

**Palestinian Centre for Human Rights**

**Palestinian Legislative Council:  
Performance Evaluation in the Fifth Term**

**(March 2000– March 2001)**

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## This Report

As part of its ongoing work to promote democracy and good governance in areas under the control of the Palestinian National Authority (PNA), the Palestinian Centre for Human Rights (PCHR) has followed the activities of the Palestinian Legislative Council (PLC, or “the Council”) since its inception in 1996.<sup>1</sup>

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

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

Such measures by Israeli occupying forces mostly have included: willful killings (including political assassinations), torture, unlawful and widespread destruction of land and housing, and various forms of indiscriminate and excessive use of force and collective punishment. These measures, especially the comprehensive siege and closure policy, have had a negative impact on relations between Israel and the PNA. From 1993 to 2000, the Israeli government and the PNA managed to develop a sort of mutual cooperation through various agreement and memoranda.

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

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

goods. At that time, the closure negatively influenced the work of the PLC, prompting the negotiations that granted the “Class B” VIP permits to PLC members.

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

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

## Introduction

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

The introductory session, attended by a number of members of the Executive Committee of the PLO, ambassadors, PNA ministers, and representatives of NGOs and political parties, started its work before the arrival of Arafat, with a speech by Ahmed al-Qurei (Abu Ala), the Council speaker, with 77 members in attendance and 10 absent.<sup>3</sup> In his speech, Abu Ala declared the end of the fourth session and the beginning of the fifth session and reviewed the achievements of the Council in the fourth term, stating that the scope of the work widened and the relations with other parliaments in the world had been deepened. Abu Ala stressed the importance of establishing democratic relations between the three branches of the PNA, based on a firm separation of powers. At the end of his speech, Abu Ala announced his resignation and that of the Council Office Committee and called Farraj al-Sarraf, the oldest member of the PLC, Emad al-Faluji, the youngest member, to preside over the session to prepare the election of a new speaker for the Council and a new Council Office Committee.<sup>4</sup>

### ***The Election of the Council Speaker***

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

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<sup>2</sup> See *al-Hayat*, 8 March 2000.

<sup>3</sup> Minutes of the introductory session, 7 March 2000.

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

<sup>5</sup> Minutes of the introductory session, 7 March 2000.





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







On 12 March 2000, the Council held the first meeting of its first session in Ramallah, with 76 members in attendance and 11 absent<sup>6</sup>. The work agenda of the two-day meeting included the election of new members for the Council Committees, in accordance with Article 49, paragraph 1 of the Council's by-law, which provides that the selection of Committee members takes place at the beginning of each term. Members are to nominate themselves for positions and the Council's Office Committee receives the nominations and decides on the composition of the Committees, which is then approved by a final vote of the whole Council.

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

*Table 1: Committees of the PLC During its Fifth Term.<sup>7</sup>*

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

<sup>6</sup> During the fifth term, the PLC renamed the terminology of the first and second halves of its terms, instead calling them sessions, with each session composed of meetings.

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

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

## Legislation in the Council's Fifth Term

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

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

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

*Table 2: PLC Resolutions During the First Half of the Fifth Term*<sup>10</sup>

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

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

In order to assess the shifting priorities of the Council over time, one can compare resolutions of the first half of the fifth term with resolutions during the first half of the

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

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

previous term. The following table illustrates the rank of these issues according to the number of resolutions passed during the first half of the fourth term.<sup>11</sup>

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

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

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

1. The first half of the fifth term did not witness any formal political changes on the ground in the OPT, as the political process witnessed a setback during this period, particularly after the failure of the Camp David summit.<sup>12</sup>
2. The Council was thus forced to focus on its relations with local communities and issues of local governance and issues of local concern, such as legal issues.
3. The setback in public freedoms and human rights may be the result of a decrease in PNA violations of human rights from March to September 2000.<sup>13</sup>
4. The lessened emphasis on economic issues may have been caused by the relative improvement in economic conditions in the OPT especially during the first nine months of 2000.<sup>14</sup> It appears that the improvement in economic conditions allowed the PLC to focus on other problems.
5. The increased attention to local governance may have resulted from a realization that after the issue had been neglected over the previous five years and needed to

<sup>11</sup> see plc resolutions in 1<sup>st</sup>-4<sup>th</sup> terms, 1996-2000, info dept plc, march 2000

<sup>12</sup> Negotiations concerning final status issues started July 2000 at Camp David under the auspices of the US government but did not lead to a definitive outcome after the Israeli government refused to implement UN Security Council resolutions 242 and 338, which require full withdrawal of Israeli forces from territories occupied in 1967, including east Jerusalem.

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

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

be addressed. This reason seems to be the only factor that can explain an increased emphasis on this issue.

6. The PLC’s concern for these issues came at the expense of resolutions regulating its relationship with the Executive, despite the fact that there had been no improvement in this relationship. Moreover, the period under study witnessed a setback in the Council’s efforts to establish a stable and proper relationship with the Executive.<sup>15</sup>

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

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

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

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

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

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

<b>Proposed Law</b>	<b>Date of Submission to Speaker</b>	<b>Date of Transfer to Committees</b>
Rent Control Act	3 May 2000	3 May 2000
Civil Aviation Act	3 May 2000	3 May 2000

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

Records of Civil and Commercial Materials Act	7 June 2000	7 June 2000
Jerusalem Act	8 June 2000	8 June 2000
Palestinian Nursing Council	20 July 2000	20 July 2000
Civil Affairs Law no. 2, 1999 (revised)	19 September 2000	19 September 2000
Illegal Gains Act	19 September 2000	19 September 2000
Industrial Act	19 September 2000	19 September 2000
Local Council Elections 1996 (revised)	19 September 2000	19 September 2000
Smoking Prohibition Act	19 September 2000	19 September 2000
Engineers' Profession Act	19 September 2000	19 September 2000
Teachers' Profession Act	19 September 2000	19 September 2000

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

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

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

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

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

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

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

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

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

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

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

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

<b>Law</b>	<b>Transferred to Committees</b>	<b>Submitted to PLC for Public Discussion</b>
Law of Publications	16 March 1999	25 June 1999
Law of Authors' Rights	16 March 1999	-

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



Public Budget Law 1999	5 April 1999	5 April 1999
Traffic Law	20 April 1999	23 June 1999
Stamping and Monitoring Jewelry	20 April 1999	-
Palestinian Medical Council Law	11 May 1999	-
Law of Organising Trade of Fertiliser	24 June 1999	-
Law of Arbitration	24 June 1999	6 July 1999

During the first half of the fourth term, the Council approved the 1999 Public Budget Law. No laws were approved upon a second reading during the first half of the fourth term, but three laws previously discussed and approved upon a first reading during the third term were read a second time and approved during the first half of the fourth term.

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

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

Among the laws publicly discussed by the PLC during the first half of the fourth term, the PLC did not approve any of them upon a second reading. It did approve three laws upon a second reading that had been approved on a first reading during the third term. The president ratified only one of these laws.

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

There are several possible seasons for this:

1. The failure of the PLC during the past four years to produce a unified legal system across the West Bank and Gaza strip was perhaps a reason for intensified efforts. Among the challenges faced by Palestinian society is the urgent need for a unified, standardized legal system that establishes the roles and powers of branches of government.

2. The absence of major political events on the ground in the OPT during the first half of the fifth term, including the setbacks of the Oslo process and the failure to conclude a final agreement, may have left more time to work on legislative affairs.

3. Regarding the increased rate of ratification by the president, it appears as if the setbacks in negotiations may have encouraged the president to ratify draft laws from the PLC either by reducing his burdens in other areas or creating a need to take some action in public. There is no clear policy for presidential ratification, which appears to depend on his personal initiative and mood.

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

### **Case Study 1: Public Meetings Law**

The task of any parliamentary institution is not limited only to drafting and approving laws, but also includes the process of following up the implementation of laws and monitoring bodies that enforce laws. The legislative bodies are responsible for following up law enforcement bodies and holding accountable those who fail to do so, while law enforcement bodies should have the resources necessary to properly enforce and implement laws.

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

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

On 20 August 1998, the PLC approved the law on the first reading and approved it on a second reading on 25 November 1998. On 19 December 1998, the PLC transferred it to

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

the president for approval and he ratified on 28 December 1998. The law came into force on 27 January 1998.<sup>18</sup> The law fulfills international human rights standards guaranteeing the right to peaceful assembly and represented a qualitative turn towards establishing the right of public meetings as part of political and civil practices in PNA-ruled areas.

The law is composed of nine articles dealing with the procedures for organising public meetings. It limits the power of the police to intervene in public meetings; it stipulates that in the case of public meetings consisting of more than 50 persons, a written note should be submitted to the governorate or police director of the area informing them of the meeting. No permission from the authorities is required. The law is aimed at allowing public meetings as much possible while making prevention of demonstration the exception.<sup>19</sup>

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

### Executive Order 12 (1998) Concerning Public Meetings

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

In addition, the executive order asserts that organizers of public meetings must ask for a permit from the Palestinian police (article 11), in contravention of the Public Meetings Law.<sup>21</sup> Moreover, on 29 February 2000, just before the opening of the PLC's fifth term, Gaza civil police chief Ghazi Jabali issued an order preventing public meetings without permits from the police. The order was considered at the time as a threat to the Law of Public Meetings and a threat to the right of peaceful assembly as part of Palestinian civil and political activities.<sup>22</sup>

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

<sup>19</sup> For more analytical and critical analysis, see *ibid.* 29-31.

<sup>20</sup> See *ibid.*, 85-87.

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

<sup>22</sup> See *ibid.* 33-35.

## PLC Postpones Response to Measures of the Executive Concerning Public Meetings

As illustrated above, the PLC started its fifth term with huge challenges resulting from attempts by the Executive to undermine its role and impose its own wishes, even if they violated laws passed by the PLC. These attempts succeeded in empty such laws of their democratic content,<sup>23</sup> despite the responsibility of the PLC as a parliamentary institution with an interest in overseeing the correct implementation of its law

Accordingly, the Internal Security and Local Government committee of the PLC held a meeting on 2 April 2000 to discuss Jabali's order. The committee affirmed that the order contradicted the spirit of the Public Meetings Law and therefore asked the Executive to cancel the order and to correctly implement the Public Meetings Law.<sup>24</sup>

According to the PLC's by-laws, the Council Speaker should follow up the recommendations of the committees with the Executive, but a review of the minutes and publications of the PLC during the first half of the fifth term reveals that the speaker did not pursue these recommendations, giving the executive room to impose its own interpretation of the law.<sup>25</sup> In effect, the Council Speaker ignored the recommendations of one of the Council's own committees.

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

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

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<sup>23</sup> See PLC's experience with the Judicial Authority and Charitable Societies and NGOs laws discussed in *The Palestinian Legislative Council: Performance Evaluation of the Third Term*, PCHR Series Study 19, February 1999, p. 28-47.

<sup>24</sup> See *al-Quds*, 25 April 2000.

<sup>25</sup> A group of representatives of NGOs and political parties invited by PCHR on 13 March 2000 discussed Jabali's decision and its effect on the right to freedom of assembly. The participants concluded that the order is illegal and violates the Law of Public Meetings. Accordingly, the participants decided to appeal to the Palestinian judiciary and appointed lawyers Raji Sourani and Yunis al-Jarro to do so. On 23 April 2000, Sourani and al-Jarro submitted an application to the Palestinian High Court against the attorney general as representative of Jabali. They asked the high court, among other things, to issue an order canceling Jabali's decision. On 29 April 2000, the court issued a preliminary decision suspending the order. Unfortunately, the court has not held another session on the matter and the executive order remains in effect. The PLC has not taken any further action on the matter. See *The Right to Free Expression and the Right to Peaceful Assembly: The Case of the West Bank and Gaza Strip (January 1, 1999-April 30, 2000)*, PCHR Series Study 23, September 2000, p. 38-40.

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

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

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

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

### ***Case Study 2: Judicial Authority Draft Law***

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

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<sup>26</sup> See previous reports on the PLC.

<sup>27</sup> 1 July 2001, in response to questions submitted by PCHR.

<sup>28</sup> 1 July 2001, in response to questions submitted by PCHR.

<sup>29</sup> 7 July 2001, in response to questions submitted by PCHR.

<sup>30</sup> Comments in a workshop organised by PCHR, "The Palestinian Legislative Council: Current Challenges and Future Prospects," 23 August 2001.

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

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

### Decision of President Arafat to form a Higher Judiciary Council

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

1. While the formation of a Higher Judiciary Council is of great importance, this should have been done through the ratification of the law passed by the PLC through three readings.
2. The decision states that it is based on the Judicial Authority Law, even though the president never ratified it. Even if the law had been ratified, the executive order would still be in violation of it, as it adds two more members to the Higher Judiciary Council than those described in the Judicial Authority Law.<sup>33</sup>

### The Council's response to the executive order

Given the problematic nature of the executive order, one would expect the PLC to seek two goals: to cancel the order on the basis that it contradicts the Judicial Authority Law and to pressure the president to ratify the Judicial Authority Law itself as a framework to guarantee the formation of a proper Higher Judiciary Council and the rule of law. A

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

<sup>32</sup> See PCHR press release, 4 June 2000.

<sup>33</sup> For more details, see, decision 29 (2000) concerning formation of Higher Judiciary Council in waqa'I Palestinian magazine no. 36 19 march 2001.

review of the minutes and interviews and publications of the PLC reveals that no such measures were taken.

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

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

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

The PLC’s acceptance of Arafat’s decision indicates that the PLC itself is not committed to the implementation of its own laws, raising the question of the Council’s purpose. Surprisingly, the PLC did not take any steps in response to the President’s decision to form a Higher Judiciary Council despite the fact that this decision contradicted the Judicial Authority Law passed by the PLC. Moreover, the PLC has tried to escape its responsibility and to place the responsibility upon the Courts.

Accordingly, the relationship between the PLC and Executive remained unhealthy in the fifth term. After the PLC was unable or unwilling to take any measures towards the Executive’s stance, it attempted to justify this weakness by placing responsibility on other parties, namely the judiciary. By disavowing its responsibilities and sidelining itself in the matter, the PLC effectively accepted its role as an institution for legitimising and rubber-stamping the actions of the Executive. Abdel Fatah Hamayel, deputy of the security and interior committee, said: “The work of the Council since March 2000 was routine and there have been no qualitative changes in the general performance of the Council. Thus, the legislation, accountability, and monitoring functions were not developed.”<sup>35</sup> According to PLC member Abdel Jawad Saleh, “The Council has failed to carry out its tasks and was not able to take any serious measures towards the undemocratic acts and behaviour of the Executive.”<sup>36</sup>

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<sup>34</sup> Abdel Karim Abu Salah, interview with PCHR, 2 July 2001.

<sup>35</sup> 26 July 2001, in response to questions submitted by PCHR.

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

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

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

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

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

In fact, the situation has continued to deteriorate in light of apparent collusion between some members of the PLC and the Executive to undermine the role of the PLC.<sup>39</sup> The fifth term witnessed the worst development in the relations between the PLC and the executive since the PLC's establishment in 1996. Not only had the PLC passively accepted its marginalisation by the Executive, but it started as well to participate actively in the process of undermining democratic norms, including its own by-laws. Most glaringly, the PLC for the first time since its foundation attempted to shift its

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<sup>37</sup> 24 June 2001, in response to questions submitted by PCHR

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

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



responsibilities to the judiciary. According to PLC member Salah al-Tamari: “The PLC failed to monitor the practices of its own members and their illegal actions. If the PLC cannot even monitor its own members, how can it monitor the activities of the Executive and hold it accountable?”<sup>40</sup> Al-Tamari added: “The undemocratic and irresponsible acts of the chairman of the budget committee, Dr. Azmi Shuweibi, prove the extent to which democratic values and the public interest have been threatened by personal interests. This is a scandal.”<sup>41</sup>

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

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<sup>40</sup> 1 July 2001, in response to questions submitted by PCHR

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

<sup>42</sup> Personal interview, 12 August 2001.

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

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

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

### ***Inquiries***

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

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

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

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

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

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

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

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

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

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

## **Questioning**

In addition to routine inquiries, the PLC is empowered to summon PNA officials for questioning on specific issues. The PLC did not use this power at all in the first half of the fifth term, despite the fact that a number of PLC members were physically attacked by Palestinian security forces during this time.<sup>44</sup> Even as attacks on PLC members became increasingly routine, the Council as a whole took no steps to hold perpetrators accountable.<sup>45</sup>

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

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

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

### **Commissions of Inquiry**

The PLC is also empowered to form commissions of inquiry consisting of Council members to investigate specific questions. The PLC formed one commission of inquiry during its fifth term, to investigate conditions at al-Maqased hospital in Jerusalem. The committee consisted of members of the Budget, Jerusalem, and Education and Social Affairs committees, and held a number of meetings with Faisal al-Huseini, former director of Orient House in east Jerusalem, as well as employees of al-Maqased hospital.<sup>46</sup> The committee posed a number of questions concerning donations from Qatar to the hospital<sup>47</sup>, as well as CAT scan equipment purchased by the hospital.<sup>48</sup> The work of the commission of inquiry was interrupted by the outbreak of the al-Aqsa Intifada and the tightened siege and closure on Palestinian communities. Thus, the commission was unable to produce a report or make any recommendations regarding the hospital.

### **No-confidence Motions**

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

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

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

<sup>47</sup> In 1999, the government of Qatar offered the hospital money to improve the hospital, yet the hospital remained unchanged, leaving it unclear as to how the money was used.

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

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

The request to hold a no-confidence vote was strongly rejected by other PLC members, who argued that the Executive is not responsible for solving this problem. The members asserted that the problem of teachers in the West Bank did not warrant a no-confidence vote and that resolving the strike would require taking effective measures to secure the implementation of the Civil Service Law as the administrative framework in which such disputes could be resolved. Accordingly, the PLC decided that the Council speaker and a number of committee chairmen would meet with President Arafat to discuss the problem of the teachers as well as ways of implementing the Civil Service Law.<sup>50</sup>

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

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

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<sup>50</sup> For more details, see *al-Hayat*, 30 March 2000.

## **The Palestinian Legislative Council and the al-Aqsa Intifada**

The second half of the PLC's fifth term has marked by an unprecedented escalation in the excessive use of force by Israeli occupying forces against Palestinian civilians and their property. After the 28 September 2000 invasion of the al-Aqsa mosque by Likud party leader Ariel Sharon and several hundred armed guards, hundreds of Palestinians from Jerusalem protested. The next day, these protests swept over the entire Occupied Palestinian Territories, and would soon become the bloodiest clashes between Palestinian civilians and Israeli soldiers since the signing of agreements between Israel and the PLO in 1993. The reasons for these clashes, which came to be known as the al-Aqsa Intifada, cannot be understood in isolation of political developments in the OPT since 1993. These clashes comes as a tangible expression of the frustration that grew amongst the Palestinians in the OPT after the failure of the Oslo process to end Israel's illegal military occupation and achieve a Palestinian state in accordance with their right to self-determination. These clashes are the outcome of a political process in which international human rights and humanitarian law were sacrificed under ongoing pressure from the US and Israel on the PNA and the unlimited US support for the government of Israel.

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

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

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

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

Salah al-Tamari said: "The PLC did not perform at all during the Intifada and its activities have basically been reduced to the personal initiatives of individual members."<sup>53</sup> According to another PLC member, Abdel Fateh Himayel: "The PLC as an institution is not functional under Israeli attacks. There are only different personal activities of PLC members and the Council was only able to hold one session, at the beginning of the sixth term."<sup>54</sup> According to Rafat al-Najjar, "During the events, the role of the Council has been totally absent. Israeli measures against Palestinians, especially the closure, influence every aspect of Palestinian life, including the legislative activities of the PLC. ... What is going on is communication between members on an ad hoc basis without any firm conclusions. There has been no real legislative work since the beginning of the al-Aqsa Intifada."<sup>55</sup> Ahmad Nasser, a member of the education and social affairs committee, affirmed that, "since the Intifada started, the PLC has suffered from a strategic blockage. All of its activities have been stopped."<sup>56</sup>

The obstacles faced by the PLC during the second half of its fifth term, however, do not necessarily absolve the PLC of its duty to overcome these obstacles and carry on with its

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<sup>51</sup> 7 July 2001, in response to questions submitted by PCHR.

<sup>52</sup> 1 July 2001, in response to questions submitted by PCHR.

<sup>53</sup> 1 July 2001, in response to questions submitted by PCHR.

<sup>54</sup> 26 July 2001, in response to questions submitted by PCHR.

<sup>55</sup> Comments in a workshop organised by PCHR, "The Palestinian Legislative Council: Current Challenges and Future Prospects," 23 August 2001.

<sup>56</sup> Ibid.

mission. According to PLC member Othman Ghashash, “The PLC tried to overcome Israeli closure measures through video conferencing, and linking parallel meetings in Ramallah and Gaza.”<sup>57</sup> Abdel Fateh Hemayel, however, told PCHR that “This mechanism was not a practical option since it failed to overcome the obstacles imposed by Israeli occupying forces and it failed to make the PLC to hold its sessions regularly.”<sup>58</sup>

Generally speaking, the major challenge facing the PLC at the beginning of its fifth term was rebuilding its relationship with the Executive on the basis of transparency and accountability. As with the previous four terms, the intransigence of the Executive and the lack of will in the PLC contributed to a failure to rebuild this relationship, negatively impacting on the PLC’s efforts to create a unified legal system across the West Bank and Gaza strip while monitoring the Executive. The subsequent outbreak of the al-Aqsa Intifada and subsequent Israeli measures exacerbated this crisis, creating an environment in which the PLC could not function. At this time of this writing, the PLC has virtually ceased to exist as a functioning institution. Although a number of PLC members continue to be active in various aspects of Palestinian political life and the al-Aqsa Intifada, they do so more in their individual capacities than as members of the PLC.

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<sup>57</sup> 24 June 2001, in response to questions submitted by PCHR.

<sup>58</sup> 26 July 2001, in response to questions submitted by PCHR.



## **Conclusion**

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

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

## **Recommendations**

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

1. The current events in the OPT will continue for at least several years, particularly while Ariel Sharon remains in power and continues to evade or frustrate international efforts aimed at calming the situation and restarting negotiations. Therefore, to face these attacks, it is of great importance to look again at the basis which governs the work of Palestinian institutions and to build a new foundation for the relationship between the Executive and legislative branches of the PNA, as well as relations with the citizenry.
2. Based on the above, it is of great importance for the PLC to follow up on the implementation of laws that await presidential ratification, including the Judicial Authority Law, Basic Law, and others.
3. The PLC elections should hold new elections when possible in order to renew its legitimacy, particularly given that the legal period of the PLC expired in 1999.?
4. The PLC should follow up on laws ratified by the president in order to monitor their implementation.
5. It is of great importance for the PLC to find options that guarantee at least continuous contact between members. Modern communications means, such as internet and video conferencing, could contribute to achieving this goal and should be further explored.

6. The PLC should intensify meetings of members residing in the same geographical areas and asserts that minutes should be prepared and distributed to other groups of members as a means to inform others of their work.
7. PLC members should be in close touch with constituents to know their needs and problems, as much as is allowed by the siege and closure.
8. The PLC should follow up on all of its decisions, whether issued during the first four terms or the fifth term, and monitor the implementation by the Executive.
9. The PLC should follow up on recommendations of its commissions of enquiry and adopt a firm stance towards the PLC Speaker to pressure him to hold the Executive to its commitments based on the recommendations and findings of commissions of enquiry.
10. The PLC should exert all possible efforts to guarantee that citizens are informed of their work, through TV, radio, newspapers, and other media.