

**Palestinian Centre for Human Rights**  
Consultative Status with the ECOSOC of the United Nations  
Affiliate of the International Commission of Jurists - Geneva  
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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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

Fourth Term

**(March 1999– March 2000)**

**Series Study (24)**

**Consultative Status with the ECOSOC of the United Nations  
Affiliate of the International Commission of Jurists - Geneva  
Member of:**

**The International Federation for Human Rights-Paris  
The Euro-Mediterranean Human Rights Network**

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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. PCHR has published two reports aimed at evaluating the PLC's performance in terms of its legislative, monitoring, and accountability duties during its first three terms. The first report was published in November 1998 and covered the PLC's first and second terms. The second report, published in December 1999, focused on the PLC's performance during its third term. Continuing in this vein, PCHR has prepared a third report in this series, on the Council's fourth term, from March 1999-March 2000.

This report is divided into three parts:

An overview of the PLC's overall functioning during the fourth term, especially internal developments. This includes the election of the Speaker of the PLC for the fourth term, the election of various other offices, and the composition of the PLC's committees.

An evaluation of the PLC's legislative activities in its fourth term, composed of five case studies of the evolution of crucial draft laws, and how the histories of these draft laws shed light on the relation between the PLC and the executive branch of the PNA, including the president's office, Cabinet, ministries, and various security services.

An examination of how the PLC carried out its duties vis-à-vis the Executive in terms of monitoring and accountability, especially the use of the means at its disposal, including summoning officials for questioning, use of commissions of enquiry, and motions of no-confidence.

In all regards, this study is done with an eye to the Council's activities in the first three terms to provide a comparative perspective on the PLC's evolution. PCHR hopes that this report and others before it will contribute to the development of strong democratic institutions and the maintenance of an active Palestinian civil society.

## **Introduction**

One aspect that distinguishes the fourth term of the PLC from previous ones is that it continued despite the legal expiry of the interim period under the Oslo accords. The first article of the Declarations of Principles signed 13 September 1993 reads:

The aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Governing Authority, the elected Council (the "Council"), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council Resolutions 242 and 338.

Article 5, paragraph 1 further specified the beginning of the date of the interim period: "The five year transitional period will begin upon the withdrawal from the Gaza strip and Jericho areas." The Cairo agreement, signed on 4 May 1994, established the Palestinian National Authority (PNA) in territories from which Israeli occupation forces were redeployed, thus marking the legal start of the five-year interim period, which would therefore end on 3 May 1999. This is supported by article 3, paragraph 4 of the Israeli-Palestinian Interim Agreement in the Gaza Strip and West Bank, signed in Washington 28 September 1995:

The Council and the Ra'ees of the Executive Authority of the Council shall be elected for a transitional period not exceeding five years from the signing of the Gaza-Jericho Agreement on May 4, 1994.

Under the Oslo process, the interim period was supposed to lead to a final settlement between the two sides through the just implementation of United Nations Security Council Resolutions 242 and 338. Unfortunately, the government of Israel failed to meet its commitments on the agreements and 4 May 1999 passed without any final settlement being reached between the two sides. The interim period has thus been extended without any clear date for its conclusion.

The legal period of the Palestinian Legislative Council thus also passed without new elections being held. This constitutes a grave violation of basic

democratic norms, particularly because elections are often a vital mechanism through which the people give a mandate to representatives to act on their behalf. It is well-known that the people's mandate for their representatives is temporary and for a specific period, so as to ensure accountability and allow the people to choose new representatives. Elections are one of the most important mechanisms for expressing the will of the people and to actualise its right to practice self-governance. In addition, elections are a mechanism for monitoring and accountability for the government.

In January 1999, PLC member Marwan Kanafani called for the Palestinian Central Election Commission to issue a decision on whether the expiry of the interim period required new elections. In his request, Kanafani mentioned that the court decided one year earlier to cancel the by-election for the Gaza governate after the resignation of Dr. Heydar Abdel-Shafi<sup>1</sup> and that this implied that such an election would not be necessary, an assertion that he sought to challenge.

In a letter addressed to the PLC at the beginning of its fourth term on 7 March 1999, PNA President Yasser Arafat decided that the council should continue carrying on its work without a new general election.

The introductory session of the fourth term was held in the Rashad al-Shawa cultural centre in Gaza city, with 74 members in attendance and 13 absent. Members of the PLO Executive Committee, the PNA cabinet, the national security council, deputy ministers, directors-general, and heads of the security forces, as well as representatives of political parties and public

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<sup>1</sup> On 30 March 1998, Dr. Abdel Shafi resigned from the Council, protesting that the Executive had repeatedly undermined and ignored PLC. According to the 1999 election law, a by-election must be held if there is more than a year remaining in the term, which would end with the expiry of the interim period. As the interim period was to expire on 4 May 1999, elections for Dr. Abdel Shafi's position were scheduled for 29 May 1998. Based on an appeal from another member of the PLC, however, the Central Election Commission cancelled the election on 20 May 1998, declaring that such an election would require the approval of Arafat, as President of the PNA. Since Dr. Abdel Shafi's resignation, the PLC has functioned with 87 instead of 88 members. For more details, see PCHR's *1998 Annual Report activities report, financial report [1 January-31 December 1998]*, p. 82. See also *al-Hayat*, 25 January 1999.

figures, attended the session.<sup>2</sup> Ahmed Qurei' (Abu 'Ala), the speaker of the PLC, praised the success of the Council and summed up the achievements of the third session. He asserted the necessity of developing and enhancing the relationship between the Executive and the PLC, and expressed his hope of overcoming all of the difficulties in this respect. Moreover, he expressed his wish for the Executive to commit to forwarding the public budget law according to the legal deadline, for the Basic Law to be ratified by the Executive, and for the PLC's decisions to be respected by the Executive. Following the standard procedure, he then immediately resigned, as did the members of the Council's Office Committee, in order to allow for new elections, provided for by article 2 of the PLC by-law. Abu 'Ala and the members of the council's office left their positions and called the oldest member of the council, Farraj al-Sarraf, to administer the session. He was assisted by the youngest member of the PLC, Dallal Sallameh.

### ***Election of the Council's Speaker***

Immediately after taking responsibility for overseeing the session, al-Sarraf and Sallameh made sure that quorum was filled. The attendance of 74 members was sufficient for quorum. Al-Sarraf then announced the formation of a committee consisting of Abdel Karim Abu Salah, Suleiman Abu Sneineh, and Moussa al-Za'bout to oversee the election process for the Speaker and Office Committee. Abu 'Ala defeated Suleiman al-Rumi for the position, 57 votes to 3, with 14 abstentions.<sup>3</sup>

### ***Election of the Council's Office Committee***

After announcing Abu 'Ala's victory as PLC Speaker for the fourth term, al-Sarraf called on members to make nominations for the positions of Deputy Speaker and Secretary of the Council. Ibrahim Abu al-Najah was elected first deputy speaker, Ghazi Hanania second deputy speaker, and Rawhi Fatouh secretary of the Council. All three were elected without opposition.

### ***Restructuring the Council's Committees***

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<sup>2</sup> See *al-Hayat*, 8 March 1999

<sup>3</sup> For more details, see the *PLC monthly gazette*, vol. 4, no. 2 (1999), p. 22.

The agenda of the Council's introductory meeting included many issues, including the election of new members for the PLC's various committees, in accordance with Article 49 of the PLC's bylaws, which stipulates that the Office Committee shall coordinate nominations with all members, following which the Speaker shall submit a list of committee appointments to the whole Council for approval. In Ramallah on 15 March 1999, the PLC approved the final structure of the committees and Abu 'Ala called upon the members of the Council to elect chairmen and secretaries of the committees, after which he adjourned the session. The results are listed below:

*Table 1: Final Structure of the Council's Committees 7 March-24 November 1999<sup>4</sup>*

<b>Committee</b>	<b>Chair</b>	<b>Secretary</b>
Jerusalem	Ahmad al-Zughayar	Ahmad al-Batsh
Land and Settlements	Salah al-Ta'mari	Qadourah Fares
Refugees and Diaspora	Jamal al-Shati	Abed Rabbo Abu Own
Budget	Azmi al-Sheibi <sup>5</sup>	Daoud al-Zeer
Economic	Jamal al-Shubaki	Jallah al-Masdar
Legal	Abdel Karim Abu Salah	Suleiman Abu Sneineh
Political	Ziad Abu Amer	Dallal Salameh
Human Rights and Public Freedoms	Hassan Khriesheh	Moussa al-Za'bout
Education and Social Affairs	Abbas Zaki	Jawad al-Tibi
Interior and Security	Fakhri Shakourah	Abdel Fatah Hamayel

#### **Legislation in the Council's Fourth Term**

This section addresses the legislative activities of the PLC's fourth term. It will compare the number of resolutions and draft laws completed in the fourth term to that of the third term in order to determine the extent to which the PLC expedited the process of standardising Palestinian law across the West Bank and Gaza strip, which before 1967 were under Jordanian and Egyptian administration, respectively. In addition, this section sheds light

<sup>4</sup> See the *PLC monthly gazette*, vol. 4, no. 3 (1999), p. 45-47

<sup>5</sup> Sheibi resigned on 24 November 1999. Daoud al-Zeer was elected to take his place. Dr. Sheibi's resignation was in protest of the Executive's ignoring the PLC's requests to present the 1999 public budget on time.

on the Council's activities regarding the 1999 public budget, the 2000 public budget, the Basic Law, the Judicial Authority Law, and the Charitable Societies and NGOs Law as five case studies in order to determine if there was any improvement in the qualitative performance of the PLC regarding its legislative functions. This section will also examine the relation between the Executive and the PLC.

***Resolutions issued by the Council in the Fourth Term***

In its fourth term, the Council issued 81 resolutions on economic, political, legal, human rights, and other issues of concern to Palestinian citizens.<sup>6</sup> The following table illustrates the number and nature of the resolutions issued during the fourth term, with the topics listed in order of the number of resolutions as a way of determining the Council's priorities:

*Table 2: Resolutions During the Fourth Term*

<b>Topic</b>	<b>Resolutions</b>	<b>Percentage of Total</b>
Legal issues	36	44.40%
Political issues	15	18.5%
Financial and Economic issues	10	12.3%
Human Rights and Public Freedoms	9	11.3%
Relations with the Executive	6	7.4%
Social issues	5	6.2%
Energy and Natural Resources	0	0%
Local Governance	0	0%
<b>Total</b>	<b>81</b>	<b>~100%</b>

In order to assess how the Council's priorities shifted over time, one method is to compare legislation of the fourth term with that of the third term, especially in determining the percentage of resolutions devoted to specific issues.<sup>7</sup>

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<sup>6</sup> For more details, see *The Palestinian Legislative Council's resolutions in its 1<sup>st</sup>-4<sup>th</sup> terms, 1996-2000*, PLC Information Department, March 2000.

<sup>7</sup> See, *Palestinian Legislative Council: Performance Evaluation during the third term (March 1998-March 1999)*. The Palestinian Centre for Human rights, Series studies (19), December 1999, pp 10-11.

*Table 3: Resolutions During the Third Term*

<b>Topic</b>	<b>Resolutions</b>	<b>Percentage of Total</b>
Legal issues	39	46.99%
Relations with the Executive	13	15.66%
Financial and Economic issues	11	13.25%
Political issues	8	9.64%
Social issues	6	7.23%
Human Rights and Public Freedoms	4	4.82%
Energy and Natural Resources	2	2.41%
Local Governance	0	0%
<b>Total</b>	<b>83</b>	<b>~100%</b>

It should be noted from tables 2 and 3 that legal issues remain constant as first among the PLC's concerns during the third and fourth terms. At the same time, political issues became more important, moving from the fourth most important issue to the second most important. Human rights and public freedoms were given greater emphasis, becoming the fourth priority from the sixth position during the third term. Relations with the Executive, on the other hand, became less important, to have the fifth greatest number of resolutions after being second. Most other issues received more or less constant attention.

The PLC's shifting concerns during its fourth term could be explained by a variety of factors:

It is possible that the PLC believed that the laws passed and ratified in previous terms were not enough to cover the gaps that existed before the establishment of the PNA and which remained until the formation of the PLC in 1996. Among 50 proposed laws discussed by the Council during its first three terms, the Council approved 21 and submitted them to the president for ratification. The president, however, ratified only 14.<sup>5</sup> Thus, it is possible that the Council therefore focused its resolutions on defining its

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<sup>8</sup> For more details, see *The Palestinian Legislative Council: Performance Evaluation During the Third Term (March 1998-March 1999)*, Series Studies (19), December 1999, p. 17-18, 23.

own legal role as a legislative institution aimed at drafting and approving laws.<sup>9</sup>

Regarding the placement of political issues as the second priority, this can be explained by political developments in the region, which may have forced it to focus on such issues. During 1999, Palestinian politicians continuously debated whether or not to unilaterally declare statehood by the expiry of the interim period in May 1999. The Palestinian leadership had on many occasions announced its intention to declare statehood at the end of the interim period but did not do so, under international pressure. Also, 1999 witnessed the signing of the Sharm el-Sheikh memorandum between the government of Israel and the PLO on 5 September. After intensive efforts exerted by the American and Egyptian governments, the two sides managed to sign the memorandum, in which the sides agreed that Israel would implement the second phase of the redeployment of its forces in the West Bank not after 15 November 1999,<sup>10</sup> to resume intensive negotiations on the final settlement and to affirm that such negotiations will lead to implementing United Nations Security Council Resolutions 242 and 338. Such a development may have influenced the Council's concerns and forced its attention on political issues.

The Council's concerns with legal and political issues came at the expense of improving relations with the Executive, and relations did not improve. The Executive continued to undermine and ignore the PLC. The situation worsened after repeated attacks by Palestinian security forces on members of the PLC.<sup>11</sup> Although the situation should have forced the Council to be

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<sup>9</sup> This seems to have been the case during the third term as well. See *ibid.* 15-16.

<sup>10</sup> According to the Sharm el-Sheikh Memorandum, 2% of the West Bank was transferred from Area B (under Israeli security control and Palestinian civil control) to Area A (under Palestinian civil and security control) and to transfer another 3% of the West Bank from Area C (Israeli security and civil control) to Area B. At that time, the Palestinians refused to agree to redeployment maps unilaterally drawn up by Israel and the negotiations between the two sides did not progress. On 5 January 2000, the above-mentioned redeployment processes were carried out after the Palestinians accepted this map.

<sup>11</sup> The first attacks occurred during the third term on 28 August 1998. Members of the Palestinian security forces attacked a number of PLC members, as well as journalists and human rights activists during a march near the house of Emad Awadallah, an activist of the Hamas military wing in Al-Bireh, protesting the imposition of a siege on his house after he escaped from the Preventative Security Forces' prison in Jericho on 15 August 1998. Attacks continued during the fourth term. On 1 December 1999, while going back from

more vigilant in monitoring the Executive to ensure accountability and transparency, this seems not to have occurred.

The improvement of economic conditions in PNA-controlled areas during the fourth term may explain the fact that there was no change in the prioritisation of economic issues.<sup>12</sup>

The increased importance given to human rights and public freedoms can be explained by ongoing practices by the PNA in 1999 that included the failure to uphold the rule of law, the independence of the judiciary, and the separation of power in order to reduce violations.<sup>13</sup> This may have forced the Council to place greater emphasis on human rights issues by issuing more resolutions in this regard.

Regarding natural resources and energy it seems that the Council was satisfied with the number of resolutions it issued during the previous terms or no development has taken place in these issues that may have forced them to make decisions in response.

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Gaza to Nablus after participating in a closed session of the Council to discuss a petition from Palestinian public figures criticising the PNA's corruption, PLC member Dr. Mawia al-Masri was attacked by a number of masked men. al-Masri was shot by one of these men and injured in the legs and then moved to hospital for medical treatment. al-Masri told PCHR on 28 August 1999 that the attacks were "against the whole Palestinian people and [were] aimed at delivering a message that anyone who dares to criticise the PNA and to speak about corruption will be subject to the same treatment, even if he is a member of the PLC." On 16 December 1999, Abdel Jawad Saleh, former Minister of Agriculture and PLC member and one of the public figures who signed the petition, was beaten by members of Palestinian intelligence in Jericho. Saleh said in an affidavit that he was participating in peaceful marches protesting the arrest of a number of public figures who had signed the petition. In a response to a request to the local director of intelligence to be granted permission to visit the prisoners, Saleh was summoned to enter the prison but was instead put in one of the cells and beaten. For more details, see PCHR's *1999 Annual Report*, p. 131.

<sup>12</sup> A report by the United Nations Special Coordinator's office affirms that economic conditions in PNA-controlled areas improved in 1999. The number of Palestinian workers allowed to enter Israel increased and the unemployment rate decreased. Moreover, monthly Palestinian exports to Israel increased by 1.6% over the previous year. In addition, banking activities increased by 18.4% and the inflation rate was 3.6%, a moderate and acceptable rate, especially in light of the previous year's inflation rates. See *Office of the United Nations Special Coordinator's report on economic and social conditions*, Gaza, Autumn 1999, p. vi.

<sup>13</sup> For more details about human rights violations committed by the PNA during 1999, see PCHR's *1999 Annual Report*, p. 76-110.

Regarding local governance, the Council can be criticised for its failure to pressure the Executive to order local elections. The Executive's decision to ignore these issues should prompt action from the PLC to pressure the Executive but unfortunately this did not transpire in the fourth term.

#### *Draft Laws Presented to the PLC for Discussion in the Fourth Term*

There were 19 laws presented to the Council Speaker for discussion during the fourth term.<sup>14</sup> The Speaker transferred all of these draft laws to the concerned committees for further study. The following table illustrates the draft laws discussed by the relevant committees:

*Table 4: Draft Laws in the Fourth Term*

<b>Law</b>	<b>Date of Transfer</b>
Press and Publications Law	16.3.1999
Authors' Rights Law	16.3.1999
1999 Public Budget	5.4.1999
Traffic Law	20.4.1999
Stamping and Monitoring Jewellery	20.4.1999
Law of the Palestinian Medical Council	11.5.1999
Law Organising Commerce and Trade in Insecticides	24.6.1999
Law of Arbitration	14.10.1999
Schedule of Fees for Certifications	14.10.1999
Natural Disaster Compensation Fund for Farmers	14.10.1999
Water Law	14.10.1999
Law of Supply	10.11.1999
2000 Public Budget	17.11.1999
Legal Profession Law	18.11.1999
Social Insurance Law	14.12.1999
Judicial Authority Law	14.12.1999
Law Banning Torture of Prisoners	30.12.1999

Among the 19 draft laws transferred to the concerned committees, 14 were subject to public discussion, bringing the number of draft laws subject

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<sup>14</sup> These draft laws include the draft laws submitted to the Council by the Executive Authority and the draft laws submitted by members of the PLC. For more details, see the *Legal Unit of the PLC*.

discussed by the Council since its establishment until the end of the fourth term to 64.<sup>15</sup> The following table illustrates the Draft Laws that were submitted for discussion by the PLC during its fourth term and the dates of discussion:

*Table 5: Draft Laws Publicly Discussion in the Fourth Term*

<b>Draft Law</b>	<b>Date of Discussion</b>
1999 Public Budget	5.4.1999
Traffic Law	23.6.1999
Press and Publications Law	25.6.1999
Law of Arbitration	6.7.1999
Criminal Penal Code	27.10.1999
2000 Public Budget	3.11.1999
Law of Supply	1.12.1999
Authors' Rights Law	1.12.1999
Law Organising Commerce and Trade in Insecticide	1.12.1999
Law of Palestinian Weights and Measures	1.12.1999
Natural Disaster Compensation Fund for Farmers	1.12.1999
Schedule of Fees for Certifications	1.12.1999
Water Law	1.12.1999
Judicial Authority Law	15.12.1999

The Council had approved five of the above-mentioned draft laws upon the first reading:

**Table 6: Draft Laws Approved upon a First Reading During the Fourth Term**

<b>Draft Law</b>	<b>Date of Approval on First Reading</b>	<b>Period Between Presentation for Discussion and Approval</b>
1999 Public Budget	9.6.1999	2 months, 4 days
2000 Public Budget	3.11.1999	0
Law of Arbitration	23.11.1999	4 months, 17 dyes
Traffic Law	16.12.1999	6 months, 7 days
Legal Profession Law (revised)	-----	-----

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<sup>15</sup> The number of laws which were subject to public discussion by the Council during the last three terms is 50. For more details, see *The Palestinian Legislative Council: Performance Evaluation During its Third Term (March 1998-March 1999)*. PCHR Series Studies (19), p. 17-18.

Among the above-mentioned four laws that were approved upon the first reading, the Council approved three on the second reading and forwarded them to the president for ratification. The Legal Profession Law was approved on the second reading on 25 November 1999 and forwarded to the president for ratification two days later. The law was ratified by the president on 28 December 1999. The 1999 public budget was approved by the Council on its second reading on 12 August 1999, forwarded to the president on 4 September 1999, and ratified by the president on the same day. The 2000 public budget was approved on the second reading 26 January 2000, and ratified by the president on the same day. Moreover, there are some draft laws submitted during the third term, but given second readings and ratified in the fourth term. They are illustrated in the following table:

*Table 7: Draft Laws Approved During the Fourth Term Left Over from the Third Term*

<b>Law</b>	<b>Presented for Public Discussion</b>	<b>Approval on First Reading</b>	<b>Approval on Second Reading</b>	<b>Presented to the President</b>	<b>Ratified</b>
Palestinian Labour Law	26.5.98 [third term]	24.12.98 [third term]	27.10.99 [fourth term]	18.11.99 [fourth term]	Not yet ratified
Environment Law	18.8.98 [third term]	27.5.99 [fourth term]	6.7.99 [fourth term]	5.8.99 [fourth term]	28.12.99 [fourth term]
Disabled Persons Law	5.11.98 [third term]	6.1.99 [third term]	16.3.99 [fourth term]	2.6.99 [fourth term]	9.8.99 [fourth term]
Law Organising Commercial Agents	9.12.98 [third term]	7.1.99 [third term]	20.4.99 [fourth term]	15.7.99 [fourth term]	Not yet ratified

The Council presented the draft law regarding the awarding of governmental construction contracts for public discussion during its third term and approved it on the first and second readings during the same term, but continued working on it and prepared a third reading during the fourth term. The Council approved the third reading 9 June 1999, and on 27 June forwarded it to the president for ratification. It was ratified on 28 December.

A total of seven laws were approved on the second reading during the fourth term. Three were subject to public discussion for the first time in the fourth term [Legal Profession Law, 1999 public budget, 2000 public budget] the other four laws were presented for discussion for the first time during the third term but the Council continued to prepare them in the fourth term. Eight laws were presented by the Council to the president for ratification during the fourth term. The president ratified six, which were in turn promulgated. The following table illustrates these laws:

*Table 8: Laws Ratified and Promulgated During the Fourth Term*

<b>Law</b>	<b>Date of Promulgation</b>
Disabled Persons Law	9.8.99
1999 Public Budget	4.8.99
Environment Law	28.12.99
Legal Profession Law	28.12.99
Law of Awarding Government Construction Contracts	28.12.99
2000 Public Budget	26.1.2000

Evaluating the legislative performance of the Council during the fourth term requires reference to the work of previous terms. During the three previous terms, the Council approved 21 laws upon the second reading and submitted them to the president, of which 14 were ratified, resulting in an average of 4.6 laws ratified per term.<sup>16</sup> During the fourth term, the Council approved 7 laws upon the second reading. This is the same of the Council's rate over the past three terms. Thus, the fourth term witnessed no quantitative change regarding the Council's legislative achievements. The number of laws ratified, however, was 6, greater than the average of 4.6. Therefore, the fourth term witnessed an increase in the average number of laws ratified. The following factors may help to explain the reasons for these changes:

It is possible that the Executive's rejection of laws approved by the Council in the past had a negative impact on the Council during the fourth term. Although the Council during the past three terms witnessed intensive legislative activities, this was not met with a positive response from the Executive. When the Council became more active, the Executive actually approved fewer laws, possibly discouraging the PLC. The Council, in fact,

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<sup>16</sup> Regarding the laws approved upon the second reading and ratified by the president during the previous term, see *ibid.* 23.

has failed to develop any mechanisms to pressure the Executive to ratify draft laws that are of great importance to promoting democracy and building civil society.

The increased rate of ratifications might be because these laws concerned social and economic issues and did not relate to controversial political issues between Israel and the PNA. In addition, it may be that President Arafat was responding to pressure and criticism that he had not been active enough in ratifying draft laws.

Thus, despite the increase in the president's rate of ratifications, there were few positive developments regarding the quantitative achievements of the Council in the fourth term. A qualitative assessment of the Council's work, however, is also necessary. Following are case studies of five draft laws which form part of such an analysis.

#### Case Study 1: The 1999 Public Budget

On 12 August 1999, in a special session of the PLC held in Ramallah, the Council approved the 1999 public budget, by a vote of 38-18. This came nearly five months after the legal deadline for presenting the budget, 31 March 1999.<sup>17</sup>

Table 9: 1999 Public Budget<sup>18</sup>

<b>Total Revenue:</b>	<b>1712.87</b>
Local revenue	1477.87
Taxation	782.06
Customs	301.75
VAT/sales tax	392.7
Other taxes	1.36
Taxes on income and profit	86.25
Donations and assistance	235
<b>Total Expenditure</b>	<b>1,194.35</b>

<sup>17</sup> See the *PLC monthly gazette*, vol. 4, no. 4, no. 4. (1999), p. 7.

<sup>18</sup> There are different estimations for the public budget for 1999. Some PLC publications confirm that the public revenue in the 1999 budget is \$US 1,603.75 million while estimating expenditure to be \$US 1,729.46 million, with a deficit of \$US 125.71 million. *PLC monthly gazette*, vol. 4, no. 4 (1999), p. 4. Other publications cited the public budget as it is described above. See, the *PLC monthly gazette*, vol.5, no. 1 (2000), p. 15. As the latest estimation, this is the one used by the study.

Ongoing	953.1
Salaries/wages	554.75
Operating costs	203.3
Transferral expenditure	168.85
Other	.12
Capital Development	241.25

The public budget is of particular importance for all governmental institutions of the PNA, and is one of the most important ways in which the PLC can hold the Executive accountable. Therefore, examining the council's deliberations in this regard can help determine the extent to which democratic standards have taken hold in the PNA, especially in relations between the various branches of government.

***The Council's Deliberations on the 1999 Public Budget***

The fiasco of the 1999 public budget was in fact a hold-over from the Council's third term. During an extraordinary session in Ramallah 5 January 1999, the Council stated the necessity for Minister of Finance Muhammed Zuhdi al-Nashashibi to forward the 1999 public budget to the Council for revision and approval. Several members of the Council commented that the Minister of Finance should be authorised by the Council to make expenditures in the absence of a budget, in accordance with article 4 of the Financial Affairs and Public Budget Law.<sup>19</sup> In such a case (i.e., if a public budget is not prepared by the start of the fiscal year), the Minister of Finance can collect monthly revenues at a rate of 1/12 of the previous year's expenditure for up to three months. Furthermore, if three months have passed without a budget being prepared, the supervision of expenditure should fall to a special committee of PLC members. After the three-month period passed without the Minister having presented a budget, the Council decided to question him on the reasons for the delay.<sup>20</sup>

In a special session of the Council in Ramallah on 28 January 1999, Minister al-Nashashibi was summoned to answer the questions of PLC

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<sup>19</sup> The Financial Affairs and Public Budget Law was approved upon its second reading on 14 April 1998 and ratified by the president 20 April 1998. It came into force 3 August 1998.

<sup>20</sup> See *the minutes of the special sessions* held on 5 January 1999 and also *al-Hayat*, 6 January 1999.

members regarding the delays in presenting the public budget. In a report he forwarded to the Council, al-Nashashibi cited the complexities of implementing the civil servants law as one of the main factors delaying the presentation of the public budget. He confirmed at the end of his report that the final draft of the budget would be discussed by the Cabinet on 29 January 1999, and then forwarded to the council for discussion and approval. Accordingly, the Council decided (resolution 3/11A/3) to grant the Cabinet a period of three weeks to submit the 1999 public budget and to hold a special session to discuss a no-confidence vote in case the Cabinet failed to do so.<sup>21</sup> Unfortunately, although the Cabinet did not forward the budget law by the three-week deadline, the Council did not discuss a no-confidence vote, as it had resolved to do so. The third term thus ended without a public budget having been approved.

In the first session of the fourth term, held in Ramallah 15 March 1999, a number of PLC members sharply criticised a letter sent by the Minister of Finance to the Council in the previous term and read out loud by Minister of Parliamentary Affairs Nabil Amru in which he asked for an additional two weeks to prepare the budget. In this regard, Azmi al-Sheibi, head of the PLC's Budget & Financial Committee, accused the Minister of Finance of lying and of violating article 4 of the Public Budget & Financial Affairs Law. He threatened to resign as the head of the committee if the government continued to ignore the law. PLC member Jamal al-Shati considered the letter as an attempt to play with the PLC and suggested a no-confidence vote in the Cabinet be held. PLC member Salah al-Ta'mari considered Nashashibi's letter unacceptable and unconvincing. Despite these objections, the Council decided (resolution 4/1/364) to grant the Ministry of Finance another 10 days to prepare the public budget and to discuss holding a no-confidence vote in case it did not comply.<sup>22</sup>

The meeting which was supposed to be held after 10 days was deferred by the Council yet again upon receiving another letter from the Minister of Finance claiming that the 1999 public budget law has been prepared by the Cabinet, but asking for an extension until 5 April 1999. The Office and Council Affairs Committees held a meeting on 24 March, in which they

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<sup>21</sup> See *al-Hayat*, 29 January 1999.

<sup>22</sup> See *ibid.*, *al-Ayyam*, 16 March 1999, and *al-Istiqlal*, 19 March 1999.

discussed this letter and decided to accept the request and to defer the no-confidence discussion until 5 April.<sup>23</sup>

In a special meeting of the council held 5 April 1999 in Ramallah, the Minister of Finance presented the 1999 public budget to the Speaker of the Council, Abu 'Ala, for approval. At the end of the session, the speaker transferred the public budget to the Budget Committee for study, evaluation, and discussion.<sup>24</sup> The Committee met on 15 April in the Council office in al-Bireh to discuss the public budget.<sup>25</sup>

On 18 April, the Budget Committee met with the Minister of Finance, as well as Deputy Finance Minister Aatif Al-Alwana and Director-General for the Public Budget in the Ministry 'Ablah al-Nashashibi (the minister's daughter) to discuss their comments and concerns.<sup>26</sup>

On 21 April, in a session in Ramallah, the Budget Committee submitted its preliminary report on the public budget. In that report, Budget Committee Chairman Azmi al-Sheibi affirmed that the budget funded over-employment in state institutions through unplanned appointments. These appointments, he added, resulted from the fact that the civil service law had not been adequately implemented and there was still a lack of an organised recruitment processes. The Budget Committee announced its intention to develop new measures to secure the correct implementation of the civil service law. Regarding the general revenue of the budget, al-Sheibi pointed out that although expected revenue from donors was estimated at \$US 700 million, donors often disburse less than what they promise, and that he expected only \$US 350 million in external aid instead. This would increase the budget deficit and heighten the need for a better-planned expenditure policy.<sup>27</sup> In response to these critiques, the Council decided to hold on 2

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<sup>23</sup> See *al-Hayat*, *al-Quds*, *al-Istiqlal*, 25 March 1999.

<sup>24</sup> See *al-Ayyam*, *al-Quds*, *al-Hayat*, 6 April 1999.

<sup>25</sup> See *al-Quds*, 16 April 1999.

<sup>26</sup> See *ibid.*, 19 April 1999.

<sup>27</sup> See *ibid.*, 22 April 1999.

June 1999 a special session to discuss the report of the Budget Committee and other related issues.

The Council did not hold the discussion on that date, however, and deferred it for an additional two weeks after receiving a letter from President Arafat on 1 June asking for the Council to send the public budget back to the Cabinet for modifications.<sup>28</sup>

In light of this, President Arafat held in June 1999 a meeting attended by the Council Office Committee, Minister of Parliamentary Affairs Nabil Amru, and Minister of Finance al-Nashashibi to discuss the Public Budget and to include some modifications. A deal was concluded at the end of the meeting emphasising the necessity to exert efforts to decrease the budget deficit through decreasing the various expenditures, and deciding to increase the funding for the Ministry of Health by \$US 48 million in light of its deteriorating financial situation. The Council had earlier decided to discuss the Ministry of Health's fiscal difficulties with the Minister of Finance. The Minister of Health affirmed before the Council in Ramallah 9 June 1999 that pharmaceutical factories had stopped selling medicine to the Ministry of Health because it could not pay. The Minister of Health also pointed out that the Ministry of Finance has still not delivered \$US 30 million that had been allocated to it under the previous year's budget. In addition, the Ministry of Health has not received its specified funding in the 1999 budget, which did not specify all expenditures. Among the \$US 21.95 million allocated to the Ministry, it received only \$US 1.7 million. This was leading to massive budget deficits for the Ministry of Health.<sup>29</sup>

On 14 July 1999, during a meeting between the Budget Committee and the Cabinet in the Cabinet office in al-Bireh, the Cabinet submitted the revised budget. The meeting was attended by PLC Speaker Abu 'Ala and reaffirmed the necessity of presenting the public budget by its legal date.<sup>30</sup>

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<sup>28</sup> The Council by-laws assert in Article 66 that the Cabinet has the right to take the draft public budget back before the Council approves it in order to make further changes.

<sup>29</sup> See *The PLC monthly gazette*, vol. 4, no. 3 (1999), p. 27. See also *al-Quds*, 30 June 1999, 15 July 1999, and *al-Hayat*, 15 July 1999.

<sup>30</sup> See *al-Hayat*, 15 July 1999.

On 25 July, the Budget Committee of the Council organised a special meeting for its members in al-Bireh, during which they discussed the revised public budget and decided at the end of the meeting to meet with the Director-General for Public Budget Department at the Ministry of Finance to continue consultations. Daoud al-Zeer, the Secretary of the Budget Committee of the Council, affirmed that the Committee would present a report to the Council to discuss the public budget.<sup>31</sup>

On 27 July, the Budget Committee met with the Director-General for the Public Budget at the Ministry of Finance and other staff at the Council's headquarters in Ramallah. Proposed modifications were discussed, as well as the Ministry of Finance's plans to cover the 1999 budget deficit. The attendees agreed on the modifications suggested by the Council Budget Committee, on the necessity to decrease PNA operating expenditures, the necessity to reduce the 1999 budget deficit through improved customs accumulated by Israel, and to curtail unnecessary waste of customs revenues.<sup>32</sup>

In a Council session held in Ramallah 12 August, the Budget Committee presented to the Council its report for discussion and approval. PLC member Dr. Azmi Sheibi stated that the report focused on the structural defects of the PNA's financial policies and highlighted issues related to the administrative system, especially over-employment and the responsibility of the Cabinet, particularly the Minister of Finance, to solve this problem.<sup>33</sup>

Moreover, the report included recommendations for decreasing PNA expenditure and establishing norms for governmental borrowing, and asserted the necessity of PLC approval for loans taken out by the Executive. Also, it highlighted the expenditure of PNA high officials, especially for travel, and asserted the necessity to account for these costs, as well as other institutions' expenditures. The Council discussed these recommendations and agreed to approve the public budget, on the condition that the Cabinet implement these recommendations. Moreover, the Council decided to discuss in its first session after the summer recess the extent to which the

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<sup>31</sup> See *ibid.*, 27 July 1999.

<sup>32</sup> See *al-Quds*, 28 July 1999.

<sup>33</sup> See *al-Hayat*, 12 August 1999.

Executive had implemented the recommendations before deciding on the final approval of the budget.<sup>34</sup>

On 14 October, the Council held its first session after the summer recess, with 53 members in attendance and 34 absent, during which it intended to discuss the extent to which the Executive had implemented the recommendations of the Budget Committee. Unfortunately, the Council had not received a report from the Minister of Finance as to whether or not the recommendations had actually been implemented due to the Minister of Finance as well as Chairman of the Budget Committee being out of the country. As a result, the Council decided (resolution 4/A6/404) to defer the discussion to the first week of November and to ask the Budget Committee to hold a meeting with the Finance Ministry and to prepare a report in this regard.

On 26 October, the Budget Committee of the Council held a meeting in Gaza with the Director-General for the Public Budget in the Ministry of Finance, 'Ablah al-Nashashibi to discuss the latest developments regarding the extent to which the Executive has implemented the recommendations of the PLC's Budget Committee. Taking into account her briefing, the Committee decided to prepare a report to be submitted to the Council for final approval.<sup>35</sup>

In its report presented to the Council Speaker and based on information received from Ms. al-Nashashibi, the Budget Committee asserted that the Executive had not implemented a single recommendation and held Minister of Finance Mohammed Zuhdi al-Nashashibi responsible for the inefficient financial policies of the PNA. The Committee recommended holding a no-confidence vote in him. At the same time, the Committee expressed its desire to discuss the 2000 public budget with other ministers.<sup>36</sup> According

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<sup>34</sup> According to Article 16 of the PLC's by-laws, the Council opens its regular term upon the request of the president of the PNA. The term of the Council is usually divided into two parts of four months each. The first phase starts in the first week of March while the second phase starts in the first week of September. The same article states that a special session can be called by the Speaker, the Cabinet, or one-fourth of the Council members.

<sup>35</sup> See *al-Hayat*, 27 October 1999.

<sup>36</sup> See *al-Ayyam*, 15 November 1999.

to the PLC's bylaws, the Council speaker should have presented the report to the PLC for public discussion but he instead suppressed it so as to prevent a discussion of a no-confidence vote. In protest, Dr. Azmi Sheibi, Chairman of the Budget Committee, offered to resign on 14 November 1999, as did other members of the committee.<sup>37</sup> After a meeting between the Budget Committee and Council Affairs Committee in order to discuss the resignations two days later, the Budget Committee rescinded their resignations, but Dr. Sheibi insisted on his position and resigned as chairman of the Budget Committee.<sup>38</sup>

In a special session held in Ramallah on 24 November, in a session attended by the Minister of Finance, the Council Speaker announced that Dr. Sheibi's resignation as chairman of the Budget Committee had been accepted. Accordingly, the Council held an election for the vacant position, by which Daoud al-Zeer was elected Chairman of the Budget Committee.<sup>39</sup> The Council's acceptance of Dr. Sheibi's resignation was an implicit acceptance of the Speaker's decision not to present the objections of the Budget Committee to the Council as a whole. At this point, the public budget was severely overdue, and the PNA had been operating without a budget since the deadline. The 1999 public budget finally passed at long last, but without any of the modifications proposed by the PLC's Budget Committee.

### **Evaluating PLC-Executive Relations in Light of the 1999 Public Budget**

As it was clear from the Council's deliberations over the Public Budget, the Executive continued to ignore and undermine democratic standards regarding the preparation of the public budget. According to the law, the Executive was supposed to present the budget law to the Council at the end of October 1998 at the latest,<sup>40</sup> which had not occurred. In a special session on 5 January 1999, the PLC decided to question the Minister of Finance

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<sup>37</sup> See *ibid.*

<sup>38</sup> See *al-Quds*, 17 November 1999.

<sup>39</sup> See *al-Ayyam*, 25 November 1999.

<sup>40</sup> According to article 74, para 1 of the PLC's by-laws, the Cabinet should present the public budget to the Council at least two months before the start of the fiscal year.

about the reason for the budget not being presented on time. On 28 February 1999, in a special session in Ramallah, al-Nashashibi explained the reasons for not presenting the budget on time and asked the Council to grant the Cabinet three weeks to present the law. Although the Council granted these three weeks and decided to discuss a no-confidence vote in case the budget was not presented by the end of that time period (resolution 3/A11/361) the Cabinet had not presented the public budget to the Council in the specified period and the Council did not discuss a no-confidence vote. The Executive further ignored and undermined the PLC's decisions when the Minister of Finance on 15 March 1999 asking the Council to grant two more weeks to prepare the budget. In fact, such a request was a surprise for many reasons.

According to article 74 of the Council's by-laws, the Cabinet is the only entity responsible for preparing the budget, not the Ministry of Finance. The role of the Ministry of Finance is to implement the budget.

The request itself violated the public budget law, which states in article 4 that the Ministry of Finance can spend in the absence of an approved budget, but only for three months.

The request itself expresses the Executive's policy of ignoring and undermining PLC decisions. It is surprising, however, that the Council accepted this request and decided (resolution 4/1/364) to grant the Ministry of Finance another 10 days to present the law and to hold a discussion of a no-confidence motion in case this did not take place. Despite the fact that Executive did not present the public budget by the deadline, the Council still failed to hold a no-confidence vote after it received a letter from the Minister of Finance asking for yet another deferral of the no-confidence discussion until 5 April as the budget had been prepared by the Cabinet and would be presented soon. The Council agreed immediately. This raises questions about the Council's ability to hold the Executive to account and its credibility as a legislative institution capable of upholding democratic norms.

When the Budget Committee of the Council prepared its report regarding the (non-)implementation of the recommendations for the public budget, the Council Speaker was supposed to transfer this report to the whole Council for discussion, but did not. Moreover, he accepted the resignation of Dr. Sheibi, the Chairman of the Budget Committee, which came in protest to his unlawful decision. The acceptance of the resignation was an implicit acceptance of the public budget as presented by the Cabinet, despite all of

the problems that the Council recognised. These developments highlighted the weakness of the Council vis-à-vis the Executive, which constantly sought to ignore the law and marginalise the role of legislative institutions. This negatively influences the prospect of developing and establishing a pluralistic political system that is able to mobilise different segments of Palestinian society to face political, economic, and social challenges. This can also be seen clearly if one follows the developments in the public budget for 2000. Despite the fact that the Executive presented the draft public budget by the deadline,<sup>41</sup> a matter which would appear to be a positive development in the relations between the two branches of government, the deliberations of the Council regarding the 2000 public budget, as will be seen, will show that the Council approved the law despite the fact that no essential changes took place in the relations between the two branches and that the Executive continued to ignore and undermine the role of legislative institutions. Therefore, it is important to discuss the deliberations of the Council regarding the 2000 public budget.

#### Case Study 2: The 2000 Public Budget

On 26 January 2000 in a special session in Ramallah, the Council approved the 2000 public budget by a vote of 25-18.<sup>42</sup> The revenue under the public budget was estimated at \$US 1,363.86 million while the expenditure was estimated to be the same, with a deficit of 0. The public budget was categorised as follows:

Table 10: 2000 Public Budget<sup>43</sup>

<b>Total Revenue</b>	<b>1,363.86</b>
<i>Local revenues</i>	<i>963.86</i>
Income taxes	80.21
Customs	325.83
VAT/sales taxes	440.28
Other taxes	1.42
Non-tax revenues	116.11
<i>Donations and assistance</i>	<i>400</i>

<sup>41</sup> See *al-Quds*, 27 January 2000.

<sup>42</sup> *al-Hayat*, 27 January 2000.

<sup>43</sup> For more details, see *The PLC monthly gazette*, v'ol. 5, no.1 (2000), p. 15-16, 20-21.

<b>Total Expenditure</b>	<b>1,363.86</b>
<i>Ongoing expenditures</i>	940.17
Wages and salaries	561.87
Operating expenditures	182.6
Transferable expenditures	180.8
<i>Capital/development expenditure</i>	423.7

### *The Council's Deliberations on the 2000 Public Budget*

On 3 November 1999, the Minister of Finance presented the 2000 public budget to the Speaker of the Council, who transferred it to the Budget Committee for study and revision. In the seventh session of the Council, in Ramallah on 24 November, the Council authorised (resolution 4/A7/412) the Budget Committee to immediately start studying the budget and to prepare a report on it.<sup>44</sup>

Accordingly, the Committee held a series of meetings with all concerned parties. On 25 December, a meeting was held at the Council's headquarters in al-Bireh with a representative of the Ministry of Planning and International Cooperation (MOPIC) and the Director-General for the Public Budget at the Ministry of Finance in order to discuss development expenditure, projects requiring loans, PNA borrowing and repayment policy, and prioritisation of infrastructure projects. The meeting ended with an agreement to not allow any projects to be developed at the expense of others.<sup>45</sup> On 27 December, the Committee discussed the budgets of MOPIC and the Ministries of Agriculture and Justice, with the representatives of those bodies. On 29 December, the Committee met with the Director-General of PECDAR (the Palestinian Economic Council for Development and Reconstruction), Dr. Mohammed Abu Eshtayeh and the Director-General for Public Budget at the Ministry of Finance to discuss projects executed by PECDAR with donations and aid. In addition, the meeting raised the issue of establishing a Directorate for Public Loans at the Ministry of Finance.<sup>46</sup>

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<sup>44</sup> For more details, see *Decisions of the PLC in its first four terms, 1996-2000*, PLC Information Department (March 2000), p. 82-83.

<sup>45</sup> See *al-Hayat* and *al-Ayyam*, 26 December 1999.

<sup>46</sup> See *al-Hayat*, 28 December 1999, 30 December 1999.

On 16 January, the Budget Committee met with the Minister of Finance to discuss several issues related to the law. The meeting was also attended by the Speaker of the Council, Minister of Economy and Commerce Maher Masri, and Minister of Parliamentary Affairs Nabil Amru. They discussed issues raised by the Budget Committee, mostly revolving around revenue, taxes, public loans, schools, and infrastructure, in addition to rural development. Moreover, they discussed the fiscal deficit of the 1999 public budget. The Committee asked the Minister of Finance not to transfer this burden to the 2000 budget. The Minister of Finance affirmed that this would not happen and he promised to find the best mechanism to cover the deficit. Finally, the parties agreed to continue meeting to discuss unresolved issues and to try to solve them within a few days. They also agreed that the Council Speaker should call a special meeting for 26 January to discuss the report that would be presented by the Budget Committee and to decide based on it whether or not to approve the 2000 public budget.<sup>47</sup>

On 24 January 2000, the Budget Committee held a special meeting to prepare its report on the public budget and to present it to the Council.<sup>48</sup> On 26 January, the Council held its special session to discuss the budget, with the Minister of Finance in attendance. The Budget Committee presented its report on the 2000 public budget, which included a number of comments: It lacked a clear prioritisation of government expenditure goals at the macro and micro economic levels.

The development portion of the budget was focused too much on urban as opposed to rural areas (for example on the Bethlehem Project 2000, Hebron, Nablus, Ramallah, Gaza City, Salfit, Jericho, Tubas, Jenin).

It did not specify how 1/3 of the development expenditures were to be spent.

It did not specify which segments of the infrastructure sector would be prioritized (water, electricity, etc).

Expenditure on health and education was insufficient.

Development expenditure was unevenly distributed across the agricultural, industrial, housing, and tourism sectors.

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<sup>47</sup> See *al-Ayyam*, 27 January 2000.

<sup>48</sup> See *al-Quds*, 25 January 2000.

Development expenditure was too heavily reliant on loans rather than grants.

There was no proposal as to how to finance the budget deficit.

A 5% deduction from PNA employees' salaries remained.

Moreover, the report recommended that the Executive:

Rationalise expenditure policy and specify spending priorities to the Council

Develop a clear policy concerning international assistance and specify the channels of assistance.

Stop deducting 5% from the salaries of the PNA employees.

Specify the vacancies that need to be filled in government institutions

Develop a programme to specify how loans are used.

Allow for public monitoring commissions to prepare annual reports concerning the practices of the Executive institutions.<sup>49</sup>

After the Speaker of the Council finished reading the report, he called upon the Minister of Finance to offer comments. The Minister of Finance asserted that the preparation of the public budget had been based on the actual revenue that was expected, not the funding available at that time. He also mentioned that the 2000 budget included an increase in wages and affirmed that the Ministry of Finance would do its best to specify the priorities regarding development expenditure (water, sewage, garbage disposal, etc.). Regarding the 1999 budget deficit, al-Nashashibi asserted that local banks would offer a loan of \$US 30 million of the \$US 58.14 million deficit, while the Ministry would find ways of covering the remainder of the deficit. Regarding the 5% deducted from the salaries of PNA employees, al-Nashashibi asserted that this was deducted by decision of the Cabinet.

After his comments, several members of the Council offered interventions regarding the budget. Some appreciated the development portion of the budget and considered it as a positive development, especially the sections regarding rural development. Others called for not approving the 2000 budget before the Executive implemented the recommendations of the Council Budget Committee regarding the 1999 public budget. Despite this,

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<sup>49</sup> Ibid.

after a long debate, the Council approved the public budget (resolution 4/A9/429), with 25 votes in favour and 18 against.<sup>50</sup>

### **Evaluating PLC-Executive Relations in Light of the 2000 Public Budget**

Before evaluating the relation between the PLC and the Executive, it must be noted that the approval of the 2000 public budget is illegal, as the session was attended by only 43 members, while article 18 of the PLC by-laws requires that an absolute majority of the PLC membership be in attendance for any session to be considered legal, and that the decisions issued must be issued by an absolute majority unless there is a special case. Therefore any result from an illegal session has no binding power.<sup>51</sup> Despite the fact that it is the Council's duty to force the Executive to adhere to the rule of law, it does not do so. Moreover, the Council itself acted illegally in approving the 2000 public budget. Therefore, the problem is not limited to the PLC's weakness vis-à-vis the Executive, but is internal as well. This raises many questions regarding the ability of the Council to fulfill its responsibilities and to efficiently achieve its task in legislation.

Even if we assume that the session held was legal, the approval of the law was still with a weak majority, only 25 out of 43. This also detracts from the PLC's credibility as an institution that seeks to hold other branches of government to account or which seeks to design or implement policy.

The Council continued to accept the policies of the Executive, aimed at passing the budget draft law and approving it without taking into consideration the recommendations of the Budget Committee. In fact, the Council has approved the 1997, 1998, and 1999 budgets without being able to force any changes at all.<sup>52</sup>

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<sup>50</sup> See *ibid.*, p. 13-14.

<sup>51</sup> Article 69 of the Council's by-laws asserts that laws should be approved by an absolute majority. The preamble of the by-laws defines an absolute majority as equal to half of the number in attendance plus one.

<sup>52</sup> Regarding the Council's approval of the 1997 budget, see *Palestinian Legislative Council: Performance Evaluation in the First and Second Terms (March 1996-March 1998)*, PCHR, Series Studies (13), November 1998, p. 54-60. Regarding the council's approval of the 1998 budget, see *Palestinian Legislative Council: Performance Evaluation of Third Term (March 1998-March 1999)*, PCHR, Series Study (19), December 1999, p. 47-56.

In addition, the Council approved the 2000 public budget without implementing the recommendations of the Budget Committee and without resolving the 1999 budget deficit. This raises the question of the Council's ability to monitor the Executive through scrutiny of public expenditure, since it lacks the ability to shape the budget. Therefore it can be said that the Executive's actions regarding the PLC's comments on the public budget are undemocratic.

Thus, during the fourth term the persistent problem of non-cooperation with the Council by the Executive was compounded by an apparent partnership between the two institutions to ignore democratic norms and Palestinian Law.

#### **Case Study 3: The Basic Law**

During its previous three terms, the PLC failed to force the Executive to ratify the Basic Law and to bring it into force. The Council had approved the law during its second term upon second and third readings, on 17 September 1997 and 2 October 1997 respectively. Because it was not ratified, it was expected that securing ratification would be a priority during the third term. But this also did not occur, as the Basic Law continued to languish at the end of the third term.<sup>53</sup>

#### ***The Council's Efforts to Secure Ratification of the Basic Law***

By the beginning of its fourth term, which started with the expiry of the interim period, it was expected that the Council would do its best to force the Executive to ratify the Basic Law and bring it into force. Unfortunately, the Council's activities in this regard were disappointing. The minutes of the Council during the fourth term make no mention of any efforts to pressure the Executive to ratify the law or to use the available mechanisms such as a no-confidence vote, in order to force ratification. Abdel Karim Abu Salah, Chairman of the Legal Committee of the Council, claimed that the Council did not develop any measures to pressure the Executive to ratify

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<sup>53</sup> For more details, see *ibid*, p. 26-28.

the law, although the Council continued to discuss the Basic Law and the refusal of the Executive Authority to ratify it.<sup>54</sup>

### **Evaluating PLC-Executive Relations in Light of the Basic Law**

Over the previous terms, several members of the Council expressed their anger and frustration at the Executive's failure to ratify the Basic Law.<sup>55</sup>

Unfortunately, this frustration did not translate into concrete action to pressure the Executive to ratify the law. This can be clearly seen in the fact that three years had passed since approval of the draft law upon its third reading.<sup>56</sup> This in spite of the fact that such a third reading is illegal under article 71, paragraph 1 of the Council's by-laws, which provides that if the PNA President does not return a bill (already approved by two readings) to the Council with comments within one month of receiving it, it is considered to be in force. Accordingly, there was no reason to prepare a third reading since the president had not returned the law with comments in that period of time. The Basic Law should thus theoretically be in force. Regardless, if approved during a third reading by the Council, a draft law automatically becomes law. Under article 71, paragraph 2, if the president returns the law to the Council with comments and then it is passed by an absolute majority of the Council, it is considered implemented. Despite the fact that the Council failed to fulfill these requirements, and despite the fact that the Council prepared a third reading of the law without having received comments on the second draft from the president, and despite the fact that the Council presented the law yet again after its third reading, the president has not yet ratified the law. At the end of the fourth term, the law remains unratified. In fact, it is surprising that the Council did not even try to pressure the Executive. This raises questions about the Council's ability to fulfill its responsibilities as a parliamentary institution in establishing democratic norms between it and the Executive. Such undemocratic relations can be seen if we look at other case studies, including the draft Judicial Authority Law discussed below.

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<sup>54</sup> PCHR interview with Dr. Abu Salah, 24 August 2000.

<sup>55</sup> In this regard, see *Palestinian Legislative Council: Performance Evaluation in the First and Second Terms, and Performance Evaluation of Third Term*.

<sup>56</sup> On 2 October 1999, the Council approved the law on the third reading and presented it to President Arafat for approval on the same day. See PCHR's *Performance Evaluation in the First and Second Terms*, p. 47.

#### Case Study 4: The Judicial Authority Law

The PLC finished its third term without succeeding in forcing the Executive to ratify the draft Judicial Authority Law. The Council had approved the law upon a third reading during its thirteenth session, held in Ramallah 25-26 September 1998. On 5 December 1998, the Council presented the law to the President for ratification but he has failed to do so. By the end of the third term, the law was one of the outstanding issues between the Executive and the Council.<sup>57</sup>

#### *The Council's Efforts to Secure Ratification of the Judicial Authority Law*

During its fourth term, the Council continued its activities when it decided (resolution 4/7/390) in its seventh session in Ramallah 23 June 1999 to ask the Executive to immediately publish and ratify the Judicial Authority Law and to establish a judicial council to reorganize the court system. The Executive has not ratified the law. Accordingly, the Council, in its ninth session in Ramallah 20 July 1999 asked the president to ratify the law and to publish it immediately (resolution 4/9/400). The Executive once again did not heed the Council's request and as a result, in its tenth session, in Gaza on 19 October, again asked the Executive Authority to ratify the law (resolution 4/10/406). This too was ignored. By the beginning of the fourth term, it was expected that the Council would continue to pressure the Executive, but it did not take any further measures in this regard and the Judicial Authority Law remained by the end one of the problematic outstanding issues.<sup>58</sup>

#### **Evaluating PLC-Executive Relations in Light of the Judicial Authority Law**

One notable aspect of the process of drafting the Judicial Authority Law is that it involved the participation of different segments of society, particularly in drafting the first and second readings. Such widespread

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<sup>57</sup> See PCHR's *Performance Evaluation of Third Term*, p. 28-35.

<sup>58</sup> See *Decisions of the PLC in its first four terms, 1996-2000*, PLC Information Department (March 2000).

participation contributed to a well-developed law<sup>59</sup> and supposedly could help pressure the Executive to immediately bring the law into force, as it reflected social demands transcending the legislature. Despite this fact and despite the special importance of the Judicial Authority Law, the Executive has neglected the law. Although it could have taken advantage of this widespread support, the Council did not seek to pressure the Executive, thus weakening its own credibility. Thus, the Executive's policy of ignoring the legislature during the previous three terms<sup>60</sup> has continued. The experience of the PLC with the draft Charitable Societies and NGOs Law is further evidence of this.

#### Case Study 5: The Charitable Societies and NGOs Law

The PLC finished its third term without settling its dispute with the Executive regarding the draft Charitable Societies and NGOs Law, which revolved around which institution would be responsible for registering civil society groups. The Council approved the draft law in its third term, in Ramallah on 21 December 1999. On 27 December, the Council presented the law to the president for ratification but it was not ratified during the legal period of one month and the president did not issue any comment on it, thus undermining efforts exerted to prepare the law.<sup>61</sup>

In the fifth session of the fourth term, in Ramallah 25-27 May 1999 and attended by 50 of 37 members, the Council approved the law in its *fourth* reading after the Executive asked on 10 April 1999 for some modifications, the most important being to change the authority for registering NGOs from the Ministry of Justice to the Ministry of Interior.<sup>62</sup> The Council rejected this modification by a vote of 38 to 12. At the end of the session, the issue was transferred to the Legal Committee after several members rejected the

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<sup>59</sup> See PCHR's *Performance Evaluation of the Third Term*, p. 36-44

<sup>60</sup> See *ibid.*, p. 69

<sup>61</sup> Regarding the efforts exerted in drafting the law, see *ibid.*, p. 36-46.

<sup>62</sup> Regarding the controversy between the Executive and the PLC regarding which body should register civil society groups, see *ibid.*, p. 43-44.

result of the vote, claiming that an absolute majority had not approved the vote.<sup>63</sup>

On 12 August 1999, at the end of a special session in Ramallah, attended by 56 members to discuss the 1999 public budget, PLC Speaker Abu 'Ala announced that the Charitable Societies and NGOs Law was considered as being in force, with the modifications proposed by the president. In his announcement, Abu 'Ala mentioned that the earlier voting result was not enough to reject the comments of the president, due to the lack of an absolute majority. On 16 January 2000, President Arafat ratified the law as modified and it went into force 1 April 2000.<sup>64</sup>

### **Evaluating PLC-Executive Relations in Light of the Charitable Societies and NGOs Law**

One of the most important questions that could be raised concerns the Council's decision not to publish the law after its third reading and to discuss it again on 25 May 1999 after comments were finally proposed by the president on 10 April 1999. The Council, when it held that session on 25 May 1999, violated its own by-laws, particularly article 70, which provides that immediately after approving a law in the third reading, or two weeks after approving it after the second reading, the Speaker of the Council can present the draft law to the president, automatically bringing it into force. Accordingly, the law, in its third reading, is considered in force, and must be published immediately. Therefore, the 25 May session was illegal under the Council's by-laws and checking the legitimacy of the vote taken was redundant, even though those who were present rejected the comments of the president.

The announcement of Abu 'Ala on 12 August 1999 concerning the law, in which he declared the 25 May 1999 voting result as insufficient to reject the president's comments, was also illegal since it was based on an event that occurred during an illegal session. Yet even if one accepts his argument

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<sup>63</sup> Article 71, para. 2 of the PLC's by-laws assert that an absolute majority (half of the total membership plus one) is required to approve or reject comments of the president on draft laws.

<sup>64</sup> See *al-Hayat*, 3 April 2000.

that there were insufficient votes to reject the comments, it is equally true that there were insufficient votes to accept the comments as well. What must be noted here is the dangerous emergence of a kind of partnership between the Council Speaker and the Executive with the aim of passing laws that include comments by the Executive without the approval of the Council, which could negatively affect the future of NGOs and charitable organisations and Palestinian civil society as a whole.<sup>65</sup>

Furthermore, PLC members were denied an opportunity to properly debate or vote on Abu 'Ala's announcement. Dr. Kamal al-Shrafi, chairman of the Human Rights and Public Freedoms Committee at the time, stated that "The announcement of Abu 'Ala came while members were leaving the hall at the end of a session held to discuss the 1999 public budget. No one was paying attention."<sup>66</sup> Dr. Mawaia al-Masri confirmed this: "The announcement was not subject to voting by members. The Speaker of the Council informed the members at the end of the session that the Council had approved the law, including the comments of the president, without subjecting the issue to discussion."<sup>67</sup>

Therefore, it can be said that a dangerous development took place in the relations between the Executive and the Council, in the form of a sort of partnership between the Council Speaker and the Executive. Dr. al-Masri observed that the partnership with the Executive is not limited to the Council Speaker but also includes the whole Council.<sup>68</sup> After the Executive violated the law, the Council, too started to violate its own by-laws with the aim of imposing the will of the Executive on the Council and eroding democratic norms.

#### **Comprehensive Evaluation of the PLC's Qualitative Achievements During its Fourth Term**

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<sup>65</sup> Regarding the impact of allowing the Ministry of the Interior, rather than the Minister of Justice, to regulate civil society groups, see PCHR's *Performance Evaluation of Third Term*, p. 45-46.

<sup>66</sup> Dr. Kemal al-Shrafi, personal interview, 6 September 1999.

<sup>67</sup> Dr. Mawaia al-Masri, personal interview, 20 August 1999.

<sup>68</sup> Ibid.

The activities of the Council concerning the 1999 public budget, 2000 public budget, the Basic Law, the Judicial Authority Law, and the Charitable Societies and NGOs law indicate that the Council has not witnessed any tangible developments in its legislative achievements at the qualitative level. On the contrary, there were serious setbacks. The Council failed to develop a mechanism to pressure the Executive to ratify important laws that had been passed. At the same time, the Council did not take a serious stance towards the Executive's decision to ignore it. The fourth term witnessed several occasions in which the Council violated its own by-laws. This in fact can be seen as a tangible expression of the Council's acceptance of the Executive's policy of ignoring the PLC's decisions. Dr. Ziad Abu Amru, Chairman of the Council's Political Committee, described the relationship between the executive and legislative institutions as "unhealthy ... [and that] the principle of the separation of power does not exist and the law is routinely ignored."<sup>69</sup>

The situation deteriorated further when the fourth term witnessed a partnership between the Council Speaker and the Executive with the aim of passing laws of great importance without the comments of the Council. This matter was clear, as discussed above, with the Charitable Societies and NGOs Law, and with the public budgets for 1999 and 2000. These experiences showed that the Council had not only accepted the Authority's decision to ignore its role and failed to develop any mechanisms to pressure it, but it also started to participate in violating these procedures. This opens room for the Executive to continue to abuse its power and to continue to reduce the PLC's role. As Dr. al-Masri observed, "the Executive has managed after four years of the Council's work to control it and to diminish any role for the Council Speaker in running it." Al-Masri added that "I feel, as a member of the Council, that the mentality of the president is what runs the council, and not the Speaker."<sup>70</sup>

#### **Accountability and Monitoring Activities of the PLC in its Fourth Term**

The PLC continued its accountability and monitoring activities in its fourth term through various channels and mechanisms.

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<sup>69</sup> Dr. Ziad Abu Amro, special statement, in *al-Ayyam*, 20 December 1999.

<sup>70</sup> Dr. al-Masri, 20 August 2000.

## *Resolutions*

As was the case during the previous terms, the PLC's accountability and monitoring activities were putatively open to the electorate; the PLC received more than 125 complaints submitted by several citizens during the fourth term. These complaints dealt with legal issues, human rights, settlements, economic issues, social issues, the conduct of Palestinian security services, and other questions of common interest.<sup>71</sup> These complaints were the basis of many decisions taken by the PLC during that term in an attempt to respond to complaints and alleviate the burden on the citizens.

## *Inquiries*

The PLC greatly increased the use of inquiries to officials of the Executive during the fourth term. The Council directed 82 inquiries to officials of the Executive, compared with 44 inquiries during the third term.<sup>72</sup> The following table illustrates the number of inquiries directed by the Council to PNA institutions:

*Table 11: Council Inquiries to the Executive in the Fourth Term*

<b>Ministry or Institution</b>	<b>Number of Inquiries</b>
Ministry of Civil Affairs	3
Ministry of Justice	6
Ministry of Transportation	8
Ministry of Health	7
Ministry of Finance	6
Ministry of Communications	5
Ministry of Social Affairs	1
MOPIC	3
Ministry of Housing	7
Ministry of Labour	4
Ministry of Interior	3
Ministry of Energy	3
Ministry of Construction	1

<sup>71</sup> The above-mentioned information and data was obtained from the PLC's human right committee's office.

<sup>72</sup> See *ibid.*

Ministry of Higher Education	4
Ministry of Tourism	2
Ministry of Agriculture	4
Ministry of Education	2
Ministry of Local Government	5
Ministry of Supply	3
Ministry of Economy and Commerce	2
Ministry of Environment	3
<b>Total</b>	<b>82</b>

It is clear that the inquiries are distributed across various issues and that 29 inquiries (35% of the total) were closed and others remained ongoing with the specialised committees for investigation. It is interesting to note that no security officials were summoned, despite their role in violating the human rights of some PLC members, as highlighted at the beginning of this report. Also, despite the fact that the fourth term witnessed an increase in the number of inquiries directed at the Executive, there was a setback compared with the third term regarding the Council's activities in studying the answers supplied.

Although the Council managed to finish approximately 50% of the inquiries initiated during the third term,<sup>73</sup> it managed during the fourth term to complete only 35% of those initiated. Second, the failure of the Council to summon and question any Palestinian security officials despite violations committed by security forces is clear evidence that the fourth term did not witness an essential improvement in the attitude behind the effective use of this instrument. Thus, it can be said that there were superficial improvements in this regard but no essential changes.<sup>74</sup>

### *Questioning*

Despite the relatively high number of inquiries made to the Executive, the Council completely failed to use its power to summon officials for questioning, despite numerous attacks by Palestinian security officials

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<sup>73</sup> See PCHR's *Performance Evaluation in Third Term*, p. 73.

<sup>74</sup> The two previous reports prepared by the Centre evaluating the performance of the council during its first three terms illustrate that the Council lacked a serious attitude in using the monitoring mechanisms available to it.

against Palestinian citizens in general and PLC members in particular.<sup>75</sup> For example, the PLC did not question the director of the Palestinians General Intelligence Service (GIS) in Jericho after an attack by GIS officers on Abdel Jawad Saleh,<sup>76</sup> despite the fact that a member of the security forces confirmed to the commission of inquiry that they were responsible for the attacks and that they carried them out under orders from superior officers (discussed in greater detail below). Dr. Ziad Abu Amru, head of the Council's Political Committee, remarked that "this is the third time in which members of the Council have been attacked by security forces and yet those who are responsible were not brought to justice."<sup>77</sup>

### *Commissions of inquiry*

The PLC formed two commissions of enquiry to deal with the Executive during the fourth term.

The first commission of enquiry was formed concerning clashes that had taken place in Rafah city involving the Palestinian security services.<sup>78</sup> The

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<sup>75</sup> This was affirmed by Dr. Hassan Khriesheh, chairman of the PLC's Human Rights and Public Freedoms Committee, in a telephone conversation, 2 September 2000.

<sup>76</sup> Interview with Dr. al-Masri, 20 August 2000.

<sup>77</sup> Dr. Ziad Abu Amru, in a special statement in *al-Ayyam*, on 20 December 1999.

<sup>78</sup> At approximately 1315 on 1 February 1999, armed clashes erupted between the Palestinian Preventative Security Service and four militants allegedly working in one of the Palestinian security forces and wanted by Israel for belonging to the military wing of Hamas. Captain Rifat Mohammed Judeh, 35 from Rafah, an officer of the Preventative Security Service, was killed in the battle, while the militants escaped. A large number of Palestinian security officers dispersed along the coastal road near al-Shati refugee camp in pursuit. On 10 March 1999, the state security court in Gaza sentenced Rayed Ahmad Al-Attar, 25 from Rafah, to death by firing squad after he was accused of Judeh's murder. Hamad Ibrahim Abu Shemala, 25, from Rafah, was sentenced to hard labour for life and Osama Suleiman Abu-Taha to 15 years' hard labour. The three men surrendered themselves on 10 February 1999 to Palestinian police and were transferred to the state security court. Immediately after the court issued its sentence, a demonstration erupted in Rafah against the decisions. Palestinian security forces fired at the protesters, killing 2 boys: Alaa Jumma al-Hams, 17, from Rafah, was shot in the head with a live bullet, and Khamis Mahmoud Salamah, 17, from Rafah, was shot with a live bullet in the chest. In addition, a number of protesters were injured. For more details, see PCHR's press releases 2 February and 10 March 1999.

Council formed this commission in its first meeting of the fourth term in Ramallah 16 March 1999, drawing members from the Interior and Security Affairs Committee and the Human Rights and Public Freedoms Committee (resolution 4/1/366). The resolution stated that the aim of the commission was to investigate the incidents in Rafah, and would ask for the assistance of PLC members in Rafah constituency if necessary. The decision affirmed that the commission would submit a final report to the whole council.<sup>79</sup> On 22 March 1999, the commission met in Rafah with a number of police officials, including Brigadier Abdul Mawqi al-Sabawi and Brigadier Mahmoud Aasfour, with a number of Rafah constituency PLC members in attendance. Based on comments made at the meeting, the commission issued a final report, whose recommendations included: the abolition of the state security court, respect for high court decisions by the Executive, the formulation of live-fire regulations by Palestinian police, and the restructuring of the judicial system<sup>80</sup>

The commission presented its report in the second session of the Council on 6 February 1999. The PLC then asked the Executive (resolution 4/2/372) to:

Immediately investigate the incident

Support the judicial authority so that it can settle related disputes

Implement the commission's recommendation to abolish the state security court

Affirm the PLC's previous requests to prohibit the use of weapons against peaceful crowds

Stop all inflammatory statements by PNA officials<sup>81</sup>

The second commission of enquiry was formed to investigate the attack on PLC member Abdel Jawad Saleh, formed (resolution 4/14/328) during the fourth session, 30 December 1999. It was composed of Dr. Hassan Khriesheh, Chairman of the PLC's Human Rights and Public Freedoms Committee, PLC First Deputy Speaker Ibrahim Abu al-Najah, and members

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<sup>79</sup> For more details, see *Decisions of the PLC in its first four terms, 1996-2000*, PLC Information Department (March 2000), p. 169.

<sup>80</sup> For more details, see *al-Quds*, 23 March 1999.

<sup>81</sup> For more details, see *Decisions of the PLC in its first four terms, 1996-2000*, PLC Information Department (March 2000), p. 169

Razi Hanania and Jamal al-Shubaki.<sup>82</sup> The Council's decision to form such a commission was prompted by a meeting held by the Council Speaker on 24 December 1999 with the members of the Council Affairs committee and chairmen of the various committees. During that meeting, the attack on Saleh was discussed and it was proposed that a commission of enquiry be formed to investigate the incident.<sup>83</sup>

Dr. Mawi al-Masri confirmed that the commission questioned the members of Palestinian security who carried out the attack. One confessed that he personally attacked Saleh. Al-Masri added that the Director of GIS in Jericho also affirmed that Saleh was attacked by members of the Palestinian security services, but that Saleh had attacked first. Most of the people involved in the incident would be brought before to court, the chief reassured the commission.<sup>84</sup> PLC Member Hassan Khriesheh also stated that the Director of GIS in Jericho affirmed to the Council that members of the security forces had confessed to the attack that those involved would be brought before the court.<sup>85</sup>

Yet there is nothing mentioned in the publications of the Council, local news, or by PLC members that the attackers were brought to court. Dr. al-Masri told PCHR, "I doubt the extent of truthfulness of the chief's claims and I don't think that those involved will be brought to justice or punished."<sup>86</sup>

Generally speaking, there was a decrease in the number of commissions of inquiry formed in the fourth term compared with the third term. There were six during the third term,<sup>87</sup> but only two in the fourth term. The Executive's behaviour and policies has continued, and the security services continued to attack members of the PLC on occasion. Even these two commission of

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<sup>82</sup> Ibid., p. 172

<sup>83</sup> See *al-Ayyam*, 31 December 1999.

<sup>84</sup> Dr. Mawi al-Masri, interview 20 August 2000.

<sup>85</sup> Dr. Hassan Khriesheh, telephone conversation 3 September 2000.

<sup>86</sup> Ibid.

<sup>87</sup> See PCHR's *Evaluation Performance in Third Term*, p. 78

enquiry formed during the fourth term were not able to force the Executive to implement their recommendations. Therefore, it seems that the Council has not witnessed any qualitative development in its use of monitoring mechanisms. As in previous terms, it was far better at issuing recommendations than making sure that they were implemented.<sup>88</sup> Dr. al-Khriesheh said that “the Speaker of the Council should follow up the extent to which the Executive implements the commission of inquiries’ recommendations. The Speaker usually does not do so.”<sup>89</sup>

### *No-Confidence Motions*

The PLC’s use of no-confidence motions as a tool to exercise accountability vis-à-vis the Executive was one of the most controversial issues during the fourth term. The council has never used this tool, even though the Executive has repeatedly undermined and marginalised the PLC, as evidenced by the experiences with the 1999 and 2000 budgets, the Basic law, Judicial Authority Law, and Charitable Societies and NGO Law. No-confidence votes have never even been included on the agenda of any session during the fourth term. The Council has threatened such a motion only once, in the first session of the fourth term, in Ramallah, 15 March 1999 (resolution 3/A11/361) to hold such a session on 25 March where such a vote could be taken in case the 1999 public budget had not yet been presented.<sup>90</sup> As usual, the Council deferred the session until 5 April 1999<sup>91</sup> after it received a letter from Minister of Finance Mohammed Zuhdi al-Nashashibi that the budget had been prepared and asking the Council for another deferral.

Even physical attacks on PLC members did not prompt the use of this tool, thus calling into question the ability of the Council to carry out its monitoring role vis-à-vis the Executive. Dr. al-Masri raised this concern:

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<sup>88</sup> Ibid.

<sup>89</sup> Dr. Hassan Khriesheh, telephone conversation, 3 September 2000.

<sup>90</sup> See *Decisions of the PLC in its first four terms, 1996-2000*, PLC Information Department (March 2000), p. 82.

<sup>91</sup> Such delays have become common. See PCHR’s *Evaluation Performance in Third Term*, p. 88-95.

“The Council, during four years of work, has lacked the ability to establish norms of accountability and transparency between it and the Executive. The council does not have the courage to use no-confidence votes in any session and has not even included it on the agenda of its sessions, a matter which confirms that the council lacks the will to do so.”<sup>92</sup>

In fact, there seems to have been a deterioration in the Council’s ability over time. During the third term, the Council threatened no-confidence motions four times, as opposed to only once in the fourth term.<sup>93</sup>

In his analysis of the Council’s non-use of this instrument, Dr. al-Masri referred to the fact that “about 26 of the PLC’s members are also members of the Cabinet. This negatively impacts the independence of the Council and its ability to use monitoring mechanisms.”<sup>94</sup> In fact, the situation has become worse if it is publicly known that the Council lacks the will to hold the Executive accountable, as its credibility is undermined. Even if opposition to such activities exists within the Council, it is often limited to a few members and does not last.<sup>95</sup>

#### **Conclusion**

The aim of this report is to evaluate the performance of the PLC during its fourth term, 8 March 1999-8 March 2000. The report focused on three main areas: legislation, accountability, and monitoring. These are the three main tasks of any parliamentary institution. In order to analyse the activities of the Council with regard to these tasks, it compared these with activities in the third term. At all levels, both quantitative and qualitative approaches were used. It can be noted that the Council has not witnessed much of a

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<sup>92</sup> Dr. al-Masri, interview 20 August 2000.

<sup>93</sup> See PCHR’s *Performance Evaluation in Third Term*, p. 88-85

<sup>94</sup> Dr. al-Masri interview, 20 August 2000.

<sup>95</sup> Dr. Yusuf Abu Safiyeh, Minister of Environment and Chairman of the Energy and Resources Committee of the PLC during its first and second terms, used to criticise the Executive’s practices regularly but stopped upon joining the Cabinet in August 1998. Similar things can be said regarding Dr. Saadi al-Krnz, Minister of Industry and former Head of the Economic Committee of PLC who used to criticise the executive authority’s practices regularly in the first and second terms but stopped upon joining the Cabinet in August 1998.

change, except for a quantitative increase in ratifications, and qualitative setbacks highlighted in the five case studies of the 1999 and 2000 public budgets, the Basic Law, the Judicial Authority Law, and the Charitable Societies and NGOs Law, throughout which the Council's performance was disappointing. The failure of the council to take a strong stance towards the Executive's intransigence and to develop a mechanism to pressure the Executive is needed to enhance democratic norms and promote good governance. Moreover, during the fourth term it seemed that the Speaker of the Council and the Executive actively cooperated to subvert the legislative process, to the extent of passing laws that failed to include amendments made by the Council.

Regards its accounting and monitoring activities, the Council increased the number of inquiries launched (82, compared to 44 in the third term) but at the same time there was no change in the non-use of stronger methods, despite all of the violations committed by the security forces against Palestinians in general and PLC members in particular. This is reflected in the fact that the Council did not persist in pressing the Executive to implement the recommendations of the commissions of inquiry, thus rendering them ineffective. The same can be said of no-confidence motions, which the Council has yet to use and only threatened to do so once during the fourth term. These facts reflect setbacks in the Council's ability to monitor and hold to account the Executive compared to the third term, as the threat was used four terms in the third term, but never acted on.

Based on the above-mentioned discussion, one can say that the Council was further weakened and marginalised by the end of its fourth term. The total outcome of this unhealthy relationship with the Executive does not augur well for the development of democratic norms, the rule of law, and good governance in Palestine.

#### **Recommendations**

PCHR, in order to promote democratic norms in Palestine, recommends:

That the PLC hold a new election immediately, as the legal period of the council has expired according to the interim agreements. The Council must pressure the PNA to hold a new general election, which would open the Council to other opposition parties and thus be representative in a way that

reinvigorates it and helps to building a democratic council. Elections are a means for mobilising segments of society in a way that helps them confront the challenges faced by the Palestinian people.

The Council must work towards securing the ratification of the Basic Law and having it promulgated, as it is the basis for organising relations between the governing authority and the citizen.

It is essential for the Council to follow up on its resolutions vis-à-vis the Executive. The basic implementation of Council decisions is crucial for day-to-day functioning of the PNA as a democratic institution.

The Council must ensure that its commissions of inquiry lead to concrete results, unlike in the previous terms, where follow-up for such recommendations was virtually nonexistent.

The Council must strengthen its relationship with the citizenry. The members of the Council members represent the citizens and must be sensitive to their needs and respond to their demands.

Accordingly, and considering that the right to knowledge is a basic right, the Council should use all available means to help citizens become acquainted with its activities and follow its work, through television, press, and other means of information.

As popular awareness is crucial for parliamentary institutions, the council must work to provide necessary the institutional context for it to function in society, through popular conferences, seminars, workshops and other means of awareness-raising.



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