

THE PALESTINIAN LEGISLATIVE COUNCIL:

Performance Evaluation During the Third Term
(March 1998-March 1999)

Series Study (19)

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This Report

This is the second report of its kind that deals with evaluating the performance of the Palestinian Legislative Council on the level of legislation, accountability and monitoring, which constitute the three basic tasks of any parliamentary institution. The Palestinian Center for Human Rights issued its first report in November 1998 to cover the first and second term, the period between 8 March 1996 and 8 March 1998. Consequently, the center put together this report as an evaluation of the performance of the Council on the three mentioned levels in the third term, the period between 8 March 1998 and 8 March 1999. The report is divided into three major sections:

The first section illustrates the Council's efforts in electing its speaker, electing the office's committee and restructuring its committees in the third term.

The second section focuses on evaluating the Legislative Council's performance in this term. It presents the most important decisions and laws issued by the Council in order to determine the extent of progress made in the Council's performance in that period. This section also focuses on studying and analyzing five draft laws as five case studies in order to deduce the nature of the relationship between the Council and the Executive Authority and to define whether there were any developments to the relationship in the third term in comparison with the first and second term.

The third section concentrates on evaluating the accountability and monitoring performance of the Council in this term. It attempts to analyze the extent of the Council's ability to use the available mechanisms for accountability and monitoring such as questions, inquiry, investigating committees and no-confidence motions.

Through this report, the Center hopes to participate in supporting the efforts aimed at building a civil society and reinforcing the principles of accountability, transparency between the legislative, executive and legal authorities.

Introduction

The Palestinian Legislative Council continued in its parliamentary endeavors for the third consecutive year following the inauguration of the opening session of the third term by PNA President Yasser Arafat on March 8, 1998 in Gaza City. Salim Za'noun, head of the Palestinian National Council participated in the session in addition to a number of Palestinian national figures and representatives of Arab and foreign countries to the Palestinian National Authority. In this session, President Arafat delivered a speech in which he addressed the political, economic and social challenges facing the Palestinian people. He stressed on the importance of democratic action, separation of authorities and independence of the judiciary as a necessary and basic condition for the Palestinian people to succeed in these challenges. Transition from the second to the third term began before the arrival of President Arafat to the Council with a speech by Council Speaker Ahmad Qrie' (Abu 'Ala) before 78 members and in the absence of 10 others. In his speech he highlighted the Council's achievements in its second term. He emphasized the importance of the Council's role in monitoring the Executive Authority particularly since it was only recently established and may make mistakes or transgressions. After delivering his speech, Abu Ala' submitted his resignation as Speaker of the Council, in accordance with the Palestinian Legislative Council's bylaw, which stipulates that the Council should elect its Speaker and the Office Committee at the opening of each new term by secret ballot.¹ Accordingly, Abu Ala' and members of the Council's Office Committee stepped down from their positions. The oldest member of the Council, Faraj Al Sarraf then took charge of the council. He was assisted by the youngest member Dallal Salameh, in preparation for electing a Speaker and an Office Committee for the new Council.

Election of the Council Speaker

Immediately after they were given the responsibility of overseeing the opening session, members Faraj Al Sarraf and Dallal Salameh called on a number of Council members to assist them in preparing for the election of a new speaker of the Council. The three members, Ahmad Qrei' (Abu 'Ala), Kamal Sharafi and Suleiman Al Rumi ran against each other over the position. Qrei' won 55 of the 78 votes from voting members. Al Sharafi and

See article 2 (B) of the Palestinian Legislative Council's bylaw.

Abu Rumi won 10 and 5 votes respectively. Eight members abstained and handed in blank ballots.²

Electing the Council office committee

After announcing Ahmad Qrei's victory as Council Speaker for the third consecutive term, head of the session Faraj Al Sarraf called on attending members to nominate themselves for the position of deputy speaker and secretary of the Council. Nomination was first opened for the position of first deputy to the Speaker. The two members Ibrahim Abu Al Najah and Hassan Khreisheh ran against each other. Abu Al Najah was elected for the position of first deputy to the Speaker with 61 votes. His competitor won 10 of the total 76 votes from voting members following the withdrawal of two members from the session. Five members abstained and handed in blank ballots.

Following the announcement of the first deputy to the Speaker, nomination was opened for the position of second deputy to the Speaker. Only one member nominated himself for this position, Mitri Abu Eitah who won by recommendation.³ Later, nomination was opened for the Council Secretary. Member Rawhi Fatouh ran against Rawya Al Shawah for this position. Fatouh won 54 votes while Al Shawah won 16 of the 76 votes of voting members. Six members abstained and handed in blank ballots.⁴

Accordingly, the Council's Office Committee for the third term was comprised of members Ibrahim Abu Al Naja, first deputy to the Speaker, Mitri Abu Eitah, second deputy and Rawhi Fatouh, Council Secretary in addition to Council Speaker Ahmad Qrie' (Abu 'Ala)⁵. The committee's structure remained as such only until 18 August 1998, at which date the Council elected Dr. Ghazi Hananiyah as second deputy to Speaker instead of Mitri Abu Eita who, at the time was granted the position of Minister of Tourism and Antiquities by President Arafat. Hananiyah won 42 of the 65

² See minutes of the third term, minutes of the **third session** on 7 March 1999, and **the Palestinian Legislative Council: a monthly Palestinian Legislative Council magazine**. Third edition, third year, March 1998, p24.

³ **Ibid**

⁴ **Ibid**

⁵ Regarding the mandates and duties of the speaker and office committee of the Council, see **the Palestinian Legislative Council: Performance evaluation during the first and second terms (March 1996 – March 1998)**. Palestinian Center for Human Rights, series study (13), November 1998, p 13.

votes from voting members. Suleiman Al Rumi who ran for the same post won 23 votes.⁶

Restructuring of Council committees

On 10 March 1998 with 77 members present and 11 absent, the Palestinian Legislative Council inaugurated the first session of its third legislative term in Ramallah.⁷ The session's agenda included various issues including the nomination of new members to Council committees for the third term.⁸ This was in accordance with Article 46 of the Council's bylaw which stipulates that "Committees shall be appointed during the first period of sessions of the Council. Each member may submit to the Office of the Council a request to be appointed to any Committee or Committees. The Office of the Council shall coordinate and consult with all the members, following which the Speaker shall submit the recommended list of appointments to Committees to the Council for approval." Accordingly, the elected Speaker of the Council Ahmad Qrie' called on Council members to present in writing the committees which they want to be part of in the Council's third term, while abiding by the Council's outstanding laws.

In its second session held in Ramallah on 17 – 19 March 1998, the Council determined the number of committee members in resolution 247/2/3 after

⁶ See minutes of the third term, particularly minutes of the **eleventh session** on 18 – 27 August 1998. Also, see **Palestinian Legislative Council: a monthly Palestinian Legislative Council magazine**, sixth edition, third year 1998, p 37.

⁷ There were 30 regular, special and exceptional sessions in the third term. The number of regular sessions was 20, while there were six special sessions and four exceptional ones. It should be noted that after an accurate review of the minutes of these sessions, there was no noticeable difference between exceptional and special sessions. Both referred to sessions that were held to discuss a specific issue. The session's agenda only included the issue of discussion. Regular sessions mean sessions in which several issues are discussed and whose agenda includes more than one issue and matter. It should be mentioned in this regard that the Council's bylaw defines the type of council sessions by regular sessions, which are convened every two weeks on Wednesday and Thursday (Article 13) while secret sessions are those which are convened in special cases upon request by the chairman of the Executive Authority, Speaker of the Council or one third of the Council's members. The Council then decides whether the proposed subject should be discussed in a secret or open session. (Article 20).

⁸ For more details regarding the number, nature, duties and authorities of the Council's committees, see **the Palestinian Legislative Council: performance evaluation in the first and second terms (March 1996 – March 1998)**. Palestinian Center for Human Rights, series study (13), November 1998, p 14 – 15.

new members were added and old members withdrew. Upon request from Speaker Abu Ala, the session was adjourned to enable members of the newly-formed committees to elect their heads and secretaries. Abu Ala then announced the following election results: 1. The Political Committee: Ziad Abu Zayyad – Head; Dalal Salameh Secretary. 2. Legal Committee: Abdel karim Abu Salah – Head and Sulieman; Abu Sneineh Secretary. 3. Al Quds Committee: Ahmad Zughayar – Head and Ahmad Al Batsh Secretary. 4. Lands and Settlements Committee – Salah Ta'mari – Head; Qadourah Fares Secretary. 5. Committee of Refugees and Palestinians Abroad: Jamal Al Shati – President; Abed Rabbo Abu Own Secretary. 6. Budget Committee: Sa'di Al Krunz then Head⁹; Daoud Al Zeer Secretary. 7. Economic Committee: Hikmat Zeid then Head¹⁰; Jallal al-Masdar Secretary. 8. Interior Committee (including security): Fakhri Shakurah Head; Abdel Fatah Hamayel Secretary. 9. Education and Social Affairs Committee: Abbas Zaki Head; Jawad Taibi Secretary. 10. Natural Resources and Energy Committee: Yousef Abu Safiyah then Head¹¹; Ibrahim Habbash Secretary. 11. Human Rights Public Freedoms and General Purposes Committee: Kamal Al Sharafi Head; Hassan Kharabsheh Secretary.¹²

However, in its fourth session held in Ramallah on 14 – 16 April 1998, the Council adopted resolution 264/4/3. Accordingly it formed the Committee of Council Affairs for the purpose of assisting the Council Office Committee to undertake its missions and to follow up on the disputes between the Council the Executive Authority. This committee includes Abu 'Ala as head and membership representatives Ibrahim Abu Al Najah, Mitri Abu Eita, Rawhi Fatouh, Ahmad Al Deek, Ziad Abu Zayyad, Yousef Al Shanti, Ahmad Naser, Azmi Al Shu'eibi, Ahmad Al Shebi, Muhammad Al Hourani, Muhammad Hijzai and Fakhri Turkman.¹³ The following table shows the final structure of the Council's committees as of 20 September 1998.

⁹ Sa'di al-Krunz was appointed as Minister of Industry after the new government reshuffle in August 1998. On 20 September 1998, Azmi Al Shu'aybi was elected by recommendation by the Budget Committee as head. In this regard, see **Al Hayyat Al Jadidah**, 21 September 1998.

¹⁰ Hikmat Zeid was appointed as Minister of Agriculture after the new governmental reshuffle in August 1998. On 20 September 1998, the Economic Committee Elected Jamal Al Shubaki as head. Ibid.

¹¹ Yousef Abu Safiyah was appointed as Minister of Environment after the new governmental reshuffle in 1998. As a result, the Committee of Natural Resources and Energy was merged with the Economic Committee in the Council.

¹² See minutes of the third term particularly minutes of the **second session** on 12 – 19 March 1998. See **the Palestinian Legislative Council: monthly mouthpiece magazine of the Council**. Third edition, third year, March 1998, p 25 – 27.

¹³ see minutes of the third term sessions particularly minutes of the **fourth session**.

Committee	Head	Secretary
Political	Ziad Abu Amer	Dallal Salameh
Legal	Abdel Karim Abu Salah	Suleiman Abu Sneineh
Jerusalem	Ahmad al-Zughayar	Ahmad al-Batsh
Lands and settlements	Salah al-Ta'mari	Qadourah Fares
Refugees and Palestinians Abroad	Jamal al-Shati	Abed Rabbo Abu Own
Budget	Azmi Al-Sheibi	Daoud al-Zeer
Economic + Natural Resources and Energy	Jamal al-Shubaki	Jallah al-Masdar
Internal and Security	Fakhri Shakourah	Abdel Fatah Hamayel
Education and Social Affairs	Abbas Zaki	Jawad al-Tibi
Human Rights Public Freedoms and General Purposes	Kamal al-Shrafi	Hassan Khriesheh
Council Affairs	Ahmad Qrie	Ibrahim Abu al-Najah

In its third term, the Legislative Council witnessed important developments, mainly the resignation of Dr. Haidar Abdel Shafi from the Council on 30 March 1998. The Council accepted his resignation on the same date. Abdel Shafi's resignation was in protest of the Executive Authority's disregard and nonchalance towards the Council and the continuous attempts to marginalize it.¹⁴ Complementary elections in Gaza's electoral constituency were to be conducted on 29 May 1998 to elect a new member to succeed Dr. Abdel Al-Shafi according to the Palestinian Elections Law of 1995. The law stipulates that complementary elections should be held in the electoral constituency of the member whose position was vacated within 60 days. In light of this, the Central Elections Committee began preparations for holding elections on 29 May 1998. However, the court of appeals convened to look into canceling the elections on grounds that the Palestinian Elections Law of 1995 requires that at least one year lapses before holding complementary elections and that these elections would not meet that time ceiling. On May 20 of the same year, the court decided to cancel the elections. Since then, the position of resigned member Dr. Abdel Shafi has

¹⁴ See *Al Ayyam*, 30 March 1998.

remained unfilled. Hence, the number of Palestinian Legislative Council members has become 87.¹⁵

15 See the media statements issued by the Palestinian Center for Human Rights on 18, 19, 21 May 1998.

Legislation in the Palestinian Legislative Council in the third term

This section of the report addresses legislative activity in the third term. In order to achieve this goal, it addresses the number of resolutions and laws issued by the Council in its third term. These will be compared with the number of resolutions and laws issued by the council in its second term in order to determine the extent to which the council improved in performing its legislating duties and in expediting the process of unifying Palestinian laws in the West Bank and Gaza. In addition, this section sheds light on the Council's activity regarding the Basic Law, Judicial Authority Law and the draft law of charitable societies and non- governmental organizations. It also explains its work in regards to the general budget draft law of 1998 and the civil service draft law as five case studies in order to determine if there was any development in the qualitative performance of the Palestinian Legislative Council. Another purpose was to examine the relationship between the Executive Committee and the Palestinian Legislative Council in this period.

Resolutions issued by the Council in the third term

In its third term, the Council continued to issue resolutions related to various affairs of Palestinian society. It issued 84 resolutions on economic, political, legal, public freedoms, human rights and other issues of concern to Palestinian citizens in the period under study.¹⁶ Table (1) shows the number of resolutions issued by the Council in its third term.

¹⁶ **Palestinian Legislative Council: monthly magazine of the Palestinian Legislative Council.** First edition, fourth year, 1999 p38 –39.

Type of resolution	Number of resolutions
Political issues: Jerusalem, lands, settlements, refugees.	8
Economic and financial issues and budget	11
Social issues	6
Legal issues	39
Issues related to the Executive Authority	13
Public freedoms and human rights	4
Natural resources and energy	2
Local government	0
Total	84

It can be noticed from the above table that the Council's concern in this term focused basically on legal issues. In this regard, it issued 39 resolutions, or 46.42% of the total number of resolutions issued in this term. Following were the issues related to the Executive Authority. In this regard, the Council issued 13 resolutions or 15.46% of the total number of resolutions. Next were the economic, financial and budget-related issues. Thirteen resolutions were issued in this respect or 13% of the total number of resolutions. Then there were the eight resolutions related to political issues: land and settlements, or 7.14% of the total number of issued resolutions. Next were issues related to public freedoms and human rights, for which the Council issued four resolutions or 4.76% of the total number of issued resolutions in this term. Two resolutions were issued on natural resources and energy, or 2.3% of the entire number of issued resolutions in this term. No resolutions were issued in regard to local government. Table (2) shows the sequence of these issues in terms of their importance to the council according to the percentage of resolutions issued for each of them from the total number of resolutions in the third term.

Issue	Percentage of resolutions from the total number of issued resolutions in the third term	Sequence according to importance
Legal issues	46.42%	1
Issues on the relationship with Executive Authority	15.46%	2
Economic, financial and budget-related issues	9.5%	3
Political issues: land and settlement and refugees	7.14%	4
Social issues	4.76%	5
Public freedoms and human rights	4.76%	6
Natural resources and energy	2.3%	7
Local government	0%	8

In order to understand the above table, the issues in the second term of the Council's work should be reviewed in addition to formulating a comparative analysis of the potential reasons behind either the setback or increase of importance of these issues to the Council in the third term. Following is a table showing the sequence of the aforementioned issues according to the number of resolutions issued in regards to each of them in the second term.

Table (3) shows the issues according to their importance to the Council in regards to the number and percentage of issued resolutions in the second term out of the total number of resolutions.¹⁷

¹⁷ Number of resolutions issued by the Council related to various issues in Palestinian society in the **second term as 143. See the Palestinian Legislative Council: performance evaluation during the first and second terms (March 1996 – March 1998)**. Palestinian Center for Human Rights, series study (13), November 1998, p 31 – 33.

Issue	Number of issued resolutions	Percentage of resolutions from the total number of issued resolutions in that term	Sequence according to importance
Financial and economic	52	36.36%	1
Political issues: settlements and refugees	42	29.4%	2
Social issues	17	11.9%	3
Public freedoms and human rights	12	4.8%	4
Legal issues and Council affairs	10	7%	5
Issue of local governance	8	5.6%	6
Energy and natural resources	2	1.4%	7

It should be noted from Table (3) and Table (2) that economic issues took primary importance in the Council in the second term, while they came in second in the third term. Political issues: land, Jerusalem and settlements took second place in the Council's priorities in its second term, while they came in fourth place in the third term. However, social issues were third on the list of the council's priorities in its second term, while they dropped to fifth place in its third term. Human rights issues also fell back in the third term. After being in fourth place in the second term, they dropped to sixth place in the third term. However, what is noteworthy in the Council's work in the third term is the shift of the Council's legal and internal issues to first place after occupying fifth place in the second term. The third term also witnessed a setback in the Council's concern over issues of local governance. After being in sixth place in the second term, these issues totally fell out of the Council's interest. The council did not issue any resolution in this regard during the third term. Natural resources also shifted from last place in the second term to seventh place in the third term. What is noteworthy during the third term is the Council's increasing importance given to its relationship with the Executive Authority. Issues regarding the Executive Authority occupied second place in the Council's importance in

the third term. The Council issued 13 resolutions during this term or 15% of the total number of the issued resolutions. No resolution was issued pertaining to these issues in the second term. The following factors could be helpful in understanding the reasons behind the shift in the Council's concerns in its third term:

1. It is possible that the Council felt that the laws, which the President ratified in the first and second term and the laws issued by the Executive Authority before its election, were not sufficient in filling the legal gap which existed before the Palestinian National Authority was established on May 1994 and until the Council's election on January 1996. They were not adequate in meeting the need of the Palestinian society for laws that would organize its daily life and relationship with existing Palestinian Authority institutions. Of the 33 laws put forth for discussion in the first and second terms, the Council ratified 11 in the same period, presenting them to the President for approval. However, the President approved only four.¹⁸ Therefore, it is possible that the Council attempted to bypass this problem by concentrating on legal issues during its third term. It gave them first priority since the Council's main function as a legislating institution is issuing and ratifying laws. Therefore, we find that legal issues took first priority with the Council in its third term after occupying fifth place in the second term.
2. Proof of this is the decrease in the Council's concern over political issues in the third session. While these issues used to hold second place in terms of priorities in the second term, they dropped to fourth place in the third term. This could reflect a mature outlook developed by the Council over the past two years regarding its principle role in issuing and ratifying laws that organize the day-to-day life of citizens rather than engaging in issues considered basically as part of the responsibilities and jurisdictions of the Executive Authority such as political issues. In addition, the Council's focus on issues related to the Executive Authority (which was second on the Council's list of priorities) in the third term could be related to the Council realizing the importance of rectifying the relationship with the Executive Authority and directing it towards a democratic approach based on the principle of separation between the authorities in their relationship with the Council in its first two terms which resulted in weakness in its performance.¹⁹

¹⁸ **Ibid.**, p 38 – 39.

¹⁹ The study conducted by the Palestinian Center for Human Rights on the performance of the Legislative Council in the first two terms showed the scope of the crisis which the Council passed through due to the policy of disregard and attempts of marginalization, carried out by the Executive Authority. **Ibid.**

3. In the third term, it is noticeable that the concern of the council over legal issues and issues related to the relationship with the Executive Authority, were at the expense of concern for other issues of no less importance such as economic and social issues. Economic issues fell back on the list of priorities from first place in the second term, to third place in the third term. Social issues dropped from third place in the second term to fifth place in the third term, although no significant change took place on economic and social conditions in that period.²⁰ The Council should have given more concern to these issues and not vice versa.
4. Concerning the Council's decision not to issue any resolution regarding local governance in the third term, it seems that the Council felt that the resolutions issued in this regard during the period between the establishment of the Palestinian National Authority and 6 March 1996, the date the Council inaugurated its first term were sufficient. What is surprising is that despite the issuance of several laws on issues of local governance, the Council did not adopt any decision regarding the Executive Authority's failure to hold local elections for example. No doubt, this reflects a shortcoming in the Council's follow up of violations committed by the Executive Authority.

Draft laws presented for discussion in the third term

There were 17 laws presented for discussion in the third term. The number of laws presented for discussion since the Council's establishment on March 1996 till the end of its third term on 8 March 1999 is 50.²¹

20 Report of the UN Special Coordinator Office notes that the Israeli closure of the West Bank and Gaza Strip particularly in the final quarter of 1998, played an important role in the deterioration of economic conditions in areas Palestinian Authority rule. This is especially true in regards to the increase in the unemployment rate due Palestinian workers not being allowed to enter Israel. During that period, Israeli authorities cancelled approximately 45,000 work permits and around 21,000 permits for Palestinian businessmen. This had negative and dangerous ramifications on the economic situation in areas under the Palestinian Authority. See **UNESCO report on economic and social condition in the West Bank and Gaza Strip**. Office of the Special Coordinator in the occupied territories, Gaza, 25 October 1998, p 34 – 35.

21 The number of laws proposed for general discussion in the first and second terms is 33. For more information see, **the Palestinian legislative council: performance evaluation during the first and second terms (March 1996-March 1998)**. Palestinian Centre for Human Rights, series study (13), November 1998, p 38.

Law	Date of discussion
Law of general statistics, law of industrial cities and free industrial zones	17 March 1998
O general budget and financial affairs' law	19 March 1998
Natural resources (amended), law of general budget 1998, public meetings' law	28 April 1998
Civil service law, law for organizing bids and tenders, Palestinian law of higher education, Palestinian labor law, compatibility of public places for the handicapped, Palestinian health insurance.	27 May 1998
Bar association's law, law of supporting families of martyrs and injured.	28 July 1998
the law of establishing the Palestinian center for developing rural areas, environment law, law for rehabilitation of handicapped	18 August 1998

The Council approved seven of these laws in their first reading. Table (5) shows the laws ratified by the Council in their first reading, the date of their ratification and the period between the date when they were presented for general discussion and the date of approval in their first reading.

Law	Date of approval in first reading	The period between presenting the law for general discussion and approval in its first reading
Organizing the general budget and financial affairs	2 April 1998	13 days
Government health insurance	30 June 1998	3 days
Palestinian higher education	13 July 1998	47 days
Industrial cities and free industrial zones	29 July 1998	Four months and 12 days
Fund of supporting families of martyrs, prisoners and injured	19 August 1998	21 days
Natural resources (amended)	19 August 1998	20 days
Public Meeting's law	20 August 1998	Three months and 12 days.

Among the seven laws approved by the Council, three were ratified in their second reading and were presented to the President for approval who, in turn approve them all. Table (6) shows the laws approved by the Council in their second reading and which were presented to the President for approval.

Law	Date of approval in second reading	Date of presenting law to the president	Date of issuance	Period between presenting it to the president and date of its approval.
Organizing the general budget and financial affairs	14 April 1998	20 April 1998	3 August 1998	Three months and thirteen days
Palestinian higher education	30 July 1998	19 August 1998	1 November 1998	Two months and 13 days
Industrial cities and free industrial zones	18 August 1998	9 September 1998	1 November 1998	One month and 23 days.

Moreover, there were laws presented for discussion in the second term but were ratified in the second reading and were presented to the President for approval in the third term. Therefore, it would be useful to present these laws in a table in order to have a comprehensive and accurate picture of the number and nature of laws that were approved in their second reading, presented to the president and approved by him in the third term. Table (7) shows those laws.

Law	Date of proposal for discussion	Date of approval in second reading	Date of presenting law to the president for approval	Date of issuance	Period between presenting the law and its issuance
Law of judicial authority	13 November 1997	2 September 1998	5 December 1998	Was not issued	
Stamping and monitoring jewelry	25 November 1997	17 March 1998	23 March 1998	28 May 1998	Two months and five days
Civil protection	25 November 1997	31 March 1998	20 April 1998	28 May 1998	One month and eight days
Firearms and ammunition	25 November 1997	2 April 1998	20 April 1998	20 May 1998	One month
Rehabilitation and correction centers	25 November 1997	28 April 1998	2 May 1998	28 May 1998	Twenty-six days
Promoting investment	9 December 1997	14 April 1998	20 April 1998	23 April 1998	Three days
Charitable societies and non-governmental organizations	9 December 1997	30 July 1998	27 December 1998	Not issued	Two months and 11 days until the end of the third term

It should be mentioned that the Council proposed the protection of fish husbandry law for general discussion on 13 October 1997 (second term) and ratified it in its second reading on 10 December 1997 (the same term). However, the law was presented to the President for approval on 9 March 1998 (third term). It was granted presidential approval on 2 November 1998 (third term). Therefore, the number of ratified laws in their second reading in the third term was 10 (the total number of laws in Table 6 and 7); three of them were suggested for general discussion for the first time in the third term. From among these, seven were proposed for general discussion in the second term. However, the number of laws that were presented to the

President for approval in the third term was 11. Ten were approved in their second reading in the third term (laws in Table 6 and 7). Only one (protection of fish husbandry law) was ratified in its second reading in the second term. However, it was presented to the President for approval in the third term. Among the 11 laws presented for presidential approval during the third term, the President signed 10 (law indicated in Table 6, the protection of fish husbandry law, laws in Table 7 excluding the judiciary authority law). Three of these laws were proposed for general discussion for the first time in the third term; eight laws were suggested for general discussion in the second term. However, work was completed on them in the third term.²²

No doubt, evaluating the performance of the Legislative Council in the third term calls for a review of the first and second terms to determine the number of laws which the Council was able to ratify in their second reading, and which were presented to and approved by the President during the two terms. Consequently, the extent of the Council's progress could be determined in the third term. Table (8) shows the laws approved by the Council in their second reading in the first and second terms.²³

Law	Date of approval in first reading	Date law was presented to president for approval
Law of Palestinian Councils of Local Governance Elections	12 October 1996	16 May 1996
General Budget Law 1997	27 May 1997	27 May 1997
Civil Service Law	3 June 1997	6 July 1997
Law of Monetary Authority	30 June 1997	15 December 1997
Law of Palestinian Local Councils	2 July 1997	21 July 1997
Basic Law	17 September 1997	4 October 1997
Law of Property Ownership in Palestine by Foreigners	30 September 1997	4 October 1997

²² Regarding the laws ratified by the Council in the third term, or those which were presented for discussion during the same term besides the above mentioned information, see **the legal department of the Palestinian Legislative Council**.

²³ For more details, see **the Palestinian Legislative Council: Performance evaluation of the first and second terms (March 1996 – March 1998)**. Palestinian Center for Human Rights, series study 13, November 1998, p 37 – 40.

Law	Date of approval in first reading	Date law was presented to president for approval
Law of Palestinian Oil Commission	25 November 1997	7 December 1997
Protection of Animal Husbandry Law	10 December 1997	9 March 1998
Council's Standing Orders		

The President approved four of the laws mentioned in the previous table. One of the four laws was approved in the first term while three were approved in the second term. Table (9) shows these laws and the dates of their approval by the President.

Law	Date of approval by the President
Law of Palestinian Local Council Elections	16 December 1996
Law of General Budget 1997	27 May 1997
Law of Palestinian Local Councils	12 October 1997
Law of Monetary Authority	16 December 1997

In order to determine whether there was any development in performance and the extent of the president's response to the laws presented by the Council, the period between presenting the laws to the President and the date they were Ratified should be determined in the first and second term and compared with the third term (Table 7). Table (10) illustrates this.

Law	The period between presentation of the law and the date it was ratified by the President
Law of Palestinian Local Council Elections	Zero days
Law of General Budget 1997	Zero days
Law of Palestinian Local Councils	Two months and 21 days
Law of Monetary Authority	One day

It can be noticed from Tables (4, 5 and 6) that among 17 laws proposed by the Council for discussion for the first time during the third term, seven laws were approved in their first reading. Among the seven laws approved in their first reading, the Council approved three in their second reading and presented them for presidential approval. It can also be noticed that in its third term, the Council completed its work on some laws (laws in Table 7) which were presented for discussion in the second term. The Council approved seven in their second reading and presented them to the president for approval. Therefore, in the third term 11 laws were approved in their second reading, which were raised to the President for ratification. The President ratified 10. Regarding the first two terms, the Council approved 10 laws on the average of five laws each term. They were then presented to the president for approval, who ratified four of them. In comparing the legislating activity of the Legislative Council in the first two terms on one the hand and the third term on the other, one can find a quantitative improvement in the performance of the Council. While the average of approved laws in their second reading was five in each term, the third term witnessed an increase in the number of laws approved in their second reading. The Council approved 11 laws in their second reading in this term, thus pushing the average of approved laws in their second reading to seven laws in each term.

The third term also witnessed a development in the average of laws ratified by the president. In this term, he approved 10 of the eleven laws presented (Table 7). However, in regards to the first two terms, the President ratified four (Table 10) of the 10 laws, which were presented to him in these two terms on the average of two laws in each term. Hence, the third term witnessed an increase in the average of laws ratified by the president. While the average was two laws in each term during the first two terms, it was pushed up to 4.66 laws in each term during the third term. The other noteworthy point is that there was no tangible transformation in the third term in terms of the President's position towards the presented laws. There were some laws, which portrayed the president's commitment to the Council's Standing Orders by his approval of them within the legal time period. However, there were other laws, which were approved by the President after the expiry of the agreed legal time period, (see Table 6 and 7).²⁴ In fact, this is the same problem the laws which the Council presented to the President in the first two terms faced, as shown in Table (10).

²⁴ The Council's bylaw stipulate the need for presidential approval or his comments on any law presented to him by the Council within 30 days of the date of presentation.

The following factors could be important in understanding the reasons for this transformation whether in the quantitative performance of the Palestinian Legislative Council in the third term, or on the average of presidential ratification of laws presented by the Council in this term:

1. It is possible that the Council felt that a large portion of its efforts in the first two terms were exerted in following up on political issues and the Basic Law. This had a negative affect on the follow up of laws on issues of no less importance such as those related to social and economic issues. Therefore, in an attempt to overcome this fault, the Council worked intensively during the third term to ratify the laws related to civil society and economy, which were presented to the President for ratification.

Proof of this is that most laws approved by the Council and presented to the president for ratification in the third term are related to social issues (see Table 6 and 7). No doubt, this shows the Council's development in perceiving its major role, represented in drafting and approving laws that organize the daily life of Palestinians and supporting the building of a Palestinian civil society. This could be a reason behind the increase in the average of approved laws by the Council in the third term, from five laws in each term during the first two terms to seven during the third term, that is, a 40% increase in the average of approved laws.

2. The increase in the average of laws ratified by the president in the third term (from two laws in the first two terms to 4.66 laws for each term during the third term), could be related to the fact that most laws, which were presented for presidential ratification in the third term were related to social and economic issues. They did not deal with any sensitive issues that are points of dispute between the Palestinian National Authority and Israel.²⁵ Moreover, the Council could have put pressure on the President to expedite ratification of the mentioned laws,

25 The study conducted by the Palestinian Center for Human Rights for evaluating the performance of the Palestinian Legislative Council in the first two terms, clarifies the extent of restrictions imposed by political agreements signed between the Palestinian National Authority and Israel on the work of the Council and on the possibility of the President's response to laws raised by the Council for ratification. See **Palestinian Legislative Council: performance evaluation in the first two terms (March 1996 – March 1997)**. Palestinian Center for Human Rights, series study (13), November 1998, p 39 – 40.

which are important for regulating Palestinian society and restructuring its civil life. These factors may explain the reason for the increase in the average of laws approved by the president in the third term of the Palestinian Legislative Council.

3. The increase in the average of laws granted presidential ratification could be attributed to the attempt by the Executive Authority to minimize the criticism directed towards it on the local and international levels for not answering to the laws of the Palestinian Legislative Council in the first two terms.

Therefore, it is fair to say that the third term witnessed a quantitative development in the Council's performance and in the presidential response to laws, which were raised by the Council for ratification in comparison to its first and second terms. The question raised is whether this term witnessed any qualitative developments on the Council's performance. This will be found out through the discussion of the five important case studies: the basic law, the judicial authority law, the charitable societies and non-governmental organizations law, the general budget law of 1998 and the civil service law.

Basic Draft Law

The Legislative Council ended its first two terms after approving the basic draft law in its second reading. It also volunteered to prepare and approve a third reading during its two sessions, which were convened in Ramallah on 17 September 1997 and 1 October 1997 respectively. Regardless, the Council faced several problems in obligating the Executive Authority to ratify and entered the law into force. Its first two terms ended without the Executive Authority ratifying it.²⁶ Consequently, the Basic Law remained a suspended issue and was considered as one of the most important challenges to the Legislative Council in its third term. Here arises the importance of addressing the Council's activities that are related to following up on the Basic Law with the Executive Authority in its third term since the most important duties of any parliamentary institution is to approve the Basic Law or constitution and pressure the relevant parties to abide by and implement it.

²⁶ *Ibid.* pp. 42 – 48.

Council's activities on the follow up of Basic Law with the Executive Authority in its third term

Nothing in the Council's minutes, readings, decisions or publications in the third term or even in the interviews with the head of the Council's Legal Committee indicates that there was any activity by the Council in its third term in pursuing the issue of the Basic Law. Nor was there any indication of finding a mechanism to pressure the Executive Authority to approve and apply this law. This no doubt shows a real crisis in the Council related to the extent of awareness of its true role through issuing a basic law or constitution for the transitional phase. This can be better understood if it is taken into consideration that on more than one occasion the Council complained and strongly condemned the fact that the Authority had not ratified the law. This can be understood as an overstepping of the most basic principles of democratic work and a threat to opportunities for building institutions of democratic governance and civil society.²⁷ Despite the Council's condemnation and complaints in regards to the President not approving the basic law, it continued in its work throughout the third term nonetheless. On the contrary, it gave a confidence vote to the new government on August 1998.²⁸ By this, it gave legitimacy to the Executive Authority in not ratifying the Basic Law. It expressed its implicit acceptance of the policy of disregard and indifference by the Executive Authority in its relationship with the Council throughout the first two terms. No doubt, this raises a legitimate inquiry regarding the extent of the Council's seriousness in playing the role of a parliamentary institution that aims at reinforcing constitutional foundations in its relationship with the Executive Authority. It also raises doubts about the extent of its commitment to constitutional principles particularly if we take into consideration that the 1995 election law, according to which members of the Council were elected, clearly stipulates that the main duty of the elected Palestinian Council is to set a constitutional system for the transitional phase.

Judicial Authority Draft Law

One of the significant challenges facing civil society is its ability to reinforce the rule of law and independence of the judiciary. The principle of the rule of law is one of the most important principles that guarantees justice and equality in the society through all of its members equally abiding by one law that regulates the relationship between the existing authorities. It also

²⁷ *Ibid.* pp. 41 – 56.

²⁸ The new government formation of 1998 will be discussed in detail later on in this report.

determines the jurisdictions of each of them and indiscriminately respects human rights and the basic individual freedoms. Achieving the rule of law, necessitates, among other things, achieving the independence of the judiciary, which guarantees justice for the people in terms of their rights and which monitors over practices, laws and decisions of other authorities particularly the Executive Authority. Achieving the independence of the judiciary basically necessitates a law that organizes the work of the judiciary and defines its jurisdictions and duties. It should also guarantee the independence of the judiciary system through finding a mechanism for appointing judges, a salary and promotions scale, delegating members, exchanging judges and accountability and disciplinary measures against judges. These measures should be carried out independently of the Executive Authority and in a way that guarantees that these issues are under the authority of the Judiciary without interference from the Executive Authority. In light of the importance for such a law that organizes the work of the Judiciary independently from the Executive Authority as a precursor for achieving the principle of law and building a civil society, the Council exerted efforts towards issuing a law for the Judicial Authority in its first reading in the Council's eighth session of the third term, held in Ramallah on 25 June 1998. The Council ratified the law in its third reading during its fourteenth session, held in Ramallah on 25 November 1998. The law was comprised of five chapters addressing various aspects of the Palestinian Judiciary System. Chapter one addresses the law's general rules and principles. Chapter two concentrates on types of courts and their arrangements. It categorizes courts into: the high court of justice, courts of appeals, courts of first instance and magistrate courts. The second chapter also addresses the nature of the courts' jurisdictions and sessions. However, chapter three addresses the appointment and promotion of judges, conditions that should be found in judges particularly High Court judges, transferring, delegating and exchanging judges, judges' duties, their salaries and allowances, a vacation system and retirement and resignation. Chapter four deals with the structure and jurisdiction of the higher judiciary council, judiciary inspections and their mechanisms, complaints and appeals against resolutions and disciplinary measures and accountability of judges. Chapter five addresses the office of the attorney general, its formation, specialization and mechanism for appointing the attorney general, duties of the attorney general office members, their salaries, allowances, promotion and seniority. Tables 1 and 2 define the jobs, salaries and allowances of judges and members of the attorney general (Table 1), allocations in exchange for the representation of some

judiciary duties (Table 2).²⁹ On 2 December 1998, the Palestinian Legislative Council presented the law to the President for approval or comments. However, the President did not approve or comment on the law within the given legal time period, which is 30 days from the date it is presented. This no doubt, contradicts with the standing orders of the Council which stipulates in Article 71 that the President must either approve or send his comments on any law presented by the Council within 30 days it is presented to him.³⁰ It also expressed a crisis in the nature of the relationship between the Council and the Executive Authority. Therefore, it is important to address the Council's discussions regarding the judiciary authority in order to form a clearer and comprehensive picture of the problems faced by the Council in its relationship with the Executive Authority until the law was approved in its third reading.

Council deliberations on the Judicial Authority draft law

The fact is the Council's concern with the Judicial Authority Law became apparent in the second term of the Council's work. In the eighth session held in Gaza on 6, 7 May 1997 it requested of the Executive Authority through its Resolution 164/8/2 to present the Judicial Authority Draft Law within a maximum period of one month. In its fourteenth session convened in Ramallah on 30 June – 3 July 1997, the Council reiterated in Resolution 188/14/2 its previous Resolution (164/8/2) in requesting the Executive Authority to present the Judicial Authority Draft Law within a period of one month. If the Executive Authority did not respond to this request, the Council's Legal Committee would prepare the Judicial Authority Draft Law with the aid of a draft presented before that date by a group of Council members. In the fifteenth session held in Ramallah on 14 – 16 July 1997, due to the Executive Authority's failure to present the draft law, Abdel Karim Abu Salah, Head of the Council's Legal Committee, presented the report of the Judicial Authority Draft Law to Council Speaker Abu Ala who in turn posed it for general discussion. In the nineteenth session in Ramallah on 30 September and 1 - 2 October 1997, the Council presented the draft law for general discussion. Council members demanded the addition of several comments, which were also posed for discussion. In the context of its activities on amending the draft law in light of the comments by the Council members and other comments from competent parties

29 See **the approved draft of the Judicial Authority Law by the Legislative Council in its third reading on 25 November 1998.**

30 On 17 April 1998, the Council amended its bylaw and the study will be based on the amended system from that day forward.

including judges, the Council's Legal Committee held a special meeting in its headquarters in Gaza on 10 February 1998. The meeting discussed these comments and carried out the appropriate amendments on the draft law. At this point, Abu Salah confirmed that the legal committee intended to present the draft law for approval in its first reading during the opening session of the Council's third term held on 7 March 1998.³¹ With this, the Council ended its second term without approving the draft law in its first reading.

Through a careful review of the minutes of the opening session of the Council's third term, it can be noticed that the Legal Committee did not present the Council with a draft law for approval in its first reading. In addition, it was not posed for general discussion. However, raise the matter for general discussion once again in the seventh session of the Council held in Ramallah on 26 – 31 May 1998. However, the Council decided in Resolutions 284/7/3 with the consent of all of the 31 members who attended the session, to postpone discussion of the Judicial Authority Draft Law. It also decided to invite on behalf of the Council: Minister of Justice Freih Abu Medein, the Fatwah and Legislation Diwan, chief justice, representative of the Executive Authority, citizens' rights committee, attorney general, law departments in universities, law center, lawyers union and judges to attend a special hearing of the Council to be held on 9 June 1998 for discussion of the draft law.³²

In light of this, in an exceptional session held in Ramallah on 8 – 9 June 1998, the Council held a special auditory session. The Council was briefed on comments on the draft law from parties attending the session. In light of these comments, the Council adopted Resolution 288/13/3 in which it decided to present all comments to the Council's Legal Committee to study and integrate into the draft law and then to present this law for approval in its first reading within two weeks of the decision's issuance date.³³

Accordingly, during its eighth session held in Ramallah on 23 – 25 June 1998, the Legal Committee presented its report to the Council, which recommended that the Council approve the draft law in its first reading. In this session (Day 1), the Council approved the second chapter of the law in

31. See **Al Hayyat** and **Al Quds** newspapers on 11 February and 25 February 1998.

32 See, minutes of the third term, particularly minutes of the **seventh session** and **al-Ayyam** newspaper on 1 June 1998.

33 See minutes of the third term sessions, particularly minutes of the **exceptional session** on 8 – 9 June 1998 and **Al Ayyam** on 10 June 1998.

its first reading (Articles 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16). Approving Article 3 of the law was postponed until after consultation between the Legal, Budget and Financial Affairs Committees and the Ministry of Finance because it addresses the legal system's budget and the method for preparing and supervising it. Members' discussion of the law ended at Article 17). With no objections from any of the 78 attending members, the Council decided to postpone discussing the law until the second day. On the day after the session (24 June), the Council continued its discussions of the law and unanimously approved articles in the third chapter together with their amendments found in the Legal Committee's report. On that day, the Council, without objection from any attending member decided to end the discussion at Article (3) of the law while discussion of the law would continue on the next day of the session. On the following day (25 June) the Council continued its discussions on the law and approved all of its chapters in their first reading. The majority of the 78 attending members approved the law in its second reading. Article 3 remained unapproved until consultations between the Legal, Budget and Financial Affairs Committees and the Ministry of Finance took place.³⁴

In its tenth session held in Ramallah on 28 – 30 July 1998, Abdel Karim Abu Salah presented the Council report, which recommended the approval of Article 3. The Council approved this article by the majority of the 73 members who attended the session. In accordance with enacted rules of legislation, the council returned the law, which was approved in its first reading, to the Legal Committee for approval in its second reading.

As a result, in the tenth session held in Ramallah on 18 – 20 August 1998, Abdel Karim Samarah, head of the Legal Committee presented the Committee's report to the Council, which recommended that the law be approved. In light of this, the Council adopted Resolution 318/11/3 in which it decided to extend the session for another week and postpone discussing the second reading of the law until then. This would be to invite all concerned and specialized parties to present their suggestions before the end of the week so that the Legal Committee could study and integrate these suggestions in the draft law to prepare it for the Council's approval in its second reading.³⁵

³⁴ See minutes of the third term particularly minutes of the **eighth session** and **Al Quds daily** on 25 June and **Al Hayyat Al Jadida newspaper** on 26 June 1998.

³⁵ See minutes of the third term's **eleventh session**.

On 1 – 2 September, the Legislative Council held a follow-up session to its eleventh session in Ramallah to discuss the Judicial Authority Draft Law in its second reading. During this session, the Council adopted Resolution 323/11/3 in which it ratified the draft law in its second reading. It is noteworthy that in this context the Council did not send the draft law after ratification in its second reading to the president for approval or commentary, as stipulated in the Council's Standing Orders. However, it continued its discussions on the law in preparation for its third reading. In the Council's fourteenth session in Ramallah on 25 – 26 November 1998, head of the Legal Committee Abdel Karim Abu Salah proposed the approval of a new clause put forth by the Legal Committee. The clause reads, "The Higher Judicial Council will set a system for training judges and preparing them for the responsibility of judicial work." The majority of the members voted in favor of the new clause while two members, Burhan Jarrar and Kamal Sharafi opposed it. Abu Salah also suggested some amendments to Article (29) so that it would read: 1. Remains as is (as approved in the second reading). 2. A judge may not preside over a court in which he is related (fourth generation removed) by blood or by marriage to the prosecutor, the opponent's representative or one of the opponents. The same clause in the second reading used to stipulate the following: 1. A judge may not be absent or interrupt his work without excuse before notifying the chief of court to which he belongs. 2. A judge is considered as resigned if he is absent from work for ten consecutive days without an excuse accepted by the judiciary council even his absence comes after the end of his vacation, his exchange program or his delegation to other work. After the vote, the clause was ratified with the proposed amendments.

Abu Salah also suggested introducing some amendments to Article 31 so that it would read: (1) Salaries and allocations of all judges will be specified according to Tables (1, 2) in the annex of this law.

(2) The aforementioned allocations in the two tables in the annex of this law will not impinge on the administrative and social allowances that are annexed to this law, the transfer fee and the cost of living allowance, which is decided for all public servants in the Civil Service Law. The same article used to state in the second reading that: No person over 70 years of age may remain in the post of judge or be appointed to this post. The result of the vote to ratify the clause was in favor of approving this clause with its suggested amendments.

In addition, Abu Salah suggested approving a new provision in Article 36 that stipulates the following: 1. According to the provisions of this law, a High Judicial Council shall be established and shall exercise its jurisdictions

according to law. Voting resulted in the new provision being unanimously approved. The proposed amendments also touched on other articles such as Articles 48, 51 and 53. After voting on all the proposed amendments for each provision, the Council approved the draft law in its third reading. The majority of the 69 members who attended the session approved the law. The two members: Burhan Jarar and Suleiman Abu Rumi opposed.³⁶ On 5 December 1998, the Council presented the draft law to the Presidential for approval or commentary. The President neither approved nor sent his comments on the law within the legal time period, which is 30 days from the date the law was presented. The draft law remained one of the suspended issues between the Legislative Council and the Executive Authority until the Council's third term was completed.

Evaluating the relationship between the Legislative Council and the Executive Authority in light of the Judicial Authority Law

One distinguishing feature of the Judicial Authority Law while being prepared in its three readings is related to the societal participation throughout these periods, particularly in the first and second readings. As it became apparent through presenting the stages of preparation, several social groups and sectors participated in the discussions on the law. This participation had an important role in enriching the substance of the law and presenting its final version in a way that achieves independence of the judiciary as a first step towards achieving the principle of the rule of law. This participation was supposed to be used as a pressure tactic on the Executive Authority to expedite approving the law since it reflects the fact that the law has become an urgent popular demand and not only a request by the legislative council.

In spite of this and the unique importance of the Judicial Authority Law in reinforcing the independence of judicial system and the rule of law, it should be noted that the Executive Authority did not pay sufficient attention to this and did not approve the law within the legal time period. It was expected that the Council would take this matter seriously and develop various pressure tactics on the Executive Authority to urge it to approve the law, particularly since a wide popular platform was expected to support the Council in this regard. It can be noticed from reviewing and analyzing the Council's activities in the third term, that the Council did not seek to

36 In this regard, see minutes of the 14th session, **Law of the Judicial Authority, which was issued by the Palestinian Legislative Council in its second reading on 2 September 1998, and in its third reading on 25 November 1998.**

develop pressure means. It appeared vulnerable and weak in the face of the Executive Authority's refusal to approve the law and to work according to standards and constitutional foundations. Like in the previous two terms, the Judicial Authority Law remained suspended until the end of the third term. Therefore, one can say that the policy of indifference and disregard carried out by the Executive Authority towards the Council in its first two terms continued over into the third term. The Council's experience with the Charitable Societies and Non-governmental Organizations Law, which will now be presented is one more proof of this type of relationship.

Charitable Societies and Non-Governmental Organizations Law

Among other issues, pluralism includes the presence of non-governmental organizations far from the interference of the state, and work within the law that organize the work and relationship between them from one side, and the society and the political system from the other. Normally, there is a relationship of inverse proportionality between interference from the state in the work of these organizations and their ability to fulfill their missions effectively and successfully. The less the state interferes in the work of NGOs, the more opportunity these NGOs will have to carry out their duties in the best possible manner.

Upon realizing the importance of these organizations in building the civil society, the Legislative Council exerted efforts towards issuing a law that organizes the work of these organizations inside areas under PNA jurisdiction. On 9 February 1997, the draft law was proposed for general discussion in the Council. However, on 3 June 1998, the Council approved the draft law in its first reading. On 30 July 1998, it approved it in its second reading. On 19 August 1998, the Council referred the law to the President for approval or commentary. From his part, the President did not approve or comment on the law within the legal time period, which is 30 days from the date it was presented to him. As a result, the Council volunteered to prepare the law in the third reading on 21 February 1998. The law included 45 articles in seven chapters, which attempted to deal with and organize the various aspects of these organizations. This included a mechanism of their registration, their rights and duties, the number of members on the board of directors, meetings, relations with foreign charitable societies, a mechanism for their dissolution and other issues. The Council presented the law to the President on 27 December 1998 for approval. However, the President did not approve the law in the third term. This no doubt contradicts with the Council's Standing Orders, which stipulates in Article 68 that the President should either approve or present

his comments on any law presented to him by the Council within 30 days of the date it was presented to him. This no doubt shows a real crisis in the relationship between the Legislative Council and the Executive Authority. Therefore, it is very essential to address the different points which the law must pass until it is approved in its third reading and to address the major problems which face the Council in its relationship with the Executive Authority in its deliberations on the law.

Council deliberations on the draft Law for Charitable Societies and Non – Governmental Organizations

The Council's interest in the Charitable Societies and Non – Governmental Organizations Law in the second term became apparent when a group of council members presented a draft law to organize the work of these organizations in the 20th Council session held in Ramallah on 13 – 16 October 1997.

The Council transferred the draft law to its specialized committees (security, interior, legal and political committees) to review the possibility of accepting or rejecting the law. It also reviewed the possibility of merging it with the draft law, which the Executive Authority intended to propose at the time.³⁷ On December 1, 1997, the specialized committees held a joint meeting to discuss the draft law. After several discussions and deliberations, the committees confirmed the need to expedite approval of the draft law for general discussion because of its importance in developing Palestinian civil society.³⁸ In its 24th session held in Ramallah on 9 December 1997 and in light of recommendations by its specialized committees to expedite approval of the draft law for general discussion, the Council approved the draft law in its general discussion and presented it to specialized committees again to prepare it for approval in its first reading after adding the comments raised by the members during the discussion. After a careful follow-up of the third term session minutes and everything issued by the Council in that term, it can be noticed that the Council ended its second term without approving the law in its first reading.

Nonetheless, the Council continued in its efforts on the Charitable Societies and Non-Governmental Organizations Law in its exceptional session during the third term, which was convened in Ramallah on 30 March 1998. At the

³⁷ In this regard, see minutes of the second term particularly **session 20**. Also, see **Al Hayyat Al Jadidah** newspaper on 15 October 1997.

³⁸ **Al-Bilad Daily**, 2 December 1997.

time, Dallal Salameh, Political Committee Secretary, noted that the specialized committees finished adding the necessary amendments on the draft law and presented them to the legal committee for drafting in the first reading.

In the Council's sixth session held in Ramallah on 11 – 13 May 1998, head of the legal committee, Abdel Karim Abu Salah presented the law in its first reading for approval. However, discussion of the law was postponed to the seventh session.

During the Council's seventh session held in Ramallah on 26 – 31 May 1998, Dr. Ziyad Abu Amr, head of the Political Committee, presented the report on the law by the joint committees (political, legal, interior). The report recommended that the amended law be accepted along with the additional comments that were suggested by the NGO Network from its own draft law presented to the Council at a previous date. After a series of deliberations, the Council decided to begin discussion of the law presented by the members with the added comments from the NGO Network. The Council approved the entire law in its first reading after adding all the necessary amendments, which included some comments which were part of the law presented by the National Authority.³⁹ approval of the law in its first reading was upon consent from the majority of the 71 attending members while one member, Sulieman Al Rumi objected.⁴⁰ In line with the legislative principles followed by the Council, it sent the draft law back to the specialized committees (political, legal and Interior) after its approval it in its first reading to prepare it for its second reading.

As part of their efforts to prepare the draft law in its second reading, the Council's specialized committees met on 20 July 1998 at the administrative headquarters of the political committees in Al Bireh with representatives from NGO Network to listen to their ideas on the draft law. Also, the committee for labor and laborers which is a branch of the education and social issues committee, held a meeting on the same date in Al Bireh with representatives of the General Federation of Palestinian Workers. They discussed the law with them and listened to their views in this regard. The

39 On September 10, 1995, Diwan El Fatwa Wa Tashrie' of the National Authority issued the draft law regarding Charitable Societies, Social Organizations and Private Institutions. Due to criticism directed at that law, whether by non-governmental organizations or the Legislative Council, it was not approved by the Council. Some of its articles were taken and added to the law put forth by the Council's initiative.

40 See minutes of the third term sessions particularly minutes of the fourth session.

meetings concluded with several suggestions for amending some articles of the draft law.⁴¹

In light of this, head of the Political Committee Dr. Ziad Abu Amr presented the specialized committees' report during the Council's tenth session, which was held in Ramallah on 28 – 30 July 1998. The report recommended the approval of the draft law in its second reading after conducting the amendments proposed by the Council's specialized committees and NGOs. Those proposed amendments addressed nine articles. Approval was granted to amendments on seven while amendments on two articles were rejected. The Council approved the proposed amendments on Article 4 (2) of the draft law to become: 1. Remains as is (as appearing in the first reading). 2. The Minister of Justice must issue his decision regarding application conditions that should be met within a period not exceeding two months from the date it was submitted. 3. Remains as is (as stipulated in the first reading). 4. Remains as is (as appearing in the first reading). In the first reading, it stipulated that 1. Founders of the organization or commission should present a written application that meets the required conditions to the concerned department in the Ministry of Justice. It should be signed by at least three of the founders commissioned to register and sign on behalf of the society or the commission and attached with three copies of the standing orders signed by members of the founding committee. The minister should issue his decision regarding the request within a period no more than two months from the date it was presented. 3. If the two-month period expires without a decision being adopted, the society or commission is considered registered according to law. 4. If the minister's decision is to reject registration, the decision must be based on reasons; moreover, applicants have the right to appeal before a specialized court within a period of 30 days from the date they were informed of the decision.

The Council approved the proposed amendments on Article 7 of the law by a majority of its members, with only four opposing votes. It now reads: "Societies and commissions shall enjoy an artificial personality and independent financial credit immediately after it is registered according to the provisions of this law; it should not practice its activities before registration." The first reading used to read: "societies and commissions shall enjoy an artificial personality and an independent financial credit immediately after registration according to the provisions of this law; it should not practice any activities except after completing registration procedures."

41 See *Al Hayat Al Jadidah*. 21 July 1998.

In addition, the Council unanimously approved the proposed amendments on Article 13 of the law, which became: "The society or the commission shall present to the competent ministry two reports approved by the general assembly within a period no more than four months from the end of the fiscal year."

1. One annual [report] that includes a full description of the society's or commission's activities over the previous year.
2. One financial [report] approved by a legal accountant that details all the revenues and expenditures of the society or commission according to enacted accounting standards. The original text in the first reading stipulated the following: "The society or commission shall present two reports approved by the General Assembly to the competent ministry within a period no more than four months from the end of the fiscal year:
 - 1) One annual [report] that includes a full description of the society's or commission's activities over the previous year.
 - 2) One financial [report] approved by a legal accountant that details the revenues and expenditures of the society or the commission."

Amendments were also added to Article 37 in regards to the mechanism for dissolving societies. The Council unanimously approved the proposed amendments on this article so that it would read: "The society will be dissolved in the following situations: 1. Upon a decision by the General Assembly to dissolve the Society; the ministry should be informed of the decision immediately upon issuance. 2. If it does not begin its actual work in the first year from the date of its registration, as long as it is not a result of difficult conditions against the will of the society or commission. In this case, its registration shall be cancelled by the ministry after sending it a written warning. 3. If it is proven that it severely violated its standing orders and did not rectify the situation within a period no longer than three months from the date it was notified in writing by the minister or the department. The first reading was as follows: "The society or commission is considered dissolved by law by a decision issued in this regard by the minister in the following situations:

1. Upon a decision by the General Assembly to dissolve the Society; the ministry should be informed of the decision immediately upon issuance.
2. If it does not begin its actual work in the first year from the date of its registration or obtaining its license as long as it is not due to difficult conditions against the will of the society.

3. If there is evidence that it severely violated the standing orders and does not rectify this situation within a period not exceeding three months from the date it is notified in writing from the minister or the department.

In addition, the Council unanimously approved the proposed amendment on Article 38 of the law to read:

“1. In the case a decision is issued by the minister to cancel the registration of any society or commission, the decision should be justified and in writing. The society or commission retains the right to appeal the decision before the concerned court. 2. Remains as is (as appears in the first reading).” The first reading stipulated the following: “1. In the case a decision is issued by the minister to cancel the registration of any society or commission, the decision should be justified and the society or the commission retains the right to appeal the decision before the concerned court. 2. If the appeal against a decision to dissolve the society or the commission is accepted before the concerned court, the society or commission may continue its work until the issuance of a temporary or final judicial decision either to terminate its activities or to dissolve it.”

Moreover, the amendments also dealt with Article 43 of the law. The Council unanimously ratified the proposed amendment on this article so it would read: “The Ottoman law on charitable societies, which was issued on 29 Rajab 1327 shall be cancelled in addition to the law of charitable societies No. 33 of 1966 for societies and social commissions in effect in Palestine. Moreover, everything in violation of this law shall be canceled. “The same clause used to stipulate in the first reading that, “The Ottoman law of charitable societies, which was issued on 29 Rajab 1327 in effect in the Gaza districts and the law of charitable societies No. 33 of 1966 for societies and social commissions in effect in West Bank districts shall be canceled. Also any ruling that violates the provisions of this law shall be canceled.”

Voting over the draft law in its second reading after adding all the above amendments resulted in the majority of attending members approving the amendments proposed by the political and legal committees. However, Fakhri Turkman, Rawhi Fatouh, Suleiman Sneineh, Fakhri Shakouri and

Suleiman Al Rumi voted against it.⁴² On 19 August 1998 the Council presented the law to the President for approval and commentary. From his part, President Arafat did not approve the law or send his comments within the legal period of 30 days from the date the law was presented to him. Although the president did not commit to the acknowledged legal time slot and did not send his comments or approve the law, and despite the fact that in this case, the law is considered effective and should be immediately enacted, the Council volunteered to prepare a third reading for the law in an attempt to avoid any clash with the president. In light of this, the Council returned the law to the specialized committees in order to prepare it in its third reading.

In the 16th session of the Council held in Ramallah on 21 to 24 December 1998, member Dalal Salameh and political committee secretary presented the report of the specialized committees which recommended the ratification in the third reading after additional amendments from the committees. The comments proposed in the report dealt with provisions of three articles in the approved law in its second reading. The report proposed an amendment on Article 4 of the law. It read: 1. Remains as is (as appears in its second reading). 2. The Minister of Justice should issue his decision in regards to the fulfillment of application terms for registration within a period not exceeding two months from the date it is presented. In case additional data is submitted or the registration application needs completion, the two-month period shall begin from the date the information is presented. 3. Remains as is (as appears in its second reading) as follows: 1. Founders of the commission should present a written application that meets the terms of the Ministry of Justice. The application should be signed by at least three of the founders commissioned to register and sign on behalf of the society or commission. The application should be attached with three copies of the standing orders signed by members of the founding committee. 2. The Minister of Justice should issue his decision in regards to the fulfillment of application terms for registration within a period not exceeding two months from the date it is presented. 3. If the two-month period expires after the application is received by the department and a decision has not been made, the society or commission shall be considered registered according to law. 4. In case a decision to deny registration is issued by the minister, it should be justified. Those who

⁴² In this regard, see minutes of the third term, particularly the **tenth session**, and the **draft law of charitable societies and non-governmental organizations issued by the Palestinian Legislative Council in its first reading on June 3, 1998 and in its second reading on July 30, 1998.**

submit the application retain the right to appeal the decision before the specialized court within a maximum period of 30 days from the date when they were informed of the decision. Voting on the proposal for amendments resulted in the article being approved with the amendments put forth by the committee.

The report also proposed an amendment on Article 28 of the law, so it would read: "Any society or commission may participate or join in any Arab, regional or international organization or union outside the Palestinian territories on condition that the relevant party is informed of this." In the second reading it stipulated: "Any society or commission may participate or join in any Arab, regional or international organization or union outside the Palestinian territories," without indicating to the need to inform the relevant parties. The Council also approved this proposal. The last proposal in the report, which was approved by the Council was in regards to Article 34 of the law. The report proposed that the article should stipulate: 1. Remains as is (as appears in the second reading). 2. The ministry will take into account the viewpoint of the Ministry of Planning and international Cooperation in regards to the request for registering the society or the foreign commission." The same article used to stipulate in the second reading that: 1. Any society or foreign commission has the right to submit a request to the ministry to open one or more branches in the Palestinian territories to provide social services on condition that these services meet the interests and aspirations of the Palestinian people. A further condition is that the application should include: the name of the society or the foreign commission; its main headquarters; address and names of its founders and members of its board of directors; its major goals, names of those responsible for the branches to be established, their nationalities, the method of dealing with the branch's money if it is dissolved or liquidated or if it withdraws, within a period not exceeding two months from the date the request is accepted." In its second reading, the article did not mention the need to take the Ministry of Planning and International Cooperation's viewpoint into account in regards to the request for registering the society or the foreign commission.

At the end of the session, the Council approved the law in its third reading with the consent of 67 members, while one member, Suleiman Abu Rumi opposed.⁴³ On December 27, 1998, the Council resubmitted the amended law to the President for ratification or commentary. The President did not

43 For more details see, **Law of Charitable Societies and Non-Governmental Organizations issued** by the Palestinian Legislative Council in the second reading on August 30, 1998 and minutes of the third term sessions, particularly the **16th session**.

ratify the law nor did he send his comments within the acknowledged legal time period. However, he did send his comments after the end of the legal time period, which is 30 days. All of his comments focused on Article 4 of the law, which stipulates that the Ministry of Justice is the reference for registering charitable societies and non-governmental organizations. He requested that the Ministry of Interior be the reference instead of the Ministry of Justice. The council rejected this and insisted on the original text of the law, which stipulates that the Ministry of Justice is the reference and not the Ministry of Interior.⁴⁴ Consequently, the Law of Charitable Societies and Non-Governmental Organizations remained one of the suspended issues between the Executive Authority and the Palestinian Legislative Council until the end of the third term.⁴⁵

Evaluating the relationship between the Legislative Council and the Executive Authority in light of the Law of Charitable Societies and Non-Governmental Organizations

Before delving into an evaluation of the relationship between the Legislative Council and the Executive Authority in light of the Law of Charitable Societies and Non-Governmental Organizations, the following points should be mentioned:

First, The draft law of charitable societies and non-governmental organizations was unique in the wide extent of community participation in its preparation, through the participation of the NGO network during the preparation of its first and second readings. The NGO network's presence and active participation encouraged the members of the Legislative Council to adopt its ideas. This no doubt constitutes a positive step on the road to organizing and activating the work and role of non-governmental and charitable organizations. Also, it stands as an example that should be followed in order to ensure the role of civil society and its relationship with the Legislative Authority. It also serves as an example of the possible role

⁴⁴ It should be mentioned in this context that the council confirmed more than once its position of rejecting the Ministry of Interior instead of the Ministry of Justice as a reference for registering societies. The majority of attending Council members voted on the decision that the council should reject the President's comments in regards to having the Ministry of Interior as a reference for registration instead of the Ministry of Justice in its session on 25 May 1999 in the fourth term. (In this regard, see **the statement issued by the Palestinian Center for Human Rights on August 30, 1999**).

⁴⁵ Regarding the following developments, see **that mentioned before on pp. 25-31 of this report**.

that could be played by civil society in influencing political decision making and influencing the process of formulating and drafting laws.

Second: the President's continuous refusal to ratify the draft law, which stipulates that the Ministry of Justice is the reference for registering societies, forces the issue of building a Palestinian civil society into a true crisis. Charitable societies and organizations are considered one of the basic foundations for building any civil society and are considered the framework through which members of the society deal with their state on a collective rather than individual basis. This could lessen any opportunities for the state to exercise oppression and control over the society. Ordinarily, and this is the norm for all democratic countries, there should be a clear-cut law that draws a dividing line between the practice of executive duties by the state and between the state's arbitrary practice of these duties. This law should guarantee and ensure free and independent work for societal organizations (non-governmental in particular). The absence of such a law makes it easier for the state to exercise its arbitrary measures on the society and to quell any collective activities aimed at serving the society. The presence of the Ministry of Justice as a reference for these organizations symbolizes the civil/legal dimension in the relationship between the state and civil society institutions. Moreover, the supervision of the Ministry of Justice over the activities of these institutions may give a civil and democratic picture of Palestinian society and its Authority. This, in turn will invite international support for the efforts of the Authority, which aim at building the Palestinian State. The idea of the Ministry of Interior supervising the work of these institutions is a concoction of the Israeli occupation. In 1981, the occupation issued Military Order No. 686, with which it replaced Article 2 of the Law of Ottoman Societies, which stipulated that the establishment of a society does not require a license and that it is sufficient only to inform the relevant parties. According to the new amendment, it became required that "the founders should submit an application for registering the society to the relevant parties, which includes the name of the society, its goals, its regional address, names of founders, their ages and ID numbers." As it is understood from military communiqué No. 2, which was issued by the Israeli army commandment in 1967, the concerned authority is the military governor of the West Bank and Gaza who is given, according to this communiqué, all executive, administrative and legislative authorities in the West Bank and Gaza.⁴⁶ The purpose was to forward the clear and frank goal of imposing strict monitoring over the Palestinian society, particularly the work of Palestinian institutions and

46 See military communiqué no. 2 **in the communiqués and statements of the Israeli Defense Forces** in the Gaza Strip and North Sinai 1 (14 September 1967).

organizations, including charitable and non-governmental organizations. Hence, the President's failure to approve the law very simply reflects the intention of the National Authority to practice an arbitrary and aggressive role over the population in areas under its jurisdiction and its intention of not developing institutions that monitor its performance such as NGOs.

The question that arises now is in regards to the role of the Legislative Council as an elected legislative institution in light of such conditions. In reality, the Legislative Council bears the major portion of responsibility in exerting pressure on the Executive Authority to approve the law because of its importance in building Palestinian civil society. The Palestinian Legislative Council is obligated to develop ways of pressuring the Executive Authority and is also obligated to carry out its role of supervision over and accountability for its performance. The supervision and accountability that the council should practice on the Executive Authority is that related to the necessity of holding the Executive Authority accountable for its repeated refusal to approve important laws such as the Basic Law in the past and the Law of Charitable Organizations and Non-Governmental Organizations at present. However, during the follow-up on the performance of the Council whether in the first two terms or in the third term, it can be noticed that the Council has done nothing and has no intention of doing anything to that effect⁴⁷. The experience with the budget draft law of 1998, which we will later address, is the best example of this reality.

General Budget Draft Law of 1998

On June 29, 1998, and in an exceptional session in Ramallah, the Council approved by a majority of 37 members, 22 objections and five abstentions from the 75 attending members, the general budget draft law of 1998. This came after a delay of almost seven months after the legal deadline for

⁴⁷ When preparing this report, several new developments took place in regards to the Charitable Societies and Non-Governmental Organizations draft law. We will discuss these developments in detail in the evaluation report of the fourth term of the Palestinian Legislative Council. Regarding the mentioned reports, see **the letter of the Center to the Minister of Environment Dr. Yousef Abu Safiyah on August 31, 1999 and the statement of the Palestinian Center for Human Rights No. 84/99 on September 1, 1999.**

presenting the budget.⁴⁸ The budget amounted to one billion, eight hundred fifty eight million and thirty seven thousand US dollars. The budget was classified as follows:

1. General Revenues: estimated at US\$1,821,000 and categorized as follows: a) local revenues, which include taxation on income and profits (\$72 million). b) customs (\$19,550,000), c) VAT and sales tax (\$477 million), d) Other taxes (six million), e) Revenues other than taxation (\$171 million), f) estimated grants for funding development projects (\$900 million).
2. Current expenditures: estimated at eight hundred and ninety-four million and forty-six US dollars and categorized as follows: (a Salaries and wages (\$50,083,000) (b. operational expenses (\$17,235,000) c. transferal expenditures (\$221 million) d. other expenditures (\$28 million).
3. Capital development expenditures: estimated at one thousand, eight hundred, fifty-eight million and thirty-seven US dollars, and categorized as follows: a. Capital expenditures funded by the treasury (\$6,391,000) b. development expenditures funded by donations (\$900 million).⁴⁹

Particular importance is given to the general budget law by any parliamentary institution in its relationship with the executive authority, since the latter is the reference by which that institution can hold the executive authority financially accountable. Hence, it is very important to address the Council's deliberations and its activities in regards to the General Budget Draft Law of 1998 in order to find out whether there has been any democratic transformation in the nature of the relationship between it and the executive authority in the third term.

Council deliberations on the General Budget Draft Law of 1998

The general budget draft law of 1998 was considered one of the most outstanding issues given concern by the Council and was cause for debate and disputes with the Executive Authority throughout the third term. The Council began its deliberations on the draft law during the second session,

48 See minutes of the **exceptional session** on June 29, 1998 and **Al Ayyam** daily, June 30, 1998.

49 For more details, see Al-Ayyam Daily on June 30, 1998.

which was held in Ramallah on 17 – 19 March 1998, when Abu Ala', Legislative Council Speaker, criticized the fact that the budget was not presented to the Council by the date of approval. In the same session, Sa'di Al Krunz, head of the budget committee and financial affairs put the blame on the Cabinet for not presenting the budget. Representative Dauod Al Zeer said that the maximum deadline permitted for postponing the presentation of the budget is three months after the legal date of presentation, which is the end of October 1997, or two months before the previous fiscal year. However, the authority did not commit to this and presented the budget seven months late, which contradicts with the bylaw of the Council.⁵⁰ Nevertheless, representative Jamal AL Shubaki and other members who attended the session called for giving the Cabinet a period of one week from the date the budget was presented and to convene a special session for a no-confidence motion against the Cabinet in case it does not commit to the specified time period, in addition to holding Minister of Finance Muhammad Zuhdi Al Nashashibi responsible for the delay and granting him a no-confidence vote. In addition, during this session, the Council sent a written letter to the Cabinet, which reproached and condemned the fact that the budget was not presented at the specified date. The Council also adopted resolution 253/2/3 in the session in which it called on Minister of Finance Nashashibi to attend the coming session of the Council to inquire about why the budget was not presented at the due date.⁵¹

In an exceptional Council session held in Ramallah on 30 March 1998, Minister Al Nashashibi answered questions and inquiries from the members in regards to why the budget was not presented until that date. In a report presented to the Council during the session, Al Nashashibi clarified the reasons and obstacles that prevented the presentation of the budget until that date. His justifications revolved around the nature of the difficult economic conditions under which the budget was prepared. The conditions mentioned were the continuation of the economic closure imposed by Israel on the West Bank and Gaza Strip and the lengthy bilateral discussions with Authority ministries and representatives of 35 other governmental organizations, which continued for five months until a final draft was drawn

50 In this regard, see **Article 74 of the bylaw of the Palestinian Legislative Council**, and **the Legislative Council: performance evaluation of the first two terms (March 1996 – March 1998)**, Palestinian Center for Human Rights, series study (13), November 1998, p57.

⁵¹ See minutes of third term. Also, see **the Palestinian Legislative Council: a monthly magazine of the Palestinian Legislative Council**, third year, March 1998, p.30; **Al-Risallah** daily, 26 March 1998.

up for the 1998 budget. He added that, by means of the President, on 27 November 1998 he presented the budget to the Cabinet for discussion and ratification. However, for certain reasons the Cabinet was not able to discuss and ratify it. Only at a later date was the council able to discuss and ratify the budget. After Al Nashashibi finished presenting his report on the 1998 budget, he presented the budget to Council Speaker Abu Ala', who praised the efforts of the Ministry of Finance for preparing the budget. He then referred it to the relevant committee in the Council (Budget and Financial Affairs Committee) to study and comment on it.⁵²

On 21 April 1998, the budget and financial affairs committee met with Minister of Finance Muhammad Zuhdi Al Nashashibi and Director of the General Budget 'Ablah Al Nashashibi, the minister's daughter. The meeting addressed the public revenues of the Palestinian Authority and mechanisms for covering the deficit, estimated at \$37 million for 1998. The meeting also addressed the initial comments and recommendations of the budget and financial affairs committee regarding the 1998 budget. The comments and recommendations are as follows: First, the committee considered that the 1998 budget included the same mistakes that were in the 1997 budget. The major mistakes include the absence of clear ministerial and institutional structure in the Authority and the personnel inflation in the Authority's institutions.⁵³ Second: based on the aforementioned, the Committee underlines the need to implement the committee's recommendations and comments regarding the 1997 budget and everything included in the report of the General Control Committee of 1996 in regards to the administrative performance of the Authority's institutions and ministries. It also stressed on implementation of the first stages of the administrative and financial section of the Civil Service Law through seeking to provide \$70 million for the law in the 1997 budget. Third, the Committee's recommendations urged the Executive Authority to work on supporting the deteriorating educational situation in Palestinian universities through offering \$14 million to support Palestinian universities. Fourth, the Committee's recommendations also included a request to the Executive Authority to cancel the 5 % cut, which is deducted from employees' salaries, to allocate a cost of living allowance and to establish a directorate for public salaries in the Ministry of Finance, which would be

52 See minutes of the third term sessions, particularly minutes of the **exceptional session** on 30 March 1998. See also, **Al-Ayyam** daily, 30 June 1998.

53 Regarding comments and recommendations of the Budget Committee on the deficiency of the 1997 budget, see **Palestinian Legislative Council: Performance evaluation in the first two terms (March 1996 – March 1998)**. Palestinian Center for Human Rights. Series study (13), November 1998, p59.

responsible for preparing salary scales in coordination with the competent parties.⁵⁴

The meeting concluded in an agreement between the Ministry of Finance and the budget and financial affairs committee. The Minister of Finance would present the committees' comments and recommendations to the Executive Authority on condition that the minister reply to the committee during a meeting to be held between the committee and the minister one week later. This would be a preliminary meeting for the committee to prepare its final report on the budget and to present it to the Council for ratification. However, the Executive Authority did not send its comments on committees' recommendations and comments. Consequently, the committee was obligated to present its reports to the Council in the fifth session, which was held in Gaza on 28 April 1998.⁵⁵ On 9 May 1998, the Council sent a written letter to the Cabinet in which it highlighted the need to respond to the budget committee's comments in regards to the 1998 budget within two weeks.

In its session held in Ramallah on 11 – 13 May, 1998 and in light of the report of budget and financial affairs committee regarding the 1998 budget, the Council issued resolution 269/6/3 in which it confirmed the intention to convene a special session to conduct a no-confidence vote against the government if it does not present its comments on the budget committee's recommendations regarding the 1998 budget within two weeks.⁵⁶ However, the Council did not respond to the comments and recommendations of the budget committee concerning the 1998 budget within the given time period. Consequently, the Council was forced to set a date for convening the seventh session to present a no-confidence motion against the government.⁵⁷

Following, Minister Muhammad Al Nashashibi attended the seventh session of the Council in Ramallah on 26 – 31 May 1998 to explain the Ministry of Finance and the Executive Authority's position on the recommendations and amendments of the budget and financial affairs committee, which the Council requested to be added to the 1998 budget. The Council confirmed that if the Committee's recommendations regarding

54 See, Al-Ayyam, 12 April 1998.

55 For more details, see **Al Hayyat Al Jadidah**, 1, 22 April 1998.

56 For more information, see minutes of 3rd term sessions, particularly minutes of **the 6th session** on 11 – 13 May 1998.

57 **Ibid.**; **Al Hayyat Al Jadidah**, 27 May 1998.

an increase of expenditures (\$70 million to implement the Civil Service Law and \$14 million to support Palestinian universities) are approved, this would increase the budget's deficit by \$89 million, thus pushing the overall deficit up to \$126 million. Al Nashashibi added that the Authority's budget could neither afford nor provide this. From his part, then head of budget and financial affairs committee Sa'di al-Krunz clarified that this amount could be provided, particularly since the Authority's revenues from its commissions and institutions total approximately one billion dollars each year. Al Krunz added that these revenues are collected by the Authority but are not included in its general budget. Consequently, if these earnings were added to the Authority's budget, it would facilitate the implementation of the committee's recommendations.

Several members of the Council confirmed that the fact that income from Authority companies and commissions is not included in the budget is mainly attributed to the policy of the Executive Authority. It has worked and is still working towards marginalizing the Legislative Council in a way that has negatively affected and still affects establishing cooperation between it and the Council in regards to supervising and monitoring these institutions.⁵⁸

Based on the aforementioned, members of the Council called for adopting a new approach in its relationship with the Executive Authority and holding a questioning session for the government and proposing the issue of a no-confidence motion more seriously. Accordingly, the Council adopted resolution 282/7/2 in which it decided to convene an exceptional session in Ramallah on 15 June 1998 to vote on a no-confidence motion against the government after it rejected the Council's recommendations and comments on the 1998 budget.⁵⁹

Although the session was held, the issue of a no-confidence motion against the government was not brought up. It was postponed until another session when Council Speaker Abu Ala', informed the members that on 14 June 1998 he received a decision from the PLO Executive Committee, which stated that, in its session on 11 June 1998, it decided to conduct a Cabinet shuffle within ten days. Abu Ala added that on 11 June 1998, he also received a letter from President Yasser Arafat stipulating the need to postpone the Council's special session until 25 June 1998. This was in

58 See, minutes of 3^d term sessions, particularly minutes of the seventh session. Also, see Al Quds daily, 29 May 1998.

59 See **resolution 282/7/3 issued by the Palestinian Legislative Council in its seventh session on 30 May 1998; Ibid.**

order to give the government the chance to hold consultations over the new governmental formation and the 1998 budget in addition to other pending issues between the Executive Authority and the Legislative Council.⁶⁰

In the eighth session held in Ramallah between 23 – 25 June 1998, particularly on the second day (24 June 1998) member Hikmat Zeid, head of the economic committee at the time along with the majority of members, suggested that the Council accept the required time slot. Accordingly, the Council sent a letter to the President informing him of its acceptance of the time given to the Cabinet to explain its position on the Council committee recommendations in regards to the budget for the purpose of the new government formation by 25 June 1998. On the last day of the session (25 June 1998), Sadi Al Krunz proposed that the Council convene an exceptional session on 29 June 1998 to discuss the new government formation and the 1998 budget draft law.⁶¹

In the exceptional session held in Ramallah on 29 June 1998, Sa'di Al Krunz informed the Council of the Cabinet's approval of the budget committee recommendations. These recommendations are in regards to allocating \$14 million to support Palestinian universities, canceling the 5% cut from personnel salary and implementing the financial and administrative aspects of the Civil Service Law after agreeing with the Executive Authority on securing \$35 million to implement the financial aspect of the law. However, the issue of implementing the General Control Committee report's recommendation and including the earnings of Authority-owned commissions and companies, remained suspended. Al Krunz added that the Committee previously received a memorandum from Cabinet Secretary Ahmad Abdel Rahman, in which he informed them that the Cabinet accepted the Committee's recommendations and comments on allocation of part of the budget for implementing the financial and administrative aspects of the Civil Service law, supporting the educational conditions in Palestinian universities and canceling the 5% deduction from personnel salaries. Accordingly, with 75 members present and 12 absent, the Council approved the 1998 budget law by a majority of 37 members, with 22 opposing and five abstaining. Approval of the law was given after the addition of some amendments requested by the Council's financial committee after a delay of seven months from the legal date of its presentation by the Cabinet.

60 See minutes of the **exceptional session** on 15 June 1998 and **Al Quds daily**, 23 June 1998.

61 See minutes of the third term sessions, especially the **eighth session**.

Evaluation of the relationship between the Executive Authority and the Legislative Council in light of the 1998 budget draft law

The relationship between the Palestinian Legislative Council and the Executive Authority in the first two terms was characterized by the Executive Authority's indifference towards the Council's activities and the continuous attempts to marginalize and absent its role in Palestinian political life. The Council completed its first two terms without succeeding in making any serious changes to this relationship. It was expected that the Council would seriously seek to overcome this kind of relationship in its third term by making use of available means such as the no-confidence motion as ways to pressure the Executive Authority in creating a new relationship that is based on the grounds of accountability and transparency. However, by reviewing the experience of the 1998 budget law and the deliberations of the Council in this regard, it can be seen that the Council was lacking in any seriousness to overcome this type of relationship. Since its second session held in Ramallah on 17 – 19 March 1998, the Council has expressed its condemnation and concern over the fact that the 1998 budget has not been presented. It confirmed that the maximum deadline for the delay in presenting the budget is three months after the end of the final legal deadline for its presentation, which is two months before the end of the previous fiscal year. In other words, according to council's bylaw, the maximum deadline for presenting the 1998 budget was the end of January 1998. In spite of this, the government did not commit to this date and disregarded the Council when it threatened it with a no-confidence motion because of its failure to commit to this date. The natural reaction from the Council in light of these conditions would have been to begin no-confidence measures against the government, particularly given that the Council faced the same crisis during the first two terms. At that time the Council made it clear on more than one occasion that it would not allow a recurrence of the policy of stalling and disregard from the Executive Authority during the first two terms. However, it did not take these measures.

The policy of disregard and procrastination, which the Executive Authority continued to apply to the Legislative Council was clear during the discussions and deliberations between the Legislative Council and the Executive Authority regarding the comments and recommendations from the budget and financial affairs committee on the 1998 budget. On 21 April 1998, the budget committee held a meeting with the Ministry of Finance in order to discuss the comments and recommendations of the committee regarding the 1998 budget. During the meeting there was an agreement

that the Minister of Finance would present the comments and recommendations to the Cabinet for commentary. However, the Cabinet disregarded these recommendations and comments. Accordingly, the Council sent a letter to the Cabinet on 9 May 1998 demanding a response on the comments and recommendations within two weeks. Despite the fact that the Cabinet did not respond to this demand, the Legislative Council did not undertake any measures towards a no-confidence motion against the government. It only adopted resolution (269/6/3) in which it reiterated its insistence to hold a special session for a vote of no-confidence against the government.

After the Cabinet rejected the recommendations and comments of the committee on 31 May 1998, the Council decided to set 15 June 1998 as the date for the no-confidence session. The date was postponed after interference from the President of the Palestinian National Authority who demanded that the Council give the Cabinet an additional period of time to enable it to accurately review the budget and comments of the committee. Despite the Cabinet's refusal to agree to the recommendations by the Council's committee related to implementation of the recommendations of the General Control committee, in addition to its rejection to broach the subject of including Authority-owned institutions and commissions in budget discussions, - which is the most important aspect of the committee's recommendations - the Council approved the budget on 29 June 1998. By this, it implicitly gave its acceptance of the policy of disregard and indifference adopted by the Executive Authority. It also gave legitimacy to the undemocratic approach in its relationship with the Council. The Council also raised questions regarding the possibility of a deal between the budget committee and the Executive Authority.⁶² This, in fact, could not be justified since the Council in particular is a parliamentary institution aimed at strengthening the principles of democratic and institutional work and developing the essential and necessary institutional framework for creating a relationship of transparency and accountability between the three authorities: the legislative, executive and judiciary.

62 Legislative Council member Mu'awyah al-Masri expressed his belief that approval of the budget was on the grounds of a deal between the budget committee and the Executive Authority. Representative al-Masri said in this context "there is a deal between the budget committee or some of its members and the Executive Authority. It is a deal that I am not pleased with and suspect its intentions. May be it has a relationship with the ministerial structure. Regarding that, see **Al-Risaleh** Newspaper on 2 July 1998.

Therefore, it is possible to say that the type of relationship that developed between the Legislative Council and Executive Authority throughout the first two terms was based on disregard and indifference by the Executive Authority towards resolutions and Council draft laws and activities. No transformation or development towards a democratic approach based on the principles of accountability and transparency took place in the third term. This type of relationship was further reinforced through the Council's experience with the Civil Service Law. Therefore, it would be useful to present the experience of the Civil Service Law in order to have a comprehensive and accurate picture of the nature of the relationship between the Legislative Council and the Executive Authority.

Experience of the Civil Service Law

The Civil Service Law can be considered the first of its kind issued by the Palestinian Authority for the purpose of organizing the work of the public sector in the Palestinian territories. This law came after many years of Israeli occupation in the West Bank and Gaza Strip, which worked through issuing laws and legislations to ensure the deterioration and backwardness of this crucial sector. The law is comprised of six chapters and 106 articles, which attempt to address the various aspects of the civil service sector in areas under the Palestinian National Authority. The first chapter includes definitions and general principles. It specifies the authorities of the Cabinet in the overall supervision of Civil Service affairs through reviewing the salary scale and allowances and determining their value. It also specifies the authorities and duties of governmental departments in addition to determining the duties and jurisdictions of the personnel affairs department, Diwan.

As for the second chapter, it categorizes government personnel into five categories: 1. The special category: includes employees who are appointed to the post of minister from heads of governmental departments. 2. The first category: includes high-ranked planning and supervising posts. These jobs have the responsibility of supervision over implementation of the goals of government departments in the various specializations, formulating plans and programs and decision making. This category includes: undersecretaries, director generals and heads of departments. Employees of this category should have the necessary educational qualifications and experience. 3. The second category: includes employees who have specialized work in various fields, such as in medicine, engineering, administration or legal, accounting, economic and financial fields or social professions, etc... This category includes employees of government

departments that require various specialized skills. 4. The third category: includes technical, writing and secretarial work. 5. The fourth category: includes vocational professions in various fields such as operational fields, maintenance, movement, transport, etc. 6. The fifth category: includes service posts such as guards, postmen (correspondents) and others. In fact, this chapter divides all of the previous categories into a number of levels, covering the period of service from the date of joining the service until the end. In addition, the chapter includes a system for appointment, employment, promotions, incentives and moving from one level to another within the same category. It also determines educational qualifications, experience, seniority and work efficiency as basic specifications for appointments, promotions and moving up from one level to another or from one category to another.

The third chapter deals with a system for salaries, allowances, work duties and conduct and disciplinary and punitive measures. The fourth chapter addresses a system for vacations such as leave without pay, the annual vacation, etc. The fifth chapter discusses end of service, conditions for ending service and employees' dues at the end of his/her service.

In regards to chapter six, it sets transitional regulations and grants the Cabinet jurisdiction to specify the rules and regulations for transferring civil service employees to levels and categories once the law is implemented. It also discusses the mechanisms for transferring the employees to these levels and categories through one or more committee, which would be formed by the head of each governmental department in coordination with the general personnel department, Diwan. In addition, the chapter specifies a mechanism for dealing with unjustness towards employees in regards to any administrative or other decisions issued in the course of their work.⁶³

Clearly, the civil service law is comprehensive; it deals with most aspects of civil services and sets the legal foundations for developing and promoting this sector. In fact, the law addresses the concerns of many Palestinian governmental political circles, primarily the Palestinian Legislative Council

⁶³ See Law (4) of 1998 in issuing the Civil Service Law which was issued by the President of the Palestinian National Authority on 28 May 1998.

and Palestinian non-governmental circles.⁶⁴ This broad official and unofficial concern with the Civil Service Law results from the fact that the law affects the interests of a wide sector of Palestinians who reside in areas under PA control. The law's purpose is to rectify the conditions of around 76,000 citizens who work in the civil service sector of the National Authority.⁶⁵

In fact, the most important aspect of the Civil Service Law is its possible role in rectifying the situation of the administrative system, which is based on selectivity, individual relationships, personal loyalties, and political considerations as a basic and major determiner for being part of this system.⁶⁶ The law, through its specification of professional skills and expertise as a basic determiner for existence in the Authority's institutions and ministries, regardless of political, economic and social background and personal loyalty could be used as a philosophical or normative foundation to create and develop professional administration. In general, the system of professional administration is an important and vital requirement for state building and for carrying out the tasks of national development. This demand becomes more urgent if the society suffers from the absence of a

64 For example, on 7 February 1999, The Palestinian Center for Human Rights organized a workshop on "implementation of the Civil Service Law for employees of the government's civil apparatus." Among the participants were several PLC members, representatives of non-governmental organizations, lawyers and several people concerned with human rights and civil societies. The workshop discussed the erroneous implementations of the law and mechanisms for rectifying this. (the following part of the study will discuss the erroneous developments and implementation of the law).

65 Estimates show that the total number of the Authority personnel (civilian and military) reached 112,000 by the end of 1998. The number of military employees is 36,000 while the number of civilians is 76,000. In this regard, see: **Palestinian Legislative Council: Special Supplementary on the Civil Service Law. Palestinian Legislative Council**, edition 1, fourth year, 1999, p.8.

66 The system of administration, which is characterized by the aforementioned features is called a system of Patronage Administration. Normally, it is part of a general and comprehensive political system, which is based on the same concepts and characteristics. In other words, it is part of a Patronage Administration system that expresses "the arbitrary practice of one form of authority by an autocrat and his direct control over public administration and his establishment of relationships based on individual loyalty to him through transferring resources to his supporters, which provides further opportunity for this method of relationships to spread from the top of the hierarchy to its base. In this regard, see Jamil Hilal. **The Palestinian Political System after Oslo: analysis and critical study**. Institute of Palestinian Democracy Studies (Muwaten), Ramallah, 1998, p.196.

national bourgeoisie, which could participate in accomplishing these tasks, as is the situation with the Palestinians.⁶⁷

In light of this, the importance of bringing the law into force and enacting it arises. The issue of bringing the law into force is nationalistically-oriented over and above being economically or socially oriented. This is in light of the role that it could play in developing the public sector through restructuring the existing bureaucratic system, and pushing it towards an administrative system that works according to the technocratic concept, or in other words the *Weber* concept,⁶⁸ as a prerequisite for the carrying out

67. The economic policies of the Israeli occupation towards the West Bank and Gaza Strip economy over three decades of occupation led to the hindrance of any economic development in these areas and prohibited the establishment of a national bourgeoisie, which could participate in accomplishing the obligations of national development. In this regard, refer to Ribhi Qatamesh, **The Palestinian Working Class in the Face of Colonialism**. Az-Zahrah Center for Studies and Research; Jerusalem, September 1989, pp. 14 – 114. Consequently, the need arises for developing an active Palestinian public sector in order to carry out the obligations of national development. In regards to the important role that could be played by the public sector, based on technocratic and professional grounds in building the state and accomplishing the obligations of national development in light of the absence of a national bourgeoisie, see, Thorvald Gran. **Political Theory of Administrative Innovation: Public Administration as agent of economic modernization**. (working paper), University of Bergen, Norway, August 1995.

68 Max Feber, a German sociologist and one contributor in the development of general administration, defines the characteristics of the active bureaucratic system as follows: 1. It is based on objective standards for employment that depend on interviews and educational background and experience as a basic determiner for gauging the extent of individual suitability for professional status. 2. Job levels according to a clear structure that defines the relationship of civil servants between themselves at various levels of administration. 3. Individual status in this system is acquired from job descriptions and not from social, political, economic, ethnic or religious background. 4. The presence of clear charters and laws that define authorities, duties and individual rights in that system. 5. The goal of the system should be to the translation of policies and laws (policy implementation) on which the legislative authority is based into forms of services and commodities that should be offered to the people. 6. These services and commodities should be provided to citizens in the same quantity and quality regardless of their social, economic or ethnic backgrounds or their political affiliations. This is based on the premise that they are equal citizens in their rights and duties. It should be mentioned in this context that developing an administrative system with the mentioned characteristics basically necessitates the availability of a democratic environment. In other words, its needs a democratic context, which is represented in a political system that respects pluralism and the principle of separation between authorities, which would result in the reinforcement of the principle of accountability and monitoring as a bases for the relationship between the three authorities. In this regard, see Heady, F. **Public Administration: A Comparative Perspective**. Merce Dekker, USA, 1991.

the process of state building successfully. Therefore, it would be useful to illustrate the Council's activities related to the implementation of the law for the purpose of knowing the extent of progress the Council made in carrying out its role as a parliamentary institution whose goal is approving and implementing laws as one of the basic foundations for building the state and the civil society.

Council deliberations on the follow up of the Civil Service Law's implementation

On 29 January 1997, in its 36th session of the first term held in Hebron, the Council approved the civil service draft law in its first reading. In its 12th session of the second term held on 3 June 1997 in Ramallah, the Council approved the mentioned draft law in its second reading and presented it to the President for approval and comments. However, the President did not approve or send his comments on the draft law within the legal time period, which is 30 days after the date the law was sent to him. Council Secretary Rawhi Fatouh stated that President Arafat gave his verbal approval of the law at the beginning of September 1997 and that he was waiting for financial endorsement for its implementation.⁶⁹ On 28 May 1998, the President approved the law for issuance. On 1 July 1998, the law was published in the official newspaper of the National Authority (Al Waqae'). Since 1 August 1998 the law has been in force. The Authority actually began implementation of the law from November 1998 when it gave a raise to government-employed teachers and those in the fourth and fifth categories, to be applied to the remaining employees on December 1998.⁷⁰

However, at the beginning of 1999, precisely on 6 January 1999, after receiving their salary statements, Authority employees were surprised at the decrease in their raises, which they were given in November and December of 1998. Consequently, the various categories of Authority employees held protest activities against the Authority's wrongful implementation of the law. The first activity was the assembly of department directors of Authority institutions and ministries near the General Personnel Department in Gaza. There they declared a partial strike in protest of canceling the provision of the law on struggle service⁷¹

69 In this regards, see **Civil Service Law between Theory and Reality**. Palestinian Center for Human Rights, series study (17), September 1999, p.10.

70 See the statement of the Palestinian Center of Human Rights on 25 January 1999.

71 "Struggle Service" means the efforts exerted by the citizens due to their participation in the resistance against the Israeli occupation.

for public sector personnel who worked in PLO institutions from the new salary categories granted in January 1999.

On the same date, 7,000 doctors working in government hospitals and clinics declared an open strike in protest of not being granted the specialization allowance or the profession allowance. In addition, 30 judges working in the judiciary system went on a one-hour warning strike to protest the application of the Civil Service Law on them, which led to a decrease in their salaries.⁷² On 14 January 1999, engineers employed by the government carried out a warning strike in front of the Palestinian Legislative Council headquarters to protest the disregard of their rights in the implementation of the Civil Service Law.⁷³

In an attempt to undertake its role as a parliamentary institution that aims to rectify the implementation of laws, in its third session held in Ramallah on 3 – 5 November 1998, the Council called on all concerned parties to commit to the accurate implementation of the law. The Council's call came after it received a letter from the Palestinian Medical Council urging for the intervention of the Executive Authority to urge it to correctly implement the law, to cancel the 5% cut, to pay a 100% profession allowance, to connect salaries to the consumer price index and to compensate for the devaluation of salaries.⁷⁴

On 13 January 1999, the Council received a letter from Ahmad Abdel Rahman, Palestinian Cabinet Secretary, in which he informed it that after hearing the report of the presidential committee regarding the erroneous

⁷² At the time, the judiciary demanded that the Civil Service Law not be applied to them since they are outside the framework of civil service and since the judiciary system is supposed to have its own special budget.

⁷³ **Ibid.**

⁷⁴ See minutes of the third term particularly **the 13th session.**

implementation of the law⁷⁵, the Cabinet decided to urge the presidential committee to pursue its work towards correcting the mistakes made in the implementation of the law, whether they are related to years of service, job degrees or fees for work. The Cabinet confirmed in its letter that its

75 On 2 October 1998, the Cabinet decided to establish a tripartite ministerial committee to decide on a mechanism for implementing the Civil Service Law. The Committee was comprised of Minister of Finance Muhammad Zuhdi al-Nashashibi, Minister of Planning and International Cooperation Dr. Nabil Shaath and Minister of Industry Sa'di al-Krunz. Later, on 2 October 1998, the Cabinet decided to add to the ministerial committee Dr. Abdel Aziz Abu Shari'ah, head of the General Personnel Department. On 6 November 1998 the Committee prepared a report on the Civil Service Law. The report concluded: 1. The need to expedite the implementation of the financial aspect of the law, since its implementation would cost only approximately NIS22 million. 2. The need to allocate, as soon as possible, NIS10 million to fifth and fourth level employees in addition to teachers. 3. Continuing to categorize second and third level employees on condition that the increase would be paid to them with their salary in December by the same previous mechanism. The cost is estimated at approximately NIS10 million. 4. Continuing the process of the following categorizing between the various departments and the General Personnel Department on condition of including workers of permanent unemployment. It will be included in the various governmental departments at a cost of NIS2 million. 5. The need to halt employment and promotion until the process of categorization is completed. All ministries are required to present their final structures to the Ministry of Planning and International Cooperation for discussion and final approval them. Based on these results, on 8 December 1998 the Cabinet adopted several recommendations related to the implementation of the second aspect of the Civil Service Law "third and second degrees." Among of these recommendations are: 1. The employee will be categorized according to qualifications of his appointment. 2. Salary is an acquired right and the salary statement shall include the provision "completing the salary" in case there is a deduction in the employee's salary.

On 8 January 1999, and after reviewing the negative ramifications which affected a high number of the employees during the implementation of the law, the Council adopted a decision to establish a presidential committee (technical committee) headed by president of the National Authority, Yasser Arafat, Minister of Finance, Muhammad Zuhdi al-Nashashibi, and other number of the ministers who are members in order to review the implementation of law. On 15 January 1999 and after hearing the report of the presidential committee pertaining to the wrong implementation of the law, the Council adopted its resolution no. 5 on 15 January 1999 in which it urged the presidential committee to continue with its work on correcting the mistakes that accompanied the implementation of law, whether those that are related to years of service, job grade, or the fee for the nature of work. Concerning that see, **Palestinian Legislative Council: Special Supplement Regarding the Civil Service Law. Palestinian Legislative Council**, no. (1) 1999, fourth year, p6-7.

decisions in this regard were retroactive so that no harm would be inflicted on workers in various sectors and facilities.⁷⁶

During its Ramallah session on 26 – 27 January 1999, the Council adopted Resolution 360/18/3, by which it established a committee that included: members of the Council's Legal Committee, members of the budget and financial affairs committee and Minister of Parliamentary Affairs Nabil Amer to discuss a method for correctly implementing the law.⁷⁷

The Committee met on 6 February 1999 with representatives from the ministries of education and health in addition to representatives of the technical committee to discuss the mechanism for implementing provisions of the law and to discuss the problems facing implementation. Among those who participated in the meeting were the head of the Council's Legal Committee Abdel Karim Abu Salah, Minister of Health Dr. Riyad al-Za'noun, Undersecretary of the Ministry of Health Dr. Munther al-Sharif, Director General of the Ministry of Health Dr. Fahd Al Sayd, Undersecretary of the Ministry of Education Abdallah Abdel Munim and Director General of the Ministry of Education Dr. Naim Abu al-Humus. Abu Salah presented the Council's position on the problems related to implementing the law. He confirmed that the absence of executive instructions for implementing the law and the Cabinet's failure to commit to preparing those instructions up to that date greatly impacted the problems that accompanied implementation. For this reason Abu Salah added that the Cabinet should expedite the preparation of these instructions particularly because six months had passed since the date on which the law was to be put into effect, which is ample time for preparing the instructions. The meeting concluded with an agreement between the attendees that the Council's committee would meet with the other technical committee members, the ministerial committee and head of the General Personnel Department Dr. Abdel Aziz Abu Sahri'ah to become acquainted with the various viewpoints regarding the problems of implementation.⁷⁸

In its 19th session held in Ramallah on 9 – 10 February 1999 and upon hearing the special report of Ministry of Education undersecretary Na'im Abu Al Humus pertaining to the teachers' strike, the Council mandated the education committee and social affairs to follow up on this issue. The Council also decided to call upon the Executive Authority to implement

76 Abdel Karim Abu Salah, **personal interview** on 4 April 1999.

77 In this regard, see minutes of the 3rd term's sessions particularly the **eighteenth session**.

78 See **Al Quds daily**, 7 February 1999.

Council resolution 59/6/1, which was issued on 20 June 1996 pertaining to cancellation of the 5% tax.⁷⁹

On 15 February 1999, the Council's budget and financial affairs committee, as a representative of the Council committee, met in the presence of the head of the General Personnel Department Abdel Aziz Abu Sahri'ah, with the rest the Cabinet members and representatives from the ministries of education and health. The meeting's purpose was to discuss the problems facing implementation of the law and to present a report to the Council in this regard in order to adopt the appropriate measures.⁸⁰

On 21 February 1999, the Council's legal committee, as a representative of the Council's committee which was formed to follow up on the correct method of implementation of the law, met with Dr. Abdel Aziz Abu Shari'ah, head of the General Personnel Department and Jaber Fuddah, Director General of the General Personnel Department, to discuss a mechanism for following up and implementing the law. The meeting, which was also attended by the Council Speaker's first deputy Ibrahim Abu Al Naja and Secretary Rawhi Fatouh concluded on the need to implement the law for all employees until the level of ministry undersecretary. They also agreed on the need for a special committee to follow up the dues of Palestinian freedom fighters before the status of any of them is effected as a result of the erroneous implementation of the law. Abdel Karim Samarah, head of the Council's legal committee, reiterated that the Council's committee for the follow up on the Civil Service Law would evaluate everything it had heard during its meetings with the various executive parties. It would also present a report to the Council on the law and the necessary mechanism for its correct implementation, in order that the appropriate decision be adopted.⁸¹

Based on consultations and meetings with the relevant parties, the Council's special committee for the follow up of the Civil Service Law later presented its report to the Council. The report gave the reasons behind the problems in implementing the law as follows:

1. The inaccurate implementation of the law: When the law was implemented on the fourth and fifth groups, it did not take into consideration the consumer price index, neither was the job allowance calculated. In addition, the administrative allowance was not calculated

⁷⁹ See minutes of the third term particularly the **19th session**.

⁸⁰ **Al-Quds daily**, 15 February 1999.

⁸¹ **Al-Quds daily**, 21 February 1999.

for employees. It deducted 30% of the allowance, which was paid to fourth and fifth group employees on November and December.⁸² In addition, the most important point is that implementing the law is closely connected to approving the budget law of 1999 which amounted to seven billion and 32 million shekels. The amount of allocations for salaries and wages in that budget amounted to two billion and 244 million shekels. Around 170 million shekels of the aforementioned amount was allocated for the implementation of part of the Civil Service Law and to deal with the financial burdens that may arise from appointments.⁸³ However, the failure of the Executive Authority to approve the 1999 budget up to that date negatively affected the implementation of the financial aspect of the law in addition to the creation of confusion in the Executive Authority in implementing the law.⁸⁴

2. This problem intensified with the absence of clear structures in PA ministries and agencies, which may serve as a reference for specifying job vacancies in each ministry and the financial obligations of each vacancy. Consequently, this contradicted with that stipulated in the second paragraph of the fourth article of the law which reaffirms that “governmental departments should set a project for their organizational structure and its divisions in which the specialization of each of them is defined; it shall be issued upon approval by the Cabinet. The process of drafting and developing the structure of the ministry is considered one of the basic factors for successful administrative work, which is capable of efficiently accomplishing its obligations. However, the vast majority of ministries have not presented their structures. At the date this report was prepared, the Cabinet had not issued its approval of the structure of any ministry.⁸⁵ This will no doubt help to create an administrative situation that is characterized by a system of employment not based on the principle of certain available vacancies in the ministerial structure that methodologically explains the necessary vacancy for the ministry to achieve its defined goal, which is previously prepared. However, the structure should not be based on a system of employment that is based on political, family, tribal or personal loyalties, etc. This gives the chance for administrative circumstances that would negatively affect the

82 Abdel Karim Abu Salah, **personal interview** on 4 April 1999. Also, see the **Palestinian Legislative Council: Special supplementary regarding the Civil Service Law**. Palestinian Legislative Council, edition (1), 1999 fourth year, pp. 4, 15.

83 See **Al Hayyat Al Jadidah Daily**, 6 April 1999.

84 Abdel Karim Abu Salah, **personal interview** on 4 April 1999.

85 **Ibid**.

ability of the existing administrative system to carry out its developmental obligations, such as bribes, wasta, affiliation, etc.

3. The absence of executive instructions to implement the law: Article 2 of the law stipulates that the Cabinet must “issue instructions and decisions for the implementation of the provisions of this law within a period not exceeding one year from the date of its implementation. Regardless, the Cabinet did not issue these instructions as of the date this study was prepared. This emphasizes how important it is for the Council to expedite the preparation of these instructions by 1 August 1998 at the latest, since the date the law was to be put into effect was 1 August 1998. This is in order to avoid the mistakes made in implementing the law and to achieve the correct implementation of the law whether in context or spirit.

The Council’s legal committee, as part of its efforts to save the Civil Service Law from crisis, guaranteed, in cooperation with the Ministry of Justice and the Fatwah and Legislation Department to prepare bylaws. These bylaws were presented to the Cabinet on 17 July 1999 for approval, however, the Cabinet has not approved them as of present. This is surprising, particularly since the law became binding on 1 August 1999.⁸⁶ In giving reasons for the Cabinet’s failure to approve the bylaws, Abdel Karim Abu Salah, head of the Legal Committee, confirmed the following to the Council:

“The absence of the necessary legal context (Constitution or Basic Law) that would render the implementation of a law such as the Civil Service Law possible, was one of the reasons behind the Cabinet’s failure to approve the executive instructions. Until now, the Cabinet has not convened independently from the weekly meeting of the Palestinian leadership, which negatively affected and will affect any possibility of institutional work inside the Cabinet.” For this reason, Abu Salah added, “it is very important to issue the Basic Law even if on an interim basis until a constitution is drawn up for the state. It is time that we work according to this law, which will solve many problems related to the implementation of other laws, such as those related to the implementation of the Civil Service Law”.⁸⁷

In light of this, it is possible that there is a basic structural problem in regards to the Executive Authority’s failure to commit to working in accordance with the Basic Law. In this sense, the Council is to blame for not developing a mechanism that would obligate the Executive Authority to

⁸⁶ Abdel Karim Abu Salah, **personal interview** on 29 August 1999.

⁸⁷ **Ibid.**

implement the Basic Law, as a foundation for bringing about the accurate implementation of other laws such the Civil Service Law. This law holds the nucleus of principles that regulate work between the authorities and that acknowledges the principle of pluralism and the separation of authorities, which results in substantiating the principle of accountability and monitoring between the three authorities. This will provide the necessary and essential democratic context to allow a possible discussion of a technocratic administrative system.

Consequently, the Civil Service Law has remained one of the suspended issues between the Legislative Council and the Executive Authority. By the end of its third term, the Legislative Council did not succeed in developing a mechanism for pressuring the Executive Authority and the Cabinet as part of that Authority to approve the executive instructions for that law and to bring about its actual and correct implementation.

Overall evaluation of the Council's qualitative performance in the third term

It can be noticed through a review of the Council's activities related to the follow up on the basic draft law, the judicial authority draft law, Law of Charitable Societies and Non-Governmental Organizations, 1998 budget draft law and implementation of the Civil Service Law, that the performance of the Legislative Council in its third term did not witness any tangible qualitative development. The Council was unable to obligate the Executive Authority to issue the Basic Law, the Judiciary Authority Law or the Law of Charitable and Non-Governmental Organizations. The Council was also not able to bind it to presenting the 1998 Budget Law on its due date. Also, it was not able to obligate it to correctly implement the Civil Service Law. It becomes apparent from these important tangible experiences that the Council's decisions on these issues were met with a policy of disregard and indifference by the Executive Authority. It can also be noticed that the Council, despite its awareness of the importance of these laws and the necessity of correctly implementing them did not develop mechanisms of pressure in order to prohibit the repetition of this same policy of disregard and carelessness in the future. On the contrary, these important and tangible experiences have proven that this policy carried out by the Executive Authority in the first two terms towards the Council's laws and resolutions were only reinforced and substantiated in the 3rd term. In this period, the Executive Authority was able to reinforce its domination and control over the Council. It was also able to minimize its character as a legislative institution aimed at providing a legal context to the work of

current institutions and to minimize the relationship of these institutions with citizens, rendering it an institution that merely issues laws that it is unable to implement.

Several members of the Council agreed with the previous analysis. Representative Husam Khader confirmed in an interview with Al-Risaleh newspaper on 12 March 1998, that “the will for change among members of the Council does not exist, therefore, I do not expect any change in the current system.” In the same discussion, Minister Mu’awyah al-Masri agreed with Khader’s pessimistic views. He added, “electing Abu ‘Ala to head the Council and Rawhi Fatouh as Secretary, is an indicator that the Council will witness further setbacks, since these people are known for their loyalty to President Yasser Arafat; they are concerned with pleasing the president of the Authority by any means.” In his speech during the opening session of a festival marking Democracy Day in Gaza City on 7 March 1999 member Nahed Al Rayes called for the need to develop the performance of the Palestinian Legislative Council to bring about reform.⁸⁸ Likewise, Abdel Karim Abu Salah confirmed that one of the main factors that led to this relationship of indifference and disregard by the Executive Authority towards the Palestinian Legislative Council and which hinders the Council’s development is “the control of revolutionary legitimacy over decision-making persons.” This control, added Abu Salah, “kills constitutional legitimacy and makes it difficult to reinforce democratic principles for the relationship with the Legislative Council.”⁸⁹

88 **Palestinian Legislative Council: monthly magazine of the Palestinian Legislative Council.** Second edition 1999 (fourth year), p10.

89 Abdel Karim Abu Salah, **personal interview** on 4 April 1999.

The Accountability and Monitoring Activity of the PLC is its third term

The PLC continued its accountability and monitoring activities in its third term through various channels and mechanisms in the following manner⁹⁰:

Decisions

As was the case with the first and second term, the social aspect affected the PLC accountability and monitoring activities; the PLC received during the third term more than 113 complaints submitted by several citizens⁹¹. These complaints dealt with various issues, such as the legal issues, human rights, settlements, economic issues, social issues, conduct of Palestinian security services and other issues of common interest. These complaints were the basis of 87 decisions taken by the PLC during that term in an attempt to respond to complaints and alleviate the burdens on the citizens.

Inquiries

The fact of the matter is that the PLC witnesses a notable retreat in terms of its special activities in directing inquiries to executive officials during their third term. There were 44 inquiries to ministers, deputy ministers and security services officials.etc⁹² compared with 69 inquiries during the second term⁹³ although there were 113 complaints during the third term. This does not mean that the inquiries to executive officials came as an expression of those complaints but that they play a certain role in defining the number and nature of inquiries directed by the PLC to the executive authority. The following table shows the number of inquiries directed by the

Within the context of the first report prepared by the Center on the performance of the PLC in the first and second terms, the decisions, questions, questioning, special Inquiry commissions, and the vote of no-confidence were taken as a basis in assessing the accountability and monitoring performance of the PLC.

The Legislative Council: A monthly magazine of the PLC. The Palestinian Legislative Council. First edition (fourth year), p. 34.

The number of inquiries directed to executive officials during the third term were counted through recording the minutes of the 30 sessions held during that term, including 20 regular sessions, 6 special sessions and 4 extraordinary sessions.

Concerning the number of inquiries directed by the PLC to executive officials in the second term, see the **Palestinian Legislative Council: Assessing the performance during the first and second terms (March 1996 0 March 1998).** The Palestinian Center for Human Rights, Series of Studies (13), November 1998, p. 76.

council to representatives of ministries and PNA institutions during the third term.

Ministry or Institution	Number of Inquiries
Postal and Communications	4
Local Governance	9
Labor	-
Health	4
Tourism and Antiquities	-
Education	-
Higher Education	-
Civil Affairs	5
Transportation	3
Industry	1
Agriculture	-
Finance	6
Housing	1
Waqf	-
Planning and International Cooperation	1
Justice	3
Culture and Information	-
Trade and Economy	1
Supplies	4
Public Works	-
Youth and Sports	1
Prisoners	1
PNA Chief Cabinet	-
Total	44

When looking at the nature of inquiries, it is clear that they are distributed on several pivots. There are inquiries pertaining to the public monitoring on the performance of the PNA, such as the cases of administrative corruption, financial violations. There are also issues of public freedoms, such as freedom of expression and publishing, political arrest and other relevant cases. Another pivot is the inquiries pertaining to administrative and organizational issues of the services and institutions of the PNA, especially those pertaining to the mechanisms of recruitment in the PNA institutions. The last pivot is related to inquiries pertaining to social and economic issues, such as the cases of health, education, housing, transportation, etc. It is noted that 50% of the inquiries were directed to executive officials during the third term were closed during the term while

the rest of the inquiries were transferred to competent committees because PLC members were not convinced of the responses they got⁹⁴.

In any case, the number of inquiries directed to executive officials during the third term is small if compared with the number of inquiries in the second term. There is no doubt that the PLC accountability activities retreated. One can conclude that the PLC became weaker in responding and expressing the burdens and complaints of the citizens through binding decisions to the executive authority as required.

Questioning

In further confirmation to the above-mentioned conclusion, the PLC did not use the questioning tool in its third term (The PLC did not form any inquiry commission) in any form despite the various violations of security services against citizens⁹⁵. These violations reached their peak when Palestinian national security forces attacked members of the PLC while they were holding a sit-in opposite the house of Imad Awadallah, an activist in Hamas Military Wing in protest against the siege imposed on the house of Awadallah by the preventive security apparatus; the siege was imposed on the house following the escape of Awadallah from the prison of the

See **minutes of sessions of third term**; see also **The Legislative Council: A monthly magazine of the PLC**. The Palestinian Legislative Council, second edition (fourth year), pp. 14-15.

See **minutes of the sessions of the third term**. On the violations committed by Palestinian security services against Palestinian citizens in 1998, see **annual report of the Palestinian Center for Human Rights (report of activities, financial report: January 1 – December 31, 1998)**, pp. 51–71.

preventive security apparatus in Jericho on August 15, 1998⁹⁶. The natural step that the PLC should have taken in following up this incident was to question Jibril Rjoub, chief of Palestinian Preventive Security Apparatus in the West Bank. However, the PLC did not do that. They only formed an inquiry commission to look into the case⁹⁷ and called on the executive committee to suspend Rjoub and subject him to interrogation; the call was not accompanied by any pressure mechanism on the executive authority⁹⁸. This raises a serious question on how serious can the PLC be in playing its role as a parliamentary institution that aims to lay the basis for accountability and monitoring in its relationship with the executive authority.

Special Inquiry Commissions

The PLC formed six inquiry commissions on issues dealing with the executive authority in the following manner:

On August 28, 1998, members of the Palestinian security apparatuses attacked several PLC members, journalists and human rights activists who were holding a sit-in near the house of the family of Imad Awadallah in al-Bireh City in protest against the siege imposed on the house after the escape of Imad from the preventive security apparatus prison in Jericho on August 15, 1998. The family members were not allowed to leave the house; no visitors were allowed in. It was an illegal measure committed by the security forces; it was also a form of collective punishment, which is banned by local and international laws. The measures of the security forces was condemned by the Palestinian masses; several PLC members, journalists and human rights activists gathered near the house on August 26, 1998, where members and employees in the PLC and journalists were beaten by security forces dressed up in civilian clothes. PLC members Abed Abu Rabbo, Jamal Shati and Suleiman Roumi were beaten. Awadallah and his brother Adel, leading activists in Hamas Military wing and most wanted by the Israeli security services, were killed during an attack launched by the Israeli troops on September 10, 1998 on a house in Hebron where the two brothers were hiding. (See **Al-Hayat Al-Jadida** newspaper on August 26, 1998 and September 11-12, 1998); see also **the annual report of the Palestinian Center for Human Rights (report on activities, financial report: January 1, December 31, 1998)**, p. 84.

Discussion of this committee will be dealt with in the part pertaining to the special inquiry commissions formed by the council during its third term.

On decisions of the PLC regarding the attack on the PLC members, see minutes of sessions of third term, especially the 11th session on August 25-27, 1998.

1- Inquiry Commission to follow up the martyrdom of Muhyiddin al-Shareef⁹⁹: The Council formed this commission in its fourth session held in Ramallah on April 14-16, 1998, when it ratified with a majority of 37 votes in favor and 19 votes against a proposal by the PNA presidential secretary to form the commission. The commission was headed by Ibrahim Abu Naja, the first deputy of the PLC Speaker with the following members: Kamal Sharafi, head of the Monitoring and Human Rights Committee in the PLC then; Fakhri Shaqqoura, head of the Interior, Security and Local Government Committee; Dr. Ziad Abu Amro, head of the Political Committee in the PLC; and Abdul Kareem Abu Salah, head of the Legal Committee in the PLC¹⁰⁰.

The Commission started its work through requesting all parties concerned in the case (Hamas and the PNA) to stop the media campaigns and the exchange of accusations. On April 19, 1998, they held a meeting with leaders of security services to know the official position of the executive authority on the case and assist in reducing the tension between the executive authority and Hamas then¹⁰¹.

Based on this, Ibrahim Abu Naja, head of the committee, affirmed in its fifth session held in Gaza on April 28, 1998, that the committee did not conclude its work and that the commission is still working in the case and holding contacts with the various parties¹⁰².

On the sixth session held in Ramallah on May 11-13, 1998, Abu Naja affirmed that the work of the commission is progressing, demanding the council for more time to prepare its report on the killing of Shareef. The

Muhyiddin Shareef was one of the leading and most active figures in Hamas Military Wing; he was wanted by both Palestinian and Israeli security services; On March 29, 1998, Shareef was found killed near a car that was bombed in one of the garages in the industrial zone in Ramallah. The case was engulfed with mystery. The medical report at the time said Shareef was killed with three bullets in his chest and leg prior to the car explosion; this mystery caused a tensed relation between the PNA and Hamas Movement and raised several questions amid official and popular circles on the party responsible for the killing of Shareef. The PLC held an extraordinary session in Ramallah on March 30, 1998, where they issued a statement denouncing the incident and called for self-restraint until the conclusion of the investigation and the revealing of all details on the incident. See **Al-Ayyam** and **al-Quds newspapers** on March 30-31, 1998.

See minutes of the sessions of the third term, especially the minutes of the **fourth session**.

See **Al-Ayyam** newspaper on April 20, 1998.

See minutes of the sessions of the third term, especially the minutes of the **fifth session**.

council agreed in its decision 3/6/273 on granting the commission two more weeks to conclude the report and submit it to the PLC in its seventh session¹⁰³. On a more thorough review of the minutes of the seventh session in Ramallah on May 26-31, 1998, it was noted that the commission did not submit its report.

The commission followed up its activities and efforts to conclude the report and met on June 15, 1998 with leading figures in Hamas and have a closer look at the official position of the movement regarding the case and the attempt to reach a national agreement that can guarantee no escalation of tension in the relation between Hamas and the executive authority. The meeting reached an agreement to handle the case within the context of the law¹⁰⁴.

In light of these developments, discussions and deliberations, the commission submitted its report in the eighth session in Ramallah on June 23-30, 1998. The commission recommended in its report on the need to support the viewpoints of all parties through a national agreement that can enable the judicial system to take its course in realization to the rule of the law. Based on this, the council took its decision no. 3/8/297, which commended the efforts of the commission in following up the case and preparing the report. The council demanded the executive authority to transfer the case to the judicial system and take necessary measures¹⁰⁵.

Through following up the minutes of the sessions until the end of the third term and the decisions issued during that period, it is clear that no one knows anything about the whereabouts of the report and whether it reached the courts or not.

2- Karameh Crossing Commission: The Council formed this commission in its sixth session on May 11-13, 1998, in order to look into the complaints made by several citizens on the suffering they face while entering and leaving the lands of the West Bank. The commission, which was headed by PLC Speaker Ahmad Qrei', included the following PLC members: Hikmat Zeid, head of the PLC Economic Committee, Abdul Fatteh Hamayel, secretary of the Interior, Security and Local Government PLC Committee. The commission also included members from the executive authority: Abdul Hafeeth Nofal, general director at the Ministry of Trade and Economy; Naser Tahboub, general director of Customs at the Ministry of

See minutes of **sixth session**.

See **Al-Ayyam** newspaper on June 15, 1998.

See minutes of the **eighth session**.

Trade and Economy; Wajeeh Atari, general director of crossings at the Ministry of Civil Affairs; Abdul Azeez A'raj, general director of trade at the ministry of Trade and Economy; Salah Eliyyan, general director at the PLC Speaker Office.

The commission started its work through visiting the Karameh crossing to see the daily routine and measures adopted in the crossing allocated to passengers and the trade crossing for goods. The commission also held a meeting with the minister of civil affairs Jamil Tarifi and minister of transport Ali Qawasmi and officers at the customs office on crossings and all other officials dealing with these difficult conditions. The commission submitted its report in its ninth session in Ramallah on July 13-14, 1998, where it stressed that there are several impediments set by the Israeli side to complicate and delay the movement of citizens across the crossing. It also stressed that goods, valuable items of citizens and clothes are stolen at the Israeli departments of customs and agriculture. The report recommended the reconsideration of customs imposed on Palestinians and facilitating their movement through one crossing phase and cancel the Jericho station. It also recommended that the Palestinian side should discuss opening dialogue with the Israeli side and working on opening the Karameh Crossing on 24-hour basis, as is the case in Rafah Crossing. After listening to the report, PLC Speaker transferred the report to the interior, economic and local government committees to have further comments¹⁰⁶.

In the minutes of the 12th session in Ramallah on October 20-22, 1998, the committees of the PLC presented their reports pertaining to the above-mentioned report. The report criticized the lack of clear jurisdictions and distribution of responsibilities. The report saw that the policy adopted regarding the crossings is inconvenient and needs coordination in order to prevent overlap of jurisdictions. The report recommended the need to consider the directorate of crossings as one of the directories of the interior ministry and issue clear instructions to all parties located at the crossings and formulate a "Palestinians' rights guidebook" which should include the "detailed measures" and that Palestinians should hold full responsibility for all passengers¹⁰⁷. The report also recommended the need to coordinate the work of security services at the crossings and that the national security service assume responsibility on the crossings since they are border

See minutes of the **ninth session** held on July 14, 1998 and **Al-Ayyam** newspaper on July 15, 1998.

See **al-Hayat al-Jadida** newspaper on November 15, 1998.

regions¹⁰⁸. In light of this, the council demanded the executive authority in that session the following:

- 1- Each director of a crossing must assume full responsibility for Palestinian administration and organization and be the major administrative reference for all bodies operating on the crossing.
- 2- Each Palestinian body located at the crossing must issue instructions to its employees to define their jurisdictions.
- 3- The national security service must assume responsibility on the crossing since it is a border region provided it coordinates its activities with the other security services.
- 4- To have the Palestinian side be responsible for all incoming and outgoing passengers, including those carrying VIP cards¹⁰⁹.

Upon looking closer at the minutes of that session, one can notice that there is no reference to those recommendations and demands and nobody knows what happened to them. The major problem lies in the fact that the executive authority does not abide by the recommendations and demands of the PLC. There is also the unique case of the crossing issue. This problem has direct relationship with the Israeli side; the Palestinian side has no absolute freedom in deciding on this issue or in defining the arrangements deemed appropriate to serve the Palestinian citizen. According to the interim agreements, any new arrangements on the crossings should be done in consultation and negotiation with the Israeli side¹¹⁰. This might have created difficulties for the executive authority in terms of translating the recommendations and demands into practical and concrete measures.

3- Inquiry Commission on the attack against several PLC members:

The council formed this committee in its special session held in Ramallah on August 31, 1998, to follow up the case of attack at several PLC members by members from the Palestinian security forces (preventive security) during the sit-in opposite the house of Imad Awadallah to protest against the siege imposed on his family. Forming this committee came following the listening to a report by minister of parliamentary affairs on the incident; he reviewed the measures taken by the PNA concerning the attack, including the formation of a committee from the military judiciary to

See minutes of the session of the third term, especially the 12th session; see also **al-Hayat al-Jadida** newspaper on November 15, 1998.

Ibid.

See **“The Protocol on Special Arrangements for Crossings”**. The Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip. Washington, September 28, 1995.

investigate the attack¹¹¹, and the affirmation by the Cabinet on the necessity of protecting the parliamentary immunity of PLC members. The PNA also stressed on the need to open the whole file of security services without hesitation and the need to take measures to rectify the shortages in the work of security services. However, the PLC members did not deem the report of Nabil Amro adequate and took their decision no. 3/18/321, which stipulated the formation of a committee headed by PLC Speaker Ahmad Qrei' and Kamal Sharafi, Fakhri Shaqourra and Abdul Kareem Abu Salah as members. The committee started its works through meeting with representatives of security services three weeks after its formation. The committee met with Haj Ismail Jabr, chief of national security forces in the West Bank and with Brig. Amin Hindi, chief of general intelligence apparatus in Gaza Strip and some other senior officers of security services in order to have more details on the case and reach agreements that will prevent the occurrence of such incidents in the future¹¹². Upon further examination of the minutes of the third term, there seems no sign to indicate the follow up or future of that committee and the recommendations it made.

However, Dr. Kamal Sharafi, a member in the committee, affirmed that "the work of the committee was concluded through taking the case to the military judicial system where they listened to the testimonies of the PLC members who were attacked and punishing those responsible in the attack incident through bringing them to military court"¹¹³.

4- Inquiry Commission on following up the poisoning case in Ein Bet Ilma camp near Nablus In its session on September 1-2, 1998, in Ramallah, the council commissioned the health committee resulting from the education and social affairs committee and the refugees affairs committee on following up the case of poisoning in the Ein Bet Ilma camp

On August 26, 1998, and following the attack committed by Palestinian security forces on PLC members, President Yasser Arafat, Head of the PNA, held a meeting which was attended by Tayyeb Abdul Rahim, PNA Presidential Secretary; Kamal Sharafi, head of the human rights committee in the PLC and Nabil Amro, minister of parliamentary affairs to discuss the case. President Arafat, who expressed his deepest resentment regarding the attack, decided the formation of a committee consisting of high ranking military officers under the supervision of Brig. Haj Ismail Jabr, chief of national security forces in the West Bank, to investigate the case; he also gave orders to lift the siege imposed on the house of Awadallah family. See **al-Quds newspaper** on August 27, 1988.

Dr. Kamal Sharafi, a **personal interview** on September 6, 1999.

Ibid.

and submit a report to the council as soon as possible so that the council can take the appropriate decisions¹¹⁴.

The committee followed up its work in order to prepare the report. It called the deputy health Minister Dr. Munther al-Shareef to the council sessions to get more explanation on the measures and prevention precautions taken by the ministry to prevent the spread of the disease and find out the reasons that led to the disease in the original place. In his report to the council, al-Shareef stressed that there is coordination between the Palestinian Health Ministry and the UNRWA and the NGOs in order to fight the disease and prevent its spread. He added that reasons behind the disease would only be known after concluding lab tests which were underway in the ministry¹¹⁵.

On September 10, 1998, the committee following up the case held a meeting at the PLC headquarters in Nablus with Mahmoud Aloul, Governor of Nablus; Munther al-Shareef, undersecretary of health ministry; Dr. Salqan, health director at the UNRWA. The meeting discussed the case; the members of the committee were briefed on the details and developments in the case. The participants in the meeting stressed on the need to work fast to find the reasons behind the disease and prepare the report¹¹⁶.

The committee also held a meeting with the water authority of Nablus city on October 13, 1998, in al-Bireh in order to hold consultations and exchange ideas on the case and come up with common vision on means to fight and prevent the spread of the disease. The water authority submitted its report which confirmed what came in the report of the health ministry and on the need to exert efforts to fight the disease and prevent its spread in the future¹¹⁷.

On December 3, 1998, the committee held a special meeting in Ramallah in which it discussed the disease. The committee formulated a final assessment of the case based on its discussions and previous meetings with the relevant parties. The assessment came as a first phase on the

At the end of August 1998, a disease spread in Ein Bet Ilma camp near Nablus, causing the poisoning of 511 persons. See **Al-Hayat Al-Jadida** newspaper on September 1, 1998.

See **al-Hayat al-Jadida** and **al-Quds newspapers** on September 2, 1998.

See **al-Quds** newspaper on September 11, 1998.

See **al-Ayyam** newspaper on December 4, 1998.

path towards the committee's report to be submitted to the council regarding the proper procedures and measures¹¹⁸.

In the special PLC session held in Ramallah on January 7th, 1999, the committee submitted its report which included the following recommendations:

- a- The need to request from the executive authority to coordinate with the UNRWA to rehabilitate the water and sewage system network in Ein Bet Ilma camp and other camps.
- b- The need to request from medical parties and parties providing water to intensify the lab tests on water, especially during the summer season.
- c- To stress that parties in charge of water and sewage networks must conduct the necessary maintenance and follow up of all extensions in the camps.
- d- The water authority and Nablus Municipality must conduct clear studies on the water that flows to the whole region.
- e- The need to request from the ministry of health and concerned parties to assume their role in putting an end to the violations pertaining to the irrigation from hard water, especially in east and west of Nablus¹¹⁹.

In fact, the council had ratified in that session all recommendations submitted by the committee to be submitted to the executive committee in order to work on them. Despite this fact, there was nothing in the minutes of the council sessions during the period of January 13, 1999 and March 7, 1999, the date in which the third term ended, showing any response by the executive authority regarding the recommendations or any form of follow up on the part of the council to push the executive authority to implement the recommendations¹²⁰.

5- The inquiry commission on the mysterious conditions surrounding the issue of purchasing cars for officials in the executive authority: the 17th session held in Ramallah city on January 5th, 1999, 24 members of the council submitted a memo talking about violations on tenders pertaining to cars that the authority wanted to purchase, stressing that deal was unnecessary. They demanded the Minister of Finance to reject the deal and stop disbursing the funds for that purpose. Thus, PLC member

See **al-Ayyam** newspaper on December 4, 1998.

See al-Quds newspaper on January 7, 1999.

See minutes of the third term in the period between January 17, 1998 and March 7, 1999 (the 18th session held on January 26; special session held on January 28; 19th session held on February 9 and concluding session held on March 7, 1999).

Ibrahim Abul Naja, the first deputy of the PLC Speaker, transferred the petition to the competent committees (monitoring, economic and budget) in order to consider what should be done. On its special session held in Ramallah on January 7-13, 1999, the council formed a committee consisting of members of the Finance and Budget Committee and members of the Legal Committee and members of the Economic Committee in the council. The session witnessed some attempts by members to raise the issue, but the PLC Speaker did not allow them to talk and he transferred the case into the committee to study it and prepare a complete report on the issue¹²¹.

After reviewing the minutes of the council sessions held on January 13, 1999, until March 8, 1999 (the date of the fourth term), the readings issued by the PLC and the reports in the newspapers, it was clear that there is nothing denoting any follow up activities during the third term.

6- An inquiry commission on political arrest: the council formed this committee during its session in Ramallah on January 7-13, 1999, to discuss the issue of political detainees. The session was a conclusion of a previous session held on January 5-7, 1999 (17th session) to discuss the issue. The council commissioned minister of parliamentarian affairs Nabil Amro to prepare a report on the issue¹²². In his report to the council on the issue of the political detainees, Amro blamed the executive authority because they rejected the call to attend the special session of the PLC to discuss the issue and because Justice Minister Freih Abu Mdein did not appear in the session although the council stressed on the presence of the Justice Minister during the deliberations on the issue. Amro denounced the rejection of the authority to give exact numbers of detainees in its prisons. Human rights organizations said the number ranges between 700-800 detainees, most of whom are members in Hamas and Islamic Jihad¹²³. Amro told the council about the decision of the Cabinet on transferring the files of political detainees to Minister of Justice and his ministry to study them and classify them and submit a report to the Cabinet towards taking appropriate decisions. However, the PLC members were not satisfied with the report of Amro and voted on forming a committee to follow up the file with the president and the concerned parties; 27 members voted for the decision while 9 members rejected it. The committee was headed by PLC Speaker Ahmad Qrei' with the following members: Nabil Amro and Hasan

The above mentioned deal consisted of 40 BMW cars for ministers of the PNA; for more details see **al-Quds newspaper** on January 7, 1999.

See minutes of the 17th session.

See **Istiqlal newspaper** on January 8, 1999.

Khreisheh¹²⁴. The committee started work through contacting the detainees and leaders of security apparatuses in the PNA. The committee with Col. Abu Sufyan, director of Jneid prison, and discussed the conditions of detainees and the possibility of releasing them. The committee also visited Jericho prison where they met with Col. Jibril Rjoub, chief of the Palestinian Preventive Security Apparatus in the West Bank, and discussed the conditions of detainees in that prison and stressed on their immediate release¹²⁵. In light of those discussions, the committee decided to submit its report to the council in its 18th session held in Ramallah on January 26-27, 1999. The report included the difficult conditions of the detainees in the authority prisons and the reasons of the crisis related to the continuation of detaining them. The reasons came as follows: 1- not abiding by the rule of the law; 2- not implementing the decisions of the higher court; 3- torture; 4- the arrests that are conducted without following standard procedure. The committee recommended the need to stop political arrests since it is illegal; it also recommended the canceling of the state security court and stopping all forms of torture exercised by some members of the security apparatuses¹²⁶.

The council in its 18th session in Ramallah demanded Nabil Amro and the human rights committee in the council to prepare a draft decision on this issue. However, the council in its 19th session held in Ramallah on February 10, 1999 did not witness any decision to that effect, but witnessed an affirmation by the council on its determination to follow up the issue and give it utmost importance and keep placing the issue on its agendas until a solution is reached. It seems that incapability of the council to take a decision was because of the delay by Nabil Amro and the human rights committee in preparing the report.

After reviewing the minutes of the council in its concluding session, no decision was taken on the issue; until the end of the third term, the issue of the political detainees remained one of the outstanding issues between the council and the executive authority.

In general, it is noticed that the council witnessed a notable increase in the number of committees formed during the third term. The number of inquiry

Several mothers of detainees broke into the session of the PLC and demanded the resignation of the PLC members because they failed in releasing their sons from prison. Ibrahim Abul Naja was forced to suspend the session for 20 minutes when the voices of mothers became too high in the hall; see **al-Ayyam** newspaper on January 28, 1999.

See **al-Hayat al-Jadida** newspaper on January 7, 1999.

for more details, see **al-Quds** and **al-Ayyam** newspapers on January 14, 1999.

commissions in the second term¹²⁷ was 4 while the third term witnessed six committees, which is an increase by 50%. This is considered a development (at least on the quantitative level) of the performance of the monitoring council in relation to using the inquiry commission as a means of monitoring the conduct of the executive authority, but the council could not show any development in using the inquiry commissions at the qualitative level. The council could not force the executive authority to abide by their recommendations. The council could not legislate a law to obligate those concerned in a certain issue to appear before their council. In fact, those two problems are the same ones that faced the inquiry commissions whether in the second or third term¹²⁸. This shows the importance of legislating laws which can bind the executive authority to implement the recommendations and proposals of the inquiry commissions and force those concerned to appear before their committees. When analyzing the reasons that negatively affect the work of the commissions, Rawia Shawwa explains:

"having influential persons in the inquiry commissions and at the same time representatives of the PLC weakens the capabilities of the commissions to perform their tasks efficiently"; she adds, "it is necessary that the commissions must include influential people; for example, some of the committees formed during the third term included some persons who represented the executive authority and the council at the same time. This overlap might affect the performance of the commissions negatively; it also affects the seriousness of the commissions in following up the cases which are disputed with the executive authority since the results that may be reached by the commissions can have negative impact on some of the PNA institutions, thus causing conflict in interests with influential people who might be members in the inquiry commissions. This might push some members in those commissions to deactivate and freeze the work of the commissions¹²⁹ .

Thus, the commissions must not have influential people in order to be activated so that their capacities can be maximized in affecting positively the performance of the PNA institutions; this can lead to some rectification

On the inquiry commissions formed by the council during the second term; see the Palestinian Legislative Council: **Assessing the performance during the second and third terms (March 1996 - March 1998)**. The Palestinian Center for Human Rights; Studies Series (13), November 1998, pp. 78-82.

Ibid. pp. 71-74, pp. 78-82.

Rawia Shawwa, **personal interview** on July 25, 1999.

of the flaws found here and there in the work of the apparatuses and institutions.

Vote of no confidence

The council using the vote of no confidence as a tool to exercise its monitoring role on the executive authority was one of the main controversial cases during the third term which witnessed several occasions where this particular was raised:

- 1- The council's second session held in Ramallah on March 17-19, 1998, witnessed a call for a no confidence vote on the government when several PLC members called for a special session to make the no confidence vote on the government if it does not submit the budget of 1998 within one week. The executive authority did not abide by the council's deadline but the council did not make the no confidence vote.
- 2- The issue of the no confidence on the government was raised once again in the sixth session of the council in Ramallah on May 11-13, 1998 when the council set the seventh session as the date for the no confidence vote on the government because it did not give any explanations regarding its non-abidance by the recommendations and comments submitted by the budget committee over the 1998 budget within the two-week deadline set by the council. However, the no confidence vote was not made following the attending of the Finance Minister Nashashibi in the seventh session and his explanation of the negative position of the government pertaining to the recommendations and comments.
- 3- As a result, the council re-affirmed in the same seventh session the need to make the no confidence vote on the government; the council set the date of June 15, 1998 as a date to take this step.

However, no session was held on June 15, 1998, because of President Arafat's interference and his demand to delay the session to June 25, 1998, in order to give a chance for consultations over the budget law of 1998 and the new ministerial formation. The council accepted that without hesitation. Although the budget of 1998 did not include the comments of the special committee according to the general control office report in 1996,

the council ratified the budget on June 29, 1998, thus raising doubts over the seriousness of its repeated threats to make a no confidence vote¹³⁰.

Aside from his approval of the 1998 budget law, and not including the comments in the general control committee report of 1996 and the report of the Council's committee, which was formed to follow up on the commission's report, he also approved the new government formation in August 1998. The Council approved the new formation despite the fact that it included some people who reportedly committed administrative, financial and legal offenses. Thus, the Council went against its clear position on the necessity of restructuring the government on new technocratic grounds, and not accepting any minister reportedly guilty of financial, administrative or legal offenses. That was one of the main conditions set by the council at the time in order to grant a vote of confidence to any new government.¹³¹ However, in its Ramallah session on 5 – 9 August 1998, with 86 members present and one absent, the Council surprisingly approved the new government formation with a majority of 55 members, 28 oppositions and 3 abstentions.¹³² The new Cabinet formation was as follows: Muhammad Zuhdi al-Nashashibi – Minister of Finance; Dr. Munther Salah – Minister of Higher Education; Mitri Abu Eita – Minister of Tourism; Bashir al-Barghouthi – Minister without portfolio; Yasser Abed Rabbo – Minister of Information; Rafiq al-Natsheh – Minister of Labor; Freih Abu Mdein – Minister of Justice; Maher al-Masri – Minister of Trade and Economy; Ali al-Qawasmi – Minister of Transportation; Jamil al-Tarifi – Minister of Liaison and Civil Affairs; Azzam al-Ahmad – Minister of Public Works; Dr. Nabil Shaath – Minister of Planning and International Cooperation, Intisar al-Wazir – Minister of Social Affairs; Dr. Saeb Erekat – Minister of Local Government; Abdel Aziz Shahin – Minister of Supplies; Imad al-Falouji – Minister of Post and Communications; Yousef Salameh – Acting Minister of Waqf¹³³ and Talal Sider – Minister of Youth and Sport.

In addition, the seven following ministers were added to the Cabinet: Dr. Yousef Abu Safiyeh – State Minister for Environmental Affairs; Dr. Sa'di al-

for more details, see **the deliberations of the council pertaining to the general budget law 1998**, pp. 26-30 of this report.

131 In this regard, see **the Palestinian Legislative Council: Performance evaluation in the first two terms (March 1996 – March 1998)**. Palestinian Center for Human Rights, series study (13), November 1998, pp. 77 – 82.

132 See minutes of the 3rd term sessions particularly the **special session** on 5 – 9 August 1998.

133 Minister Hasan Tahboub was to occupy position of Minister of Waqf, but he passed away on 27 April 1998. Since that date, Yousef Salameh, Undersecretary of the ministry, became acting minister.

Krunz – Minister of Industry; Hassan Asfour State Minister without Portfolio,¹³⁴ Hisham Abdel Razeq – State Minister for Prisoners Affairs; As'ad Abdel Qader – State Minister Without Portfolio; Ziad Abu Zayyad – State Minister Without Portfolio; Nabil Amro – Minister of Parliamentary Affairs.¹³⁵

In fact the new government formation caused a number of harsh responses among members of the Council. Representative Marwan al-Bargouthi considered the new government formation as “not radical or substantial and one that reflects the Palestinian leadership’s lack of desire for change.”¹³⁶ Representative Daoud al-Zeer confirmed that the new government formation “does not meet the aspirations of the Palestinian people.”¹³⁷ Representative Ali Abu al-Reesh called on the Legislative Council “to apologize to those ministers who were accused of corruption if the government is given a vote of confidence, or else it must insist on bringing them to trial if the government is given a no-confidence vote.”¹³⁸ Representative Kamal al-Sharafi considered the new government formation as “a conspiracy against the Legislative Council and its role of monitoring the Executive Authority. This conspiracy intends on rendering the Council useless and neutralizing it as much as possible.”¹³⁹ However, representative Mu'awyah al-Masri considered this step as the continuation of a dangerous ridicule intent on reinforcing corruption as a means of conduct in the Authority’s institutions.” In this context, al-Masri inquired about “the meaning behind having two people in the Cabinet who participated in the corruption investigation (Dr. Yousef Abu Safe and Dr. Sa'di al-Krunz).”¹⁴⁰ Ziyad Abu Amer asked “where are the reform measures that we demanded and how can we grant confidence to a government which accuses some of its members of corruption?”¹⁴¹ For his part, representative Jamal al-Shubaki considered the new government formation as “dangerous to the democratic experience, since the Basic Law, which was ratified by the Council in its three readings specified that the number of Cabinet members should be 19 ministers at most. He also mocked the

134. On 9 July 1999, Asfour was appointed as Minister of NGO Affairs. Since 9 August 1999 Asfour has become known as the Minister of NGO Affairs in Palestine. Asfour’s appointment was not presented to the Palestinian Legislative Council for approval.

135 **Ibid**

136 **Al-Ayyam daily**, 10 August 1998.

137 **Ibid**

138 **Ibid**

139 **Al-Risalah**, 13 August 1998.

140 **Ibid**

141 **Al-Ayyam daily**, 9 August 1998.

Council's call to others to respect its resolutions, which it does not respect them itself."¹⁴² Dr. Hanan Ashrawi who turned down the Ministry of Tourism portfolio and resigned from her previous post as Minister of Higher Education, said that the new government formation expresses "the disregard of demands for reform by the Palestinian people and the Legislative Council." She added, "what is required is not to maintain the old structure and simply add new members from the Legislative Council since there are popular demands and an urgent need for change and radical and comprehensive reform." Ashrawi considered her position "of refusing to join the new Cabinet as part of these reforms and real change."¹⁴³ For his part, Abdel Jawad Saleh described the new government formation at a press conference he held in Ramallah on 6 August 1998 as "a true tragedy for our people" and reiterated his absolute refusal to join the new Cabinet.¹⁴⁴ Representative Dalal Salameh, Secretary of the Political Committee considered the new Cabinet reshuffle as "an attempt to contain the Legislative Council by the Executive Authority through attracting the most number of Authority critics as possible."¹⁴⁵

Despite the sharp criticism of Council members to the new government formation and this formation's disregard to the comments of the General Control Committee's report of 1996 through including several persons proven by the report to have committed administrative, legal or financial offenses, and who the Council's Committee called for their dismissal, the Council nonetheless approved the new formation. What is surprising in this context is that the Basic Law, which was ratified by the Council in its third reading on 2 October 1997, confirmed in Article 65 that "the Cabinet should be comprised of no more than 19 ministers, and the decision for appointment should determine the ministry of each minister." Therefore, it is strange that the Council, which calls on every occasion for the need to follow the Basic Law, would support such a formation, which clearly runs contradictory to the law by including 28 ministers. By doing so, the Council gave legitimacy to the illegal practices mentioned in the General Control Committee's report and the Council's Committee, which was formed to review the report of the General Control Committee and to follow up on some ministers included in the structure. Thus it completely closed the corruption file without punishing any of the law-breakers.

142 **Ibid**

143 **Al-Hayyat al-Jadidah** daily, 7 August 1998.

144 **Ibid**

145 **Al-Quds** daily, 7 August 1998.

- 4- The final occasion on which the Council presented the issue of a no-confidence motion against the government was in its special session held in Ramallah on 7 – 13 January 1999 to discuss the issue of political arrests. At that time, members of the Council called for a no-confidence vote against the government because it did not commit to stopping political arrests or to the Council's decisions which call for the presence of government representatives to answer questions and inquires from members in this regard.¹⁴⁶ Matters did not go beyond this point and there was no actual use of the no-confidence motion.

Therefore, it is clear that the Council did not succeed in using any form of the no-confidence motion against the government in its third session. This tool was only implied in some of the Council's sessions, or its use was demanded by some members, or decisions stipulated the conditional use of this tool, as was the situation in Council sessions in which the 1998 budget was discussed as a means of intimidation and nothing more. Abdel Karim Abu Salah confirmed this by saying, "the Council indicated to the possibility of a no-confidence vote against the government in the matter of the Civil Service Law and the 1998 budget as a means of intimidation only."¹⁴⁷ Accordingly, it can be said that the monitoring performance of the Council in regards to using the no-confidence motion was not subject to any transformation during the third session in comparison to the first and second sessions.¹³⁸

In fact, one of the reasons that weakened the Council's ability to use the no-confidence motion whether in the first two terms or in the third term is related to the composition of the Council itself. The majority of Council seats are occupied by Fatah. Members of this movement hold 50 seats, that is, 56.81% of the total number of seats.¹⁴⁹ This no doubt, restricts the Council's ability to form parliamentarian blocs which would, in turn support the use of available monitoring mechanisms as an instrument for the no-confidence motion. This was confirmed by Kamal al-Sharafi, head of Council's monitoring and human rights committee when he said:

146 In this regard, see **al-Quds** daily, 14 January 1999.

147 Abdel Karim Abu Salah, **personal interview** on 4 April 1999.

148 Regarding the monitoring performance of the Council in using the no-confidence motion during the second term, see **the Palestinian Legislative Council: Performance evaluation in the first two sessions (March 1996 – March 1998)**, Palestinian Center for Human Rights, series study (13, November 1998, p.83.

149 **Ibid**

“One of the main reasons for the Council’s failure to use the no-confidence vote against the government is Fatah’s domination over the Council. This causes leniency on their part at times when this tool should be used. Most members of the government have a Fatah background.” In his analysis, Dr. Shrafi explained the reasons behind the Council’s failure to use the no-confidence motion against the government by saying that, “the complexity of the political situation and its consecutive crises has become a justification for some members to not use this tool. They consider that the political circumstances do not allow for this or that the challenges of the phase particularly in regards to confronting settlements, the judiazation of Jerusalem and obligating Israel to implement signed agreements with the Authority as more important than dealing with internal issues such as the relationship of the Council with the Executive Authority and the use of the no-confidence motion against the government in some cases.”¹⁵⁰

However, Dr. Jawad Al Tibi, secretary of the education and social affairs committee does not feel that the control of Fatah representatives over the Council seats is the reason for the Council’s failure to use the no-confidence motion. He considers the reason is mainly attributed to:

“The newness of the Palestinian parliamentary experience for the Legislative Council and its fear, stemming from its feeling of inferiority, of a clash between it and the Executive Authority, which may lead to the Executive Authority adopting a policy that may marginalize it and absent it completely from the arena of political activity.” Dr. Tibi added, “the Council’s feeling of weakness stems from the absence of popular support for it and the prevailing belief among the people that the Council is an institution for solving their economic and social problems and not for legislating laws and monitoring the conduct of the Executive Authority.”¹⁵¹

150 Dr. Kamal al-Shrafi, **personal interview** on 6 September 1999.

151 Dr. Jawad al-Tibi, **personal interview** on 8 September 1999.

Conclusion

The aim of this report is to evaluate the Legislative Council's performance in its third term, that is, in the period between 8/3/1998 through 8/3/1999. In its evaluation, the report focused on three main levels: legislation, accountability and monitoring. These are the three main tasks of any parliamentary institution. This report is considered a continuation of a previous report that the Center prepared, which evaluated the Council's performance in its first and second terms, that is, the period between 8/3/1996 and 8/3/1998. For this reason, this report is closely connected to the last report. In order to analyze the activity of the Council in regards to the aforementioned tasks in its third term, its activities in regards to the same tasks during its first and second terms must be understood. Evaluation of the Council's performance during this term was focused on the three above-mentioned tasks according to two approaches: a qualitative and quantitative approach. In this context, and in regards to its performance on the level of legislation, it can be noticed that on the qualitative level, the Council witnessed a development in terms of the average ratified laws and the average presidential approval of the laws presented by the Council. It succeeded in approving several laws, which are considered of great importance towards formulating a united Palestinian legal system. However, on the quantitative level, through our study of the five tangible and important cases, the basic law draft, the judiciary authority draft law, the draft law of charitable and non-governmental organizations, the 1998 budget law draft and the civil service draft law, it can be noticed that the Council did not live up to expectations. On the contrary, it witnessed a serious setback and it was not able to take advantage of these experiences in order to bring forth a transformation in the relationship between it and the Executive Authority. This relationship is based on a policy of indifference and disregard followed by the Executive Authority towards the Council's laws and resolutions, particularly those related to sensitive issues such as the ones mentioned above. The Council's reluctance to adopt a firm position towards the Executive Authority in regards to this policy and its failure to seek a mechanism to pressure the Executive Authority to approve these important laws played a major role in reinforcing the Executive Authority's indifference and disregard towards its activities, laws and resolutions.

As for accountability and monitoring, it was noted that the Council witnessed a setback on this level as well. The number of inquires to executive officials during this term was less than the inquiries directed to them during the first and second terms. Also, it did not witness any development in regards to its use of the method of inquiry, given that it did

not put it to use during the third term. This was in spite of the complaints it received from citizens and the blatant violations committed by the security apparatuses against the citizens, most importantly, the attack of preventive security members on members of the Council. In regards to the investigative committees, it was also noticed the Council did not witness any qualitative development. During this term, the Council was not able to obligate the Executive Authority to take the recommendations and proposals of its committees into consideration. It also failed to lawfully force the Executive Authority to demand that concerned persons must appear before investigative committees. On the contrary, the performance of the Council witnessed a development on the quantitative level in terms of an increase in the number of investigating committees in comparison to the first two terms. Therefore the recommendations and proposals put forth by the investigative committees, which the Council established during its first two terms, remained suspended and unresolved. In fact, the picture doesn't seem any better in regards to the use of the no-confidence motion. Like in the first two terms, the Council did not use this method whatsoever during the third term, neither was it included on the agenda of any session in this term. There were only implications towards the possibility of using the motion as a threat. The negative development is that the Council clarified on more than one occasion its insistence on calling for the need to restructure the government on technocratic bases and qualifications. It also called for the need to penalize all law breakers, particularly after the General Control Committee report was issued and the consecutive Council report on the committee report, which confirmed the involvement of several Authority ministers in financial, administrative and legal corruption. Consequently, the Council's position was to vote for a no-confidence motion against any government structure that includes any personality or personalities mentioned in the General Control Committee report and the Council Committee report. However, the Council took everybody by surprise when it granted confidence to the new government in August 1998 despite its inclusion of several persons who had been proven guilty of committing administrative, financial and legal offenses.

In light of this, by the end of the third term, the Council became weaker and more marginalized in comparison to its status at the end of the first two terms. This term is presumably the last term of the Council according to the Israeli – Palestinian interim agreements on the West Bank and Gaza. Article (3) stipulates that “the Council and President of the Executive Authority shall be elected for an interim period not exceeding five years from the date of signing the Gaza – Jericho Agreement, signed on the fourth of May 1994.” The Council's weakness and inability to confront the Executive Authority and its indirect rejection to create foundations of

transparency and accountability for its relationship with it became even more pronounced.

Recommendations

According to the aforementioned and for the purpose of pushing forward the process of democracy, the Palestinian Center for Human Rights reaffirms its recommendations mentioned in its study on the evaluation of the Legislative Council's performance in its two first two terms. The Center has placed these recommendations in the hands of the readers in the hope that they may help the Council to carry out its duties in the best possible fashion:

1. The Palestinian Center for Human Rights once again stresses the need for the Council to work towards securing the ratification of the Basic Law and having it published in the official newspaper since it is the basis for organizing the relationship between the authorities. It also specifies the specialization of each of them and organizes the relationship between the citizen and the Authority.
2. It is essential that the Council work towards following up on the resolutions that it issues. All resolutions, whether they were issued in the first two terms or in the third term are related to issues of great importance and following up on them is no less important than following up on the Basic Law.
3. The Center once again stresses on the need for the Council to follow up on results of its investigation committees. Through our study of the Council's performance in the third term, we noticed that it faced the same problem in the first two terms in failing to follow up on the results of the investigation committees. This resulted in the Executive Authority's failure to commit to any of these committees' results.
4. The Center also stresses on the need to strengthen the relationship between Council members and citizens. It is a known fact that Council members represent the citizens and are their delegates. Therefore they must be sensitive to the citizens' needs and respond to their demands.
5. Accordingly, and considering that the right to knowledge is a basic right for all citizens, the Council should work towards providing all means that enable the citizen to become acquainted with and follow up

on its work, whether through television, radio, the press or any other means of information.

6. In this context, developing awareness programs for the people on the role of the parliamentary institution and its missions in the society is very important. This could provide the necessary institutional context for the Council. This could be achieved through popular conferences, seminars, workshops and others of means of awareness.