli occupying forces have denied PLC members the right to move between the West Bank and Gaza strip to attend the Council's sessions, and have even made internal movement *within* the West Bank and Gaza strip impossible at times. As a result of these measures, parliamentary life has been disrupted and the Council failed to hold any regular sessions. Israeli measures against PLC members violate political agreements signed between Israel and the PLO, which grant PLC members "Class B" VIP permits, which should enable them to move between the West Bank and Gaza strip. PLC members were granted such passes after intense negotiations between the PLO and Israel in 1996. The negotiations at that time took place in the aftermath of a comprehensive closure imposed by Israeli government in the OPT, through which the Israeli government denied the right of people to move between the West Bank and Gaza strip, as well as preventing trade and the movement of goods. At that time, the closure negatively influenced the work of the PLC, prompting the negotiations that granted the "Class B" VIP permits to PLC members.

"Class B" VIP permits prohibit Israeli occupying forces from searching PLC members or their automobiles at Israeli checkpoints. Despite this, PLC members holding "Class B" VIP permits have not enjoyed such immunity in practice and have been subject to arbitrary Israeli measures since September 2000.

Within this context, evaluating the work of the PLC during its fifth term is much more complicated than in previous terms. Accordingly, this report is divided into two parts. The first part highlights the period before the outbreak of the al-Aqsa Intifada (7 March-29 September 2000) and will study to what extent the Council was able to undertake its parliamentary duties during that time. The second part will cover the remainder of the term, namely from the start of the al-Aqsa Intifada until the end of the Council's fifth term (29 September 2000-7 March 2001) to study to what extent Israeli measures affected the work of the PLC.

Introduction

As with the beginning of other terms, the President of the PNA, Yasser Arafat, opened the introductory session of the fifth term of the PLC on 7 March 2000. Arafat delivered a comprehensive speech, during which he expressed his appreciation of the Council's efforts during the past five years and asserted the importance of the Council's role in drafting laws. President Arafat also mentioned the difficult economic conditions suffered by the Palestinian people and expressed the necessity to exert efforts to achieve economic growth and to improve living conditions. In the same context, Arafat mentioned the ongoing effort to develop and improve the performance of the public sector and to establish a professional public administration. He added that a Higher Council for Economic Development and a Palestinian Development Council had been established in order to supervise the process of economic development in Palestine.²

The introductory session, attended by a number of members of the Executive Committee of the PLO, ambassadors, PNA ministers, and representatives of NGOs and political parties, started its work before the arrival of Arafat, with a speech by Ahmed al-Qurei (Abu Ala), the Council speaker, with 77 members in attendance and 10 absent.³ In his speech, Abu Ala declared the end of the fourth session and the beginning of the fifth session and reviewed the achievements of the Council in the fourth term, stating that the scope of the work widened and the relations with other parliaments in the world had been deepened. Abu Ala stressed the importance of establishing democratic relations between the three branches of the PNA, based on a firm separation of powers. At the end of his speech, Abu Ala announced his resignation and that of the Council Office Committee. He then called Farraj al-Sarraf, the oldest member of the PLC, and Emad al-Faluji, the youngest member, to preside over

² See *al-Hayat*, 8 March 2000.

³ Minutes of the introductory session, 7 March 2000.

the session to prepare the election of a new speaker for the Council and a new Council Office Committee.⁴

The Election of the Council Speaker

Immediately after presiding over the session, al-Sarraf called upon Abdel Karim Abu Salah and Suleiman Abu Sneineh to assist in supervising the election for the Council Speaker and the members of the Council Office Committee. Abu Ala, Suleiman Rumi, and Bishara Daoud nominated themselves for the position of Speaker. Abu Ala won with 60 votes, while Rumi and Daoud received 7 and 6 votes, respectively. There was one abstention. Four members did not take part in the election at all.⁵

Election of the Council's Office Committee

After announcing the election of Abu Ala as Council Speaker, al-Sarraf called the members of the session to put forward nominations for the positions of Deputy Speakers and Council Secretary. Ibrahim Abu Najjah was elected First Deputy Speaker, Ghazi Hanania was elected Second Deputy Speaker, and Rawhi Fatouh was elected Council Secretary. All were incumbents, reelected without opposition.

Restructuring the Council's Committees

On 12 March 2000, the Council held the first meeting of its first session in Ramallah, with 76 members in attendance and 11 absent.⁶ The work agenda of the two-day meeting included the elections for the Council Committees, in

⁴ Article 2, paragraph b, of the PLC's by-laws provides that a new Council speaker and Council Office Committee must be elected at the beginning of each term.

⁵ Minutes of the introductory session, 7 March 2000.

⁶ During the fifth term, the PLC renamed the terminology of gathering of members. The first and second halves of the term are called sessions; each session is composed of a number of meetings.

accordance with Article 49, paragraph 1 of the Council's by-law, which provides that the election of Committee members takes place at the beginning of each term. Members are to nominate themselves for positions and the Council's Office Committee receives the nominations and decides on the composition of the Committees, which is then approved by a final vote of the whole Council.

In accordance with this procedure, Abu Ala called upon the members of the Council to forward applications for various committees. After all the PLC members submitted their applications, he called upon PLC Secretary Rawhi Fatouh to announce the names of the Committee members.

Table 1: Committees of the PLC During its Fifth Term⁷

Committee	Chairman	Secretary
Political	Ziad Abu Amro	Dallal Salama
Economic	Jamal al-Shubaki	Jalal al-Masdar
Education and Social Affairs ⁸	Abbas Zaki	Moussa al-Za'mout
Legal	Abdel Karim Abu Salah	Suleiman Abu Sneineh
Jerusalem	Ahmad al-Zughayar	Ahmad al-Batsh
Refugees	Jamal al-Hindi	Abed Rabbo Abu 'Oun
Internal Security and Local Government	Fakhri Shaqqura	Abdel Fatah Hamayel
Budget and Finance	Daoud al-Zeir	Fakhri al-Turkman
Land and Settlements	Salah al-Ta'amari	Othman Ghashash
Human Rights and Public Freedoms	Qadura Faris	Mohammed Hijazi

⁷ See the minutes of the first meeting of the first session of the fifth term of the PLC, 12-13 March 2000.

⁸ During the fifth term, four sub-committees were created from this committee. These sub-committees deal with: Education and Religious Affairs; Health; Media, Culture, Sport, Women and Childhood; Social, Prisoners', and Workers' Affairs. The following PLC members were elected to coordinate these sub-committees: Fakhri Turkman, Ahmed Ashibi, Othman Ashash, Qadurah Faris, respectively.

Legislation in the Council's Fifth Term

An evaluation of the Council's performance during its fifth term requires a unique approach that takes into account the circumstances surrounding the outbreak of the al-Aqsa Intifada in late September 2000. The work of the Council was blocked during the second half of the fifth term because of measures by Israeli occupying forces. In previous reports, the Council's laws and resolutions served as a basis for comparing the Council's performance over time, both qualitatively and quantitatively. Due to the truncated nature of the fifth term, this evaluation of legislation will focus on the first half and compare it with the first half of the fourth term.⁹

Resolutions Issued by the Council in the First Half of the Fifth Term

The Council passed 36 resolutions during the first half of the fifth term on various issues of concern. The following table illustrates these resolutions.

Table 2: PLC Resolutions During the First Half of the Fifth Term¹⁰

Subject	Number of Resolutions	Percentage of Total Resolutions
Political	6	16.7%
Economic and Financial	2	5.6%
Legal	18	50%
Social	7	19.4%
Public Freedoms & Human Rights	1	2.8%
Relations with Executive	0	0
Natural Resources & Energy	1	2.8%
Local Government	1	2.8%
Total	36	~100%

⁹ See *The Palestinian Legislative Council: Performance Evaluation of the Fourth Term (March 1999-March 2000)*, Palestinian Centre for Human Rights, Series Study (24), December 2001.

¹⁰ For more details, see PLC monthly gazette, vol. 5, no. 3-4 (2000), p. 72-78

It should be noted from the table that the Council’s major concern during the period was legal issues, as they accounted for 50% of the total resolutions, with social and political issues as major secondary concerns.

In order to assess the shifting priorities of the Council over time, one can compare resolutions of the first half of the fifth term with resolutions during the first half of the previous term. The following table illustrates the rank of these issues according to the number of resolutions passed during the first half of the fourth term.¹¹

Table 3: PLC Resolutions During the First Half of the Fourth Term

Subject	Number of Resolutions	Percentage of Total Resolutions
Legal	21	43%
Political	12	25%
Public Freedoms and Human Rights	6	13%
Economic and Financial	5	11%
Relations with Executive	3	7%
Social	2	4%
Total	49	~100%

By comparing the two previous tables, it is obvious that legal issues remained a constant priority for the PLC over the first half of the fourth and fifth terms. Social issues became much more important in the fifth term, second only to legal issues. There are a number of possible explanations for these trends:

1. The first half of the fifth term did not witness any formal political changes on the ground in the OPT, as the political process witnessed a setback during this period, particularly after the failure of the Camp David summit.¹²

¹¹ See *PLC resolutions in the 1st-4th terms (1996-2000)*, PLC Information Department, March 2000

¹² Negotiations concerning final status issues started July 2000 at Camp David under the auspices of the US government but did not lead to a definitive outcome after the Israeli

2. The Council was thus forced to focus on its relations with local communities and issues of local governance and issues of local concern, such as legal issues.
3. The lessened emphasis on public freedoms and human rights may be the result of a decrease in PNA violations of human rights from March to September 2000.¹³
4. The lessened emphasis on economic issues may have been caused by the relative improvement in economic conditions in the OPT especially during the first nine months of 2000.¹⁴ It appears that the improvement in economic conditions allowed the PLC to focus on other problems.
5. The increased attention to local governance may have resulted from a realization that the issue had been neglected over the previous five years and needed to be addressed. This reason seems to be the only factor that can explain an increased emphasis on this issue.
6. The PLC's concern for these issues came at the expense of resolutions regulating its relationship with the Executive, despite the fact that there had been no improvement in this relationship. Moreover, the period under study witnessed a setback in the Council's efforts to establish a stable and proper relationship with the Executive.¹⁵

government refused to implement UN Security Council resolutions 242 and 338, which require full withdrawal of Israeli forces from territories occupied in 1967, including east Jerusalem.

¹³ PCHR's 2000 Annual Report reported a notable decrease in human rights violations by the PNA in the last quarter of 2000. The eruption of the al-Aqsa Intifada forced the PNA to stop various violations, particularly political arrests of Palestinians, until late 2001. See PCHR's *2000 Annual Report*, p. 74-106.

¹⁴ UNSCO reported that the Palestinian economy had performed well during 2000, particularly during the first three quarters. GDP increased by 6%, compared to 4.5% during 1999, while GNP increased 7%, compared with 4.6% during 1999. The number of labourers allowed to enter Israel increased by 14% and the number of closure days was decreased to the lowest level since 1993 (during the first half of year). See UNSCO's *Report on the Palestinian economy and Special Report: Palestinian Foreign Trade*, Spring 2000.

¹⁵ PCHR's previous evaluations of the PLC found a severe crisis in the relationship between the PLC and the Executive. The Executive repeatedly displayed intransigence vis-à-vis the PLC, attempting to both undermine and ignore its role in governance.

Draft Laws Presented to the PLC for Discussion During the First Half of the Fifth Term

The PLC is responsible for drafting laws under the PNA, according to the following procedure:

- Draft laws are submitted to the PLC and then transferred to the Council's specialised committees for consideration and revision.
- Upon completing their comments and revisions, the Committees submit draft laws to the whole PLC for public discussion.
- If the draft law is approved by two readings of the PLC, it is submitted to the Council Speaker, who transfers it to the President for ratification. The President can ratify the draft law or return it to the PLC with comments within 30 days.
- If the President fails to take any action on the draft law within 30 days, it enters into force automatically.
- If the President returns the draft law to the PLC with comments, the Council may hold a third reading of the draft law. If the draft law passes a third reading, it enters into force automatically.

Unfortunately, as this study will demonstrate, the implementation of draft laws in practice still depends on the approval of the PNA President, even if the PLC has approved such draft laws after two or three readings.

There were 12 draft laws submitted to the PLC during this period. They were all transferred to the Council's committees for consideration and revision. The following table lists these draft laws:

Table 4: Draft Laws in the First Half of the Fifth Term

Proposed Law	Date of Submission to Speaker	Date of Transfer to Committees
Rent Control Act	3 May 2000	3 May 2000
Civil Aviation Act	3 May 2000	3 May 2000
Records of Civil and Commercial Materials Act	7 June 2000	7 June 2000
Jerusalem Act	8 June 2000	8 June 2000
Palestinian Nursing Council	20 July 2000	20 July 2000

Civil Affairs Law no. 2, 1999 (revised)	19 September 2000	19 September 2000
Illegal Gains Act	19 September 2000	19 September 2000
Industrial Act	19 September 2000	19 September 2000
Local Council Elections 1996 (revised)	19 September 2000	19 September 2000
Smoking Prohibition Act	19 September 2000	19 September 2000
Engineers' Profession Act	19 September 2000	19 September 2000
Teachers' Profession Act	19 September 2000	19 September 2000

Among the 12 draft laws submitted, 8 were presented for public discussion. The following table lists these draft laws:

Table 5: Draft Laws Publicly Discussed in the First Half of the Fifth Term

Draft Law	Date of Discussion
Rent Control Act	3 May 2000
Civil Aviation Act	3 May 2000
Jerusalem Act	8 June 2000
Records of Civil and Commercial Materials Act	28 June 2000
Palestinian Nursing Council	1 August 2000
Civil Affairs Law no. 2, 1999 (revised)	28 September 2000
Illegal Gains Act	28 September 2000
Industrial Act	28 September 2000

Of these eight publicly discussed laws, two were approved on the first and second readings and thus presented to the president for ratification. The president did not ratify either of them.

Table 6: Draft Laws Discussed by the PLC and Submitted to the President for Ratification in the First Half of the Fifth Term

Draft Law	First Reading	Second Reading	Submission to President
Jerusalem Act	19 July 2000	20 July 2000	29 September 2000
Civil Aviation Act	8 August 2000	16 August 2000	23 September 2000

In addition, the PLC resumed work on several draft laws approved in the first reading during previous terms. These laws were approved on a second reading in the fifth term and submitted to the president for ratification.

Table 7: Draft Laws Approved Upon a First Reading in Previous Terms and Submitted to the President for Ratification in the First Half of the Fifth Term

Draft Law	Date of Presentation for Discussion	First Reading	Second Reading	Submission to President
Establishment of Regular Courts	15 December 1999 (fourth)	12 February 2000 (fourth)	12 March 2000	18 March 2000
Establishment of Administrative Bodies Act	8 December 1998 (third)	3 November 1999 (fourth)	13 March 2000	9 April 2000
Law of General Statistics	17 March 1998 (third)	29 March 2000 (fifth)	2 May 2000	17 June 2000
Law of Measures	1 December 1999 (fourth)	16 February 2000 (fourth)	12 April 2000	1 July 2000
Penal Code	27 October 1999 (fourth)	15 February 2000 (fourth)	28 June 2000	23 July 2000

Accordingly, the number of laws approved by the PLC upon a second reading during the first half of the term and submitted to the president for ratification is seven. These include five that approved on the first reading during previous terms but approved upon a second reading during the first half of the fifth term and two draft laws approved on first and second readings during the first half of the fifth term. Of these seven draft laws, two were ratified by the president: the Law of General Statistics (8 July 2000) and the Law of Measures (17 September 2000).¹⁶

In order to quantitatively evaluate the legislative performance of the PLC during the first half of the fifth term, one can examine the number of draft laws

¹⁶ During the first half of the fifth term, President Arafat ratified the Palestinian Labour Law, the Palestinian Traffic Law on 30 April and 17 September 2000, respectively. They were approved on a second reading in the fourth term on 25 October 1999 and 15 February 2000 so they are not included in the list of laws ratified by the president during the fifth term.

discussed and passed during the first half of the previous term. During the first half of the fourth term, eight draft laws were submitted to specialised committees of the Council for discussion, four of which were publicly discussed.

Table 8: Draft Laws of the First Half of the Fourth Term

Law	Transferred to Committees	Submitted to PLC for Public Discussion
Law of Publications	16 March 1999	25 June 1999
Law of Authors' Rights	16 March 1999	-
Public Budget Law 1999	5 April 1999	5 April 1999
Traffic Law	20 April 1999	23 June 1999
Stamping and Monitoring Jewelry	20 April 1999	-
Palestinian Medical Council Law	11 May 1999	-
Law of Organising Trade of Fertiliser	24 June 1999	-
Law of Arbitration	24 June 1999	6 July 1999

During the first half of the fourth term, the Council approved the 1999 Public Budget Law. None of the draft laws listed above were approved upon a second reading during the first half of the fourth term, but three laws previously discussed and approved upon a first reading during the third term were read a second time and approved during the first half of the fourth term. Of these three laws, only one was ratified by the president during the first half of the fourth term. These three draft laws are listed below:

Table 9: Draft Laws From Previous Term Approved by the PLC and Submitted for Ratification During the First Half of the Fourth Term

Law	Approval on Second Reading	Submitted for Ratification	Promulgated
Disabled Persons' Law	16 March 1999	2 June 1999	9 August 1999
Law Organising Commercial Agents	20 April 1999	15 July 1999	Not published during fourth term
Environment Law	6 July 1999	5 August 1999	28 December 1999 (second half of fourth term)

Thus, the first half of the fifth term witnessed moderate progress in its legislative performance at the quantitative level. In the first half of the fifth term, the PLC approved seven laws upon a second reading, of which the president ratified two. During the first half of the fourth term, by contrast, the PLC approved only three laws, of which only one was ratified.

There are several possible reasons for this:

1. The failure of the PLC during the past four years to produce a unified legal system across the West Bank and Gaza strip was perhaps a reason for intensified efforts. Among the challenges faced by Palestinian society is the urgent need for a unified, standardized legal system that establishes the roles and powers of branches of government.
2. The absence of major political events on the ground in the OPT during the first half of the fifth term, including the setbacks of the Oslo process and the failure to conclude a final agreement, may have left more time to work on legislative affairs.
3. Regarding the increased ratifications by the president, it appears as if the setbacks in negotiations may have encouraged the president to ratify draft laws from the PLC either by reducing his burdens in other areas or creating a need to take some action in public. There is no clear policy for presidential ratification, which appears to depend on his personal initiative and mood.

Measuring the quantitative developments of the Council's legislative activities during the first half of the fifth term does not offer us a complete picture of the Council's performance during the period, however. For this reason a qualitative analysis is also needed. To this end, this report will focus on two case studies, regarding experiences surrounding the Judicial Authority Law and the Public Meetings Law.

Case Study 1: Public Meetings Law

The task of any parliamentary institution is not limited only to drafting and approving laws, but also includes the process of following up the implementation of laws and monitoring the bodies that enforce laws. The

legislative bodies are responsible for monitoring law enforcement bodies and holding accountable those who violate or fail to implement the law, while law enforcement bodies should have the resources necessary to properly enforce and implement laws.

Often the relation between legislative and executive branches determines the possibilities of implementing laws. The relationship between the PLC and the Executive has been marked by a deep crisis due to the lack of transparency and accountability, and the domination of the Executive over the PLC. This has a negative impact on achieving a unified legal system and implementing laws approved by the PLC.¹⁷

The Public Meetings Law, which is especially important in safeguarding the right to freedom of expression and free assembly, is an especially instructive example of how the Executive sought to undermine laws that had been approved. During the first half of the fifth term, the Public Meetings Law witnessed dramatic developments reflected in the crisis between the PLC and the executive.

On 20 August 1998, the PLC approved the law on the first reading and approved it on a second reading on 25 November 1998. On 19 December 1998, the PLC transferred it to the president for approval and he ratified on 28 December 1998. The law came into force on 27 January 1999.¹⁸ The law fulfilled international human rights standards guaranteeing the right to peaceful assembly and represented a qualitative turn towards establishing the right of public meetings as part of political and civil practices in PNA-ruled areas.

The law is composed of nine articles dealing with the procedures for organising public meetings. It limits the power of the police to intervene in public

¹⁷ See the PLC's experience with the Charitable Societies and NGOs Law in *Palestinian Legislative Council: Performance Evaluation of Fourth Term (March 1999-March 2000)*, PCHR Series Study (24), December 2001, p. 33-35.

¹⁸ For more details, see *The Right to Freedom of Expression and the Right to Peaceful Assembly Under The Palestinian National Authority (May 1994-December 1998)*, PCHR Series Study (18), p. 106.

meetings; it stipulates that in the case of public meetings consisting of more than 50 persons, a written note should be submitted to the governorate or police director of the area informing them of the meeting. No permission from the authorities is required. The law is aimed at allowing public meetings as much possible while making prevention of demonstrations the exception.¹⁹

Yet during this period, the Executive took many steps against this law intended to stymie its goals. Therefore, it is of great importance to analyse these measures and the Council's response in its effort to secure the correct implementation of laws.

Executive Order 12 (1998) Concerning Public Meetings

On 30 April 2000, PNA President Yasser Arafat, acting in his capacity as Minister of the Interior, published Executive Order 12, concerning public meeting. The order consisted of 12 articles specifying certain requirements for organising public meetings of 50 people or more. Article 9 of the order stipulated that the organizers of a meeting or march should take into account the instructions of the presidential decree 3 (1998) concerning national unity and prevention of incitement, an order still criticized by Palestinian human rights organisations for the restrictions it imposes on the right to peaceful assembly.²⁰

In addition, the executive order asserts that organizers of public meetings must ask for a permit from the Palestinian police (article 11), in contravention of the Public Meetings Law.²¹ Moreover, on 29 February 2000, just before the opening of the PLC's fifth term, Gaza civil police chief Ghazi Jabali had issued an order preventing public meetings without permits from the police. The order was considered at the time as a threat to the Law of Public Meetings and a

¹⁹ For more analytical and critical analysis, see *ibid.* 29-31.

²⁰ See *ibid.*, 85-87.

²¹ For more analysis on the influence of the executive order regarding public meetings, see *The Right to Free Expression and the Right to Peaceful Assembly: The Case of the West Bank and Gaza Strip (January 1, 1999-April 30, 2000)*, PCHR Series Study (23), September 2000, 38-41.

threat to the right of peaceful assembly as part of Palestinian civil and political activities.²²

PLC Postpones Response to Measures of the Executive On Public Meetings

Accordingly, the Internal Security and Local Government committee of the PLC held a meeting on 2 April 2000 to discuss Jabali's order. The committee affirmed that the order contradicted the spirit of the Public Meetings Law and therefore asked the Executive to cancel the order and to correctly implement the Public Meetings Law.²³

According to the PLC's by-laws, the Council Speaker should follow up the recommendations of the committees with the Executive, but a review of the minutes and publications of the PLC during the first half of the fifth term reveals that the speaker did not pursue these recommendations, giving the executive room to impose its own interpretation of the law.²⁴ In effect, the Council Speaker ignored the recommendations of one of the Council's own committees.

²² See *ibid.* 33-35.

²³ See *al-Quds*, 25 April 2000.

²⁴ A group of representatives of NGOs and political parties invited by PCHR on 13 March 2000 discussed Jabali's decision and its effect on the right to freedom of assembly. The participants concluded that the order is illegal and violates the Law of Public Meetings. Accordingly, the participants decided to appeal to the Palestinian judiciary and appointed lawyers Raji Sourani and Yunis al-Jarro to do so. On 23 April 2000, Sourani and al-Jarro submitted an application to the Palestinian High Court against the attorney general as representative of Jabali. They asked the high court, among other things, to issue an order canceling Jabali's decision. On 29 April 2000, the court issued a preliminary decision suspending the order. Unfortunately, the court has not held another session on the matter and the executive order remains in effect. The PLC has not taken any further action on the matter. See *The Right to Free Expression and the Right to Peaceful Assembly: The Case of the West Bank and Gaza Strip (January 1, 1999-April 30, 2000)*, PCHR Series Study (23), September 2000, p. 38-40.

As illustrated above, the PLC started its fifth term with huge challenges resulting from attempts by the Executive to undermine its role and impose its own wishes, even if they violated laws passed by the PLC. These attempts succeeded in emptying such laws of their democratic content,²⁵ despite the responsibility of the PLC as a parliamentary institution tasked with overseeing the correct implementation of its law

Evaluating the PLC-Executive Relation in Light of the Public Meetings Law and Related Developments

The PLC's previous four terms witnessed a continuous attempt on behalf of the Executive to undermine the role of the Council and to marginalise it in political life. These attempts greatly influenced the PLC's efforts to establish norms of accountability and transparency between it and the Executive and to develop a unified legal system across the West Bank and Gaza strip.

Such a policy towards the Council and the PLC's failure to develop any means of effective resistance created a situation in which the Executive became the dominant player in Palestinian political life.²⁶ With the beginning of the fifth term of the PLC, the second term after the expiration of the Council's legal period, it was expected that the PLC would use available opportunities to effect a strategic change in its relations with the Executive and develop the necessary mechanisms to put an end to previous trends.

The experience of the PLC with implementing the Public Meetings Law could have been one such opportunity but, as illustrated above, the PLC as usual did not take any serious steps against the measures of the Executive. The PLC Speaker went beyond this and ignored the recommendations of one of the PLC's own committees.

²⁵ See PLC's experience with the Judicial Authority and Charitable Societies and NGOs laws discussed in *The Palestinian Legislative Council: Performance Evaluation of the Third Term*, PCHR Series Study (19), February 1999, p. 28-47.

²⁶ See PCHR's previous reports on the PLC.

According to Qadura Faris, coordinator of the social affairs committee, “The Executive over the last term has managed to control the Council and this created a large defect in the balance between the three branches of the PNA...The PLC has not managed to take steps to achieve a significant improvement in the performance of the PNA’s institutions.”²⁷ Salah al-Ta’ mari, another PLC member and a member of the political committee, went even further: “The Council is operating as an executive institution, not a legislative one, working on behalf of an elite group.”²⁸ Abdel Jawad Saleh, another PLC member and a member of the human rights and public freedoms committee, said: “A dangerous development in the PLC’s performance is that a number of its committees speak with the same voice as the Executive.”²⁹

The same idea was expressed by Rafat al-Najjar, a member of the legal committee of the PLC, who asserted that: “There is no separation of powers in Palestine. There is only one authority, and it dominates all aspects of political life. That authority is the Executive.”³⁰ The experience of the Public Meetings Law and the consequent weak response of the PLC have only enhanced the executive’s ability to undermine and marginalise the PLC and reveal a glaring weakness in the Council’s relations with the Executive. This pattern is also apparent regarding the implementation of the Judicial Authority Law.

Case Study 2: Judicial Authority Draft Law

On 25 November 1998, the PLC approved the Judicial Authority Law 14 (1997) upon a third reading. The PLC’s approval of the law came after intense efforts exerted by the Council in cooperation with a number of civil society groups with the aim of developing and drafting an adequate and comprehensive law guaranteeing the independence of the judiciary as a step towards enhancing

²⁷ 1 July 2001, in response to questions submitted by PCHR.

²⁸ 1 July 2001, in response to questions submitted by PCHR.

²⁹ 7 July 2001, in response to questions submitted by PCHR.

³⁰ Comments in a workshop organised by PCHR, “The Palestinian Legislative Council: Current Challenges and Future Prospects,” 23 August 2001.

the rule of law.³¹ The law provides for the establishment of a higher judiciary council (article 35 paragraph 1) as an institutional framework through which the work of judges can be monitored. Article 35 paragraph 2 specifies the structure of the Council, which is to include the president of the High Court, the oldest deputy president of the High Court, two of the oldest judges of the High Court, the head of the appeals courts of Jerusalem, Gaza, and Ramallah; the attorney general; and the deputy minister of justice.

On 5 December 1998, the PLC submitted the law to the president for ratification but he did not do so within the legal period of 30 days. Therefore the law remains unimplemented, even though technically it is supposed to be in force, as it has been approved on a third reading.

Presidential Decision to form a Higher Judiciary Council

On 1 June 2000, President Arafat issued an executive order forming a Higher Judiciary Council throughout PNA-controlled areas. The decision stated that it was based on a review of the laws of the West Bank and the Gaza strip 31 (1940) and 24 (1952) and 2 (1994) and the presidential decree 26 (1999), and the Judicial Authority Law. The order establishes a Higher Judiciary Council (Article 1) and provides that it should practice its mandate according to the Judicial Authority Law (Article 2).³² A number of comments can be raised regarding the PNA president's decision:

1. While the formation of a Higher Judiciary Council is of great importance, this should have been done through the ratification of the law passed by the PLC through three readings.
2. The decision states that it is based on the Judicial Authority Law, even though the president never ratified it. Even if the law had been ratified, the executive order would still be in violation of it, as it adds two more members to

³¹ Concerning these efforts, see *Palestinian Legislative Council: Performance Evaluation of Third Term*, PCHR Series Study (18), p. 28-35.

³² See PCHR press release, 4 June 2000.

the Higher Judiciary Council than those described in the Judicial Authority Law.³³

The Council's response to the executive order

Given the problematic nature of the executive order, one would expect the PLC to seek two goals: to cancel the order on the basis that it contradicts the Judicial Authority Law and to pressure the president to ratify the Judicial Authority Law itself as a framework to guarantee the formation of a proper Higher Judiciary Council and the rule of law. A review of the minutes and interviews and publications of the PLC reveals that no such measures were taken.

On the contrary, the PLC placed the responsibility for such actions on the Palestinian High Court of Justice. According to Abdel Karim Abu Salah, chairman of the legal committee of the PLC, "The responsibility of deciding on the legality of the president's decision is the job of the High Court and it should decide on this issue. But as a result of recent events in the OPT since September 2000, the decision of the Court has been postponed."³⁴

Evaluating the PLC-Executive Relation in Light of the Judicial Authority and Related Developments

In order to secure the correct implementation of its laws, the PLC would have been expected to exert efforts to force the President Arafat to cancel his order to form the Higher Judiciary Council and instead to ratify the Judicial Authority Law. Instead, the PLC ignored the stance of the Executive, a serious failing in its responsibility as a parliamentary institution aimed at drafting laws and securing their implementation.

The PLC's acceptance of Arafat's order indicates that the PLC itself is not committed to the implementation of its own laws, raising the question of the

³³ For more details, see, decision 29 (2000) concerning the formation of the Higher Judiciary Council in Waqa'I Palestinian magazine, no. 36, 19 March 2001.

³⁴ Abdel Karim Abu Salah, interview with PCHR, 2 July 2001.

Council's purpose. Surprisingly, the PLC did not take any steps in response to the executive order forming a Higher Judiciary Council despite the fact that this contradicted the Judicial Authority Law passed by the PLC. Moreover, the PLC has tried to escape its responsibility and to place the responsibility upon the Courts.

Accordingly, the relationship between the PLC and Executive remained unhealthy in the fifth term. After the PLC was unable or unwilling to take any measures towards the Executive's stance, it attempted to justify this weakness by placing responsibility on other parties, namely the judiciary. By disavowing its responsibilities and sidelining itself in the matter, the PLC effectively accepted its role as an institution for legitimising the actions of the Executive. Abdel Fatah Hamayel, secretary of the security and interior committee, said: "The work of the Council since March 2000 was routine and there have been no qualitative changes in the general performance of the Council. Thus, the legislation, accountability, and monitoring functions were not developed."³⁵

According to PLC member Abdel Jawad Saleh, "The Council has failed to carry out its tasks and was not able to take any serious measures towards the undemocratic acts and behaviour of the Executive."³⁶

Comprehensive Evaluation of the PLC's Qualitative Achievements During the First Half of the Fifth Term

In January 1996, the PLC began its work in a unique historical context, as the first legislative authority democratically elected by the people in the Occupied Palestinian Territories. It was considered a starting point towards establishing a democratic system in the OPT and a step towards materialising Palestinian hopes for an independent state in accordance with their right to self-determination. Palestinians placed much hope in their PLC representatives, particularly after three decades of being denied their rights by Israeli occupying forces.

³⁵ 26 July 2001, in response to questions submitted by PCHR.

³⁶ Untitled intervention delivered in a workshop held in Palestine technical school, Ramallah, 17 March 2001.

The most urgent tasks since 1996 have been the establishment of a unified, standardised legal system across the West Bank and Gaza strip and the promotion of democratic norms in governmental institutions and between state and society. Yet the achievements of the PLC in its first four years were disappointing; despite the fact that the PLC managed to make some progress in developing a unified legal system for the West Bank and Gaza strip, it largely failed to establish norms of transparency and accountability between it and the Executive. The PLC was repeatedly shown to be powerless in the face of the Executive's attempts to undermine the PLC's role. According to Othman Ghashash, coordinator of the subcommittee on childhood, women, sport, and young people, culture, and media, "The Council over the past four years has developed its work at the legislative level but it failed to do anything at the level of monitoring."³⁷

Rafat al-Najjar, another PLC member, said: "Most of the legislation drafted by the PLC remains theoretical and has not been brought into force. The PLC has failed to develop democratic relations with the executive. The PLC's ability to monitor the executive was very weak, if at all existent. Most of the monitoring cases undertaken by the PLC were supposed to be transferred to the judiciary but the PLC failed to do so and failed to take any measures against anyone involved in any sort of violations. The Council has not fulfilled its expected role."³⁸

In fact, the situation has continued to deteriorate in light of apparent collusion between some members of the PLC and the Executive to undermine the role of the PLC.³⁹ The fifth term witnessed the worst development in the relations between the PLC and the executive since the PLC's establishment in 1996. Not only had the PLC passively accepted its marginalisation by the Executive, but it

³⁷ 24 June 2001, in response to questions submitted by PCHR

³⁸ Comments in a workshop organised by PCHR, "The Palestinian Legislative Council: Current Challenges and Future Prospects," 23 August 2001.

³⁹ See *Palestinian Legislative Council: Performance Evaluation of Fourth Term (March 1999-March 2000)*, PCHR Series Study (24), December 2001, p. 47-60

started as well to participate actively in the process of undermining democratic norms, including its own by-laws. Most glaringly, the PLC for the first time since its foundation attempted to shift its responsibilities to the judiciary. According to PLC member Salah al-Tamari: “The PLC failed to monitor the practices of its own members and their illegal actions. If the PLC cannot even monitor its own members, how can it monitor the activities of the Executive and hold it accountable?”⁴⁰ Al-Tamari added: “The undemocratic and irresponsible way in which the chairman of the budget committee, Dr. Azmi Shuweibi, was encouraged to resign proves the extent to which democratic values and the public interest have been threatened by personal interests. This is a scandal.”⁴¹

According to al-Najjar, “The corruption in the PLC is greater than the corruption in the Executive. Most of the members of the PLC are working in their own interest and ignoring the public interest.”⁴²

Accountability and Monitoring Activities of the PLC in the First Half of the Fifth Term

The PLC has several means at its disposal to monitor the Executive and ensure its accountability, including: inquiries, questions, commissions of inquiry, and motions of no-confidence.

As during the previous term, the accountability and monitoring activities of the PLC were influenced by developments in the wider society. The PLC received a number of complaints from citizens regarding social, economic, and human rights issues. These complaints formed the basis of many decisions taken by the PLC during this period.

⁴⁰ 1 July 2001, in response to questions submitted by PCHR

⁴¹ Concerning the circumstances of his resignation from his position as chairman of the budget committee, see *Palestinian Legislative Council*, PCHR Series Study (24), December 2001, p. 28-41. Al-Tamari’s remarks came on 1 July 2001, in response to questions submitted by PCHR.

⁴² Personal interview, 12 August 2001.

Inquiries

PNA officials regularly appear before the PLC to answer inquiries as to their routine activities. During the first half of the fifth term, the PLC made use of its ability to direct inquiries to the Executive on specific matters:

- In the first session of the third meeting, a number of PLC members delivered questions on economic matters to PNA officials. The PLC speaker referred these questions to various committees of the PLC for follow-up.⁴³
- Other members of the PLC also delivered in the fourth meeting (2-3 May 2000) a number of questions to Civil Affairs Minister Jamil al-Tarifi concerning the procedure for obtaining identity cards. Al-Tarifi attended the session and answered all of the questions.
- In the sixth meeting (7 June 2000), a number of members delivered questions to Dr. Saeb Erekat, Minister of Local Government, on issues concerning local government. Erekat answered the questions, but not to the satisfaction of members present. In such cases, the PLC speaker is obligated by the Council's by-laws to pose the questions to the minister again himself. Instead, he transferred the questions to a committee.
- At the same meeting, questions were posed to Housing Minister Dr. Abdel Rahman Hamad, concerning housing in Palestine. Hamad responded to these questions satisfactorily.

In a number of meetings, it would be decided that certain PLC members would pose questions to PNA officials, but this often failed to take place due to attendance problems.

For example, it was decided in the second meeting that questions would be directed to a number of ministers, but the meeting was postponed after a minister failed to attend the meeting. The same occurred in the sixth meeting

⁴³ Minutes of first session/third meeting, 12 April 2000.

of the first session, at which it was decided that questions would be posed to labour minister Rafiq al-Neche, Minister of Agriculture Hikma Zaid, Minister of Social Affairs Intisar al-Wazir, and deputy Minister of Education Naim Abu Hummus. This did not take place after these officials apologized and said they could not attend.

Generally speaking, it seems that the PLC exerted some effort to use questions as a means to influence the Executive, but that this method failed to obtain satisfactory results for two reasons:

1. The failure of the PLC speaker to adhere to the Council's by-laws, which outline the process for questioning public officials. On a number of occasions, questions were delivered to PNA officials, to which unsatisfactory responses were given. Although article 56 of the PLC the by-laws obligates the PLC speaker to pose the questions again, he instead transferred the questions to the PLC's committees. According to article 77, the minister should answer the questions delivered to him, and questions should be listed in the agenda. The PLC's committees are not mentioned in these articles, meaning that the concerned minister is the only party responsible for answering such questions.

2. The lack of cooperation from the Executive also hampered the use of questions. On a number of occasions, PNA officials failed to attend PLC meetings to which they had been summoned, without any compelling reasons for their absence.

Generally, attempts by the PLC to monitor the Executive through the use of questions were serious but with minimal, if any influence, during the first half of the fifth term.

Questioning

In addition to routine inquiries, the PLC is empowered to summon PNA officials for questioning on specific issues. The PLC did not use this power at all in the first half of the fifth term, despite the fact that a number of PLC members were physically attacked by Palestinian security forces during this

time.⁴⁴ Even as attacks on PLC members became increasingly routine, the Council as a whole took no steps to hold perpetrators accountable.⁴⁵

The silence of the PLC regarding these incidents can only be explained by the weakness of the PLC in its relations with the Executive, even in its monitoring and accountability duties.

Commissions of Inquiry

The PLC is also empowered to form commissions of inquiry consisting of Council members to investigate specific questions. The PLC formed one commission of inquiry during its fifth term, to investigate conditions at al-Maqased hospital in Jerusalem. The committee consisted of members of the Budget, Jerusalem, and Education and Social Affairs committees, and held a number of meetings with Faisal al-Huseini, former director of Orient House in east Jerusalem, as well as employees of al-Maqased hospital.⁴⁶ The committee posed a number of questions concerning donations from Qatar to the hospital⁴⁷, as well as CAT scan equipment purchased by the hospital.⁴⁸ The work of the commission of inquiry was interrupted by the outbreak of the al-Aqsa Intifada

⁴⁴ On 2 April 2000, while en route to the president's office in Ramallah, PLC member Qadura Faris, chair of the human rights and public freedoms committee, was beaten and insulted by PNA security personnel. Faris said in an affidavit that seven members of the presidential guard beat him while he was on his way to an appointment with Arafat. See PCHR's 2000 Annual Report, p. 90-91.

⁴⁵ Attacks on PLC members have demonstrated the lack of respect for the PLC and the immunity of its members. In the previous term, PLC members were beaten or insulted by PNA security services on a number of occasions. See PCHR's reports on the third and fourth terms of the PLC.

⁴⁶ On 1 June 2001, Faisal Huseini died from a heart attack during a working visit to Kuwait.

⁴⁷ In 1999, the government of Qatar sent money to the hospital for renovations, yet the hospital remained unchanged, leaving it unclear as to how the money was used.

⁴⁸ In 2000, al-Maqased hospital announcement that it was seeking to purchase CAT scan machines. Two companies, one from the Palestinian Red Crescent under Fathi Arafat, and another offered to sell the machine. The hospital purchased the machines from the Palestinian Red Crescent.

and the tightened siege and closure on Palestinian communities. Thus, the commission was unable to produce a report or make any recommendations regarding the hospital.

No-confidence Motions

The Council's non-use of no-confidence motions during the first half of the fifth term was an overall disappointment. The Executive's ongoing attempts to undermine and marginalise the PLC, as clearly demonstrated by the actions of the Executive concerning the public meetings and judicial authority laws, presented numerous opportunities for the PLC to assert its right to take no-confidence motions. Despite the fact that the Executive ignored democratic norms as well as numerous relevant PLC decisions, the PLC did not use no-confidence votes and did not even include them in its agenda.

On one occasion during this period, the PLC threatened to hold a no-confidence vote, during the first session (29 March 2000) when a number of members called for a special session after the Executive had failed to resolve a teachers' strike in the West Bank to protest reductions in salary.⁴⁹

The request to hold a no-confidence vote was strongly rejected by other PLC members, who argued that the Executive is not responsible for solving this problem. The members asserted that the problem of teachers in the West Bank did not warrant a no-confidence vote and that resolving the strike would require taking effective measures to secure the implementation of the Civil Service Law as the administrative framework in which such disputes could be resolved. Accordingly, the PLC decided that the Council speaker and a number of

⁴⁹ On 17 February 2000, teachers in Hebron and Bethlehem went on strike and marched near local governorate offices to protest the decision of the Ministry of Education to deduct 10% from salaries for insurance, books, instead of 2% as before. The ministry had taken the decision in order to equalize salaries between teachers of the West Bank and Gaza Strip. The West Bank teachers considered the decision unfair, as it did not take into consideration the higher cost of living in the West Bank, and asked the ministry to reverse the decision. See *The Freedom of Expression and Peaceful Assembly: 1 January 1999-30 April 2000*, PCHR Series Study (23), September 2000, p. 42.

committee chairmen would meet with President Arafat to discuss the problem of the teachers as well as ways of implementing the Civil Service Law.⁵⁰

The fact that the PLC did not initiate any no-confidence motions or include them in the agenda of any sessions is not only surprising given the numerous occasions that would have such acts appropriate, but indicates that the PLC does not possess the will or the ability to carry out its monitoring role effectively.

The end result is an absence of transparency and accountability in relations between the PLC and the Executive. Over the first 4½ years of its work, the PLC has faced many obstacles, including both the obstructionist stance of the PNA Executive, as well as an absence of will in the PLC itself to push any of the required changes in its relations with the Executive. These two facts limited the opportunities for the PLC to carry out its monitoring and accountability role.

The Palestinian Legislative Council and the al-Aqsa Intifada

The second half of the PLC's fifth term was marked by an unprecedented escalation in the excessive use of force by Israeli occupying forces against Palestinian civilians and their property. After the 28 September 2000 invasion of the al-Aqsa mosque by Likud party leader Ariel Sharon and several hundred armed guards, hundreds of Palestinians from Jerusalem protested. The next day, these protests swept over the entire Occupied Palestinian Territories, and would soon become the bloodiest clashes between Palestinian civilians and Israeli soldiers since the signing of agreements between Israel and the PLO in 1993. The causes of these clashes, which came to be known as the al-Aqsa Intifada, cannot be understood in isolation from political developments in the OPT since 1993. These clashes come as a tangible expression of the frustration that grew amongst the Palestinians in the OPT after the failure of the Oslo

⁵⁰ For more details, see *al-Hayat*, 30 March 2000.

process to end Israel's illegal military occupation and achieve a Palestinian state in accordance with their right to self-determination. These clashes are the outcome of a political process in which international human rights and humanitarian law were sacrificed under ongoing pressure from the US and Israel on the PNA and the unlimited US support for the government of Israel.

The peace process launched in Madrid in 1991 and culminating in the Oslo accords left Israel with control of 82% of the OPT, as well as full control over borders and water resources, and failed to stop violations of human rights in the OPT. Israeli occupying forces continued to use excessive force and continued to escalate the construction of settler colonies, bypass roads reserved exclusively for Israelis, and the confiscation of land, in violation of international humanitarian law as well as agreements signed with the PLO, which affirmed that both sides should not take steps that would prejudice final status talks. Israeli occupying forces continued to implement military orders in the OPT and arrested Palestinians at borders and checkpoints near Israel's illegal settler colonies. In addition to imposing a comprehensive siege and closure on the OPT that severely damaged the Palestinian economy, Israel prevented Palestinians from the West Bank and Gaza strip from entering Jerusalem to practice their rights to freedom of expression and freedom of worship. The frustrations stemming from ongoing human rights violations and the emergent system of de facto apartheid were a crucial part of the context of the clashes that erupted on 29 September 2000.

In the first days of the al-Aqsa Intifada, Israeli occupying forces employed excessive and disproportionate force against mainly peaceful protests and marches by Palestinian civilians. Hundreds of Palestinian civilians were killed and thousands were injured in the first weeks of the clashes, which often at most involved the use of stones against soldiers in well-fortified installations. Soldiers frequently resorted to lethal force without a threat being posed to their lives, often without first using less-lethal means to disperse protesters. In the early days of the al-Aqsa Intifada, Israeli forces used helicopter gunships, gunboats, and tanks to bombard Palestinian neighbourhoods and also carried out assassinations against Palestinian activists. The mass destruction of housing and agriculture soon resumed as well, especially in the Gaza strip.

Israeli measures affected PNA institutions, including the Palestinian Legislative Council. Since the outbreak of the al-Aqsa Intifada, Israeli occupying forces have prevented PLC members from the West Bank from traveling to Gaza and vice versa to attend the Council's sessions. The comprehensive siege and closure has also severely restricted movement *within* the Gaza strip and West Bank. These measures have blocked the work of the PLC, as the PLC and its committees are unable to hold their regular sessions and meetings; accordingly, the PLC was unable to carry out its tasks in legislation, accountability, and monitoring. According to PLC member Abdul Jawad Saleh: "After the occupation imposed its closure on the OPT, including PNA-controlled areas, it has become impossible to move between the West Bank and Gaza strip and the PLC and its committees have stopped meeting. Therefore, the PLC's tasks have been blocked."⁵¹

PLC member Qadura Faris concurred with this assessment: "What happened in the last quarter of 2000 was not only an Intifada, but was in fact a war declared against the Palestinian people. This blocked many PNA institutions, including the PLC, which was unable to practice its work as either a full body or even as a set of committees. The Council cannot carry out its tasks without holding its regular meetings and in light of the fact that it was unable to hold its regular meetings, it has become useless to speak about the PLC's achievements during this period. The Council has managed to hold only one session with quorum (via video-conferencing), and it was the opening session in March 2001, and the others were cancelled for lack of quorum."⁵²

Salah al-Tamari said: "The PLC did not perform at all during the Intifada and its activities have basically been reduced to the personal initiatives of individual members."⁵³ According to another PLC member, Abdel Fateh Hemayel: "The PLC as an institution is not functional under Israeli attacks. There are only different personal activities of PLC members and the Council was only able to

⁵¹ 7 July 2001, in response to questions submitted by PCHR.

⁵² 1 July 2001, in response to questions submitted by PCHR.

⁵³ 1 July 2001, in response to questions submitted by PCHR.

hold one session, at the beginning of the sixth term.”⁵⁴ According to Rafat al-Najjar, “During the events, the role of the Council has been totally absent. Israeli measures against Palestinians, especially the closure, influence every aspect of Palestinian life, including the legislative activities of the PLC. ... What is going on is communication between members on an ad hoc basis without any firm conclusions. There has been no real legislative work since the beginning of the al-Aqsa Intifada.”⁵⁵ Ahmad Nasser, a member of the education and social affairs committee, affirmed that, “since the Intifada started, the PLC has suffered from a strategic blockage. All of its activities have been stopped.”⁵⁶

The obstacles faced by the PLC during the second half of its fifth term, however, do not necessarily absolve the PLC of its duty to overcome these obstacles and carry on with its mission. According to PLC member Othman Ghashash, “The PLC tried to overcome Israeli closure measures through video conferencing, and linking parallel meetings in Ramallah and Gaza.”⁵⁷ Abdel Fateh Hemayel, however, told PCHR that “This mechanism was not a practical option since it failed to overcome the obstacles imposed by Israeli occupying forces and it failed to make the PLC to hold its sessions regularly.”⁵⁸

Generally speaking, the major challenge facing the PLC at the beginning of its fifth term was rebuilding its relationship with the Executive on the basis of transparency and accountability. As with the previous four terms, the intransigence of the Executive and the lack of will in the PLC contributed to a failure to rebuild this relationship, negatively impacting on the PLC’s efforts to create a unified legal system across the West Bank and Gaza strip while monitoring the Executive. The subsequent outbreak of the al-Aqsa Intifada and

⁵⁴ 26 July 2001, in response to questions submitted by PCHR.

⁵⁵ Comments in a workshop organised by PCHR, “The Palestinian Legislative Council: Current Challenges and Future Prospects,” 23 August 2001.

⁵⁶ Ibid.

⁵⁷ 24 June 2001, in response to questions submitted by PCHR.

⁵⁸ 26 July 2001, in response to questions submitted by PCHR.

tightened Israeli measures exacerbated this crisis, creating an environment in which the PLC could not function. At the time of this writing, the PLC has virtually ceased to exist as a functioning institution. Although a number of PLC members continue to be active in various aspects of Palestinian political life and the al-Aqsa Intifada, they do so more in their individual capacities than as members of the PLC.

Conclusion

The purpose of this report was to evaluate the fifth term of the Palestinian Legislative Council (7 March 2000-7 March 2001). This report is distinguished from previous reports in this series, as the work of the PLC was truncated by the outbreak of the al-Aqsa Intifada and the subsequent tightened restrictions on movement by Israeli occupying forces.

The report is divided into two periods: before and after the outbreak of the al-Aqsa Intifada. The report concluded that the PLC witnessed some developments compared to the first half of the fourth term at a quantitative level in terms of legislation passed. Qualitatively, however, case studies of the experiences of two laws demonstrate that the performance of the PLC was disappointing, as it failed to assert its role vis-à-vis the Executive. At the level of accountability and monitoring, the PLC failed to use the various means at its disposal to hold the Executive accountable. It appears that by the first half of the fifth term, the PLC had become increasingly weak and irrelevant in the face of the intransigence of the Executive. The second half of the term was marked by the intensified siege and closure blocked the PLC's work.

Recommendations

PCHR, with the goal of promoting democracy in Palestine, recommends the following:

1. The current events in the OPT will continue for at least several years, particularly while Ariel Sharon remains in power and continues to

evade or frustrate international efforts aimed at calming the situation and restarting negotiations. Therefore, to face these attacks, it is of great importance to look again at the basis which governs the work of Palestinian institutions and to build a new foundation for the relationship between the Executive and legislative branches of the PNA, as well as relations with the citizenry.

2. Based on the above, it is of great importance for the PLC to follow up on the implementation of laws that await presidential ratification, including the Judicial Authority Law, Basic Law, and others.
3. The PLC elections should hold new elections when possible in order to renew its legitimacy, particularly given that the legal period of the PLC expired in 1999.
4. The PLC should follow up on laws ratified by the president in order to monitor their implementation.
5. It is of great importance for the PLC to find options that guarantee at least continuous contact between members. Modern communications means, such as internet and video conferencing, could contribute to achieving this goal and should be further explored.
6. The PLC should intensify meetings of members residing in the same geographical areas and asserts that minutes should be prepared and distributed to other groups of members to inform others of their work.
7. PLC members should be in close touch with constituents to know their needs and problems, as much as is allowed by the siege and closure.
8. The PLC should follow up on all of its decisions, whether issued during the first four terms or the fifth term, and monitor the implementation by the Executive.
9. The PLC should follow up on recommendations of its commissions of enquiry and adopt a firm stance towards the PLC Speaker to pressure him to hold the Executive to its commitments based on the recommendations and findings of commissions of enquiry.
10. The PLC should exert all possible efforts to guarantee that citizens are informed of their work, through TV, radio, newspapers, and other media.