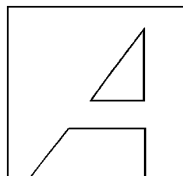


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**Activating Performance of the Palestinian Legislative Council in Legislation,  
Supervision, and Development of Public Policy**

**Introduction**

More than seven years have passed since the Palestinian Legislative Council started its operations. Preparations are underway for general elections next year. The Government has adopted the National Reform Plan, and the Legislative Council is carrying out reform activities in all fields. All that necessitates a review of the performance of the Legislative Council, in order to strengthen the positive aspects that resulted from the first parliamentary experience, to crystallize the issues that need development, and to bridge the gaps that appeared during the first experience of the Council's operations. The Legislative Council should assume its operations in an efficient manner and not to spend time on re-building the new legislative institution.

The aim here is not to review the individual work of the Legislative Council members, nor to talk about accomplishments during the previous seven years. Instead the aim is to review the performance of the Council in internal matters and operations, its external relations, the extent the Council carried out its tasks in legislation, supervision, and contributing to the crystallization of public policy according to provisions of the Basic Law.

There is general consensus on the need to build the Council as an institution based on neutrality and professionalism, so as to help the members carry out their duties towards their homeland and their voters with ease and in the best possible manner. In order to achieve such goals, a workshop was held entitled: "Towards an Effective Role of the Palestinian Legislative Council in Legislation, Supervision, and Public Policy Development." The Coalition for Integrity and Accountability (Aman) supervised the workshop, in cooperation with Konrad Adenauer Foundation in Ramallah on 4 December 2003.

The report prepared by Dr. Rudolf Kabel, the German expert, regarding the Council's performance, constituted basis for discussion, because Dr. Kabel is an independent person with broad experience in parliamentary work.

During the workshop a number of expert papers were presented in all fields, whether internal or external as pertaining to the Legislative Council. Within the framework of the development of public administration of the Legislative Council, papers were presented addressing the role of parliamentary blocks, the Council Affairs Committee, and the Secretariat. Within the framework of committee activities and the support units, papers were presented on the first experience of committee operations, and the role of the legal, financial, and budgetary units. Papers were discussed under the title of public relations, on the relations with the Executive Authority and the public.

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Subsequent to the presentation of papers, discussion took place seeking specific recommendations on activating all aspects of the work of the Legislative Council.

Following is a brief presentation of the key axioms discussed and the recommendations presented:

### **One: Parliamentary Blocks**

Chapter Two of the Internal Bylaws of the Legislative Council determined the legal structure of parliamentary blocks. Items 5, 6, and 7 stated that the number of members in any block should exceed 5% of the overall number of Council members. A Deputy is not allowed to be member in more than one parliamentary block. Each block is responsible for setting its own internal regulations.

Despite the important role of the various blocks in creating a framework for the various ideas adopted by Council members, there is still a notable absence of a role for the mentioned blocks. This absence is attributed to the following reasons:

- Internal Bylaws do not emphasize the value of creating such blocks. There are no clear texts regarding the rights and obligations of parliamentary blocks, and no resources are made available whether financial, human, office or secretarial, or budgetary.
- The election system of the 1996 first elections affected the programs adopted by the various blocks, and prevented their effective presence in the Council on the basis of a political, social, economic, or key-issue program.

Now there is a new trend, with inclination towards an election system based on proportional representation, in manner that will help the political parties become a basic foundation in parliamentary work. At least, the new system will be based on a joint system (50% for individual candidates, and 50% for proportional representation). Internal Bylaws must be amended so as to strengthen the work of parliamentary blocks, to give them incentives and the merited weight, and to give them the right to be represented in all committees, delegations, activities exercised by the Council, and the right to put any item or draft law on the Council's agenda for discussion.

Moreover all blocks must set-up internal bylaws that will be presented to the Office of the Presidency of the Legislative Council. An office must be set for coordinating the work of parliamentary units so as to contribute to the development of their role. A special budget must be given to all blocks from the Council's budget to cover their activities, and to create incentive for parties to work as blocks.

### **Two: Council Affairs Committees and the Secretariat**

According to the Council's Internal Bylaws, item 48 paragraph two, a special committee must be created, to be named the Council Affairs Committee, with members from among legislators and the Council's office administration.

The Internal Bylaws merely stated that the committee must be established, and determined its membership. However, it did not determine the tasks and jurisdiction. The Council Chairman formed the Committee, and all its matters remained in his hands. The committee lacks a clear vision regarding its role and composition, and there is a need to include items in the Bylaws that describe how the Committee is formed, its jurisdiction, and responsibilities.

The main inclination in this field is to form a parliamentary committee, consisting of representatives of all the trends in the Council, in addition to administrators from the Office of the Council Presidency, and heads of the various committees. The Committee will study all issues pertaining to the Council with particular emphasis on the following:

- Determining the agenda of the Legislative Council.
- Determining the Council's legislative agenda during each parliamentary cycle.
- Transferring the draft laws to the specialized committees in the Council.
- Following-up all the Council's internal issues.
- It is permissible for the Council Affairs Committee to establish specialized committees for administration, finance, etc....

Item 11 of the Bylaws stated that the Secretariat must be established as an office function. A general secretariat will be appointed, headed by the Council's Secretary, and will supervise all administrative, financial, legal, media, public relations, and protocol matters. Moreover, the Secretariat will implement all Council decisions, and will inform the relevant parties, and will control and preserve all documents related to Council proceedings.

In reality the Secretary did not suffice with the task of supervision and started exercising financial and administrative authorities, including the appointment and promotion of staff.

The Secretary is also a Council member. This is rare, and usually the task is assigned to a civil servant nominated by the Council's Chairman, and is approved by the Council, and must be an independent and neutral person in the service of all members.

Accordingly, the main tendency in this field is to abolish the role of Secretary and to create the new post of Secretary General as someone who is a civil servant, and to have all the tasks supervised by a committee consisting of council members or members of the Council Affairs Committee. If the job of Secretary is not abolished, then the administrative and financial authorities should be taken away.

### **Three: Council Committees**

Parliamentary committees are essential. They prepare the papers and reports presented to the Council (legislation, reports, and recommendations) for discussion prior to adoption of new resolutions.

However, operations of the Council committees went up and down, because of the following internal and external problems:

- The Council has exceeded the anticipated duration.
- The Executive Authority is showing no regard for the decisions made by the Council or the recommendations made its committees.
- Restrictions imposed by the occupation on the mobility of all individuals including members of the Legislative Council.
- Procedures are not implemented regarding repeated absence from meetings.
- On the other hand, committees focused on preparation of legislation and presenting supervisory reports, while they did not work on the review of plans, programs, and agreements signed by the Executive Authority. Also, the Council was weak in its participation in the development of public policies.

#### **Four: The Legal Department**

The Legal Department in the Legislative Council is one of the components of the General Secretariat, as stated in item 11 of the Council's Internal Bylaws. Despite the importance of the Legal Department the law did not determine its role and responsibilities, so instead, the Council and its members took decisions, issued guidance, and engaged in intellectual exercise.

The Legal Department is assuming a number of tasks: provision of legislative services such as drafting the laws suggested by the Council Committees and members, drafting the amendments on laws in the final stages of adoption by the Council, strengthening the various departments through the provision of legal services to the Council, providing legal counseling to the Council, and review of contracts and agreements made by the Council. Also the Department provides advice to the Council and its committees regarding complaints made by the public.

Despite the enormous tasks assigned, the Legal Department is suffering from many predicaments, such as the inter-connectedness in many cases between its work and that of the Council's Legal Committee, the lack of a clear administrative structure for the Department, and the shortage in the number of legal staff that are qualified, capable, and in possession of the needed experience.

#### **Five: The Financial Unit and the Budgetary Committee**

The Budgetary Committee is one of the most important permanent committees in the Council. It assumes responsibility for the study and analysis of budgetary draft laws, and making sure that the budget is consistent with government programs and financial policies. Also the Committee is supervising the implementation process, expenditure of public funds, examination of the taxation system and financial legislation, and the effects of agreements reached by the Palestinian Authority with local and international parties.

### **The Budgetary Committee is Facing a Number of Obstacles that Impede its Effectiveness:**

- Delay by the Government in presenting its General Budget Law on time. This leads to limiting the discussion to members of the Budgetary Committee within a short duration.
- The Executive Authority is not presenting comprehensive information that considers the budget as the financial anchor point, or its own contribution in investment institutions, nor a table of formation of government staff, and the capital projects under implementation and the extent of implementation so far.
- No reporting to the general treasury, regarding revenues, institutions, ministries, government institutions, and state-owned companies. Final accounts of a previous year are not being presented.

Moreover, there are a number of specific internal impediments related to the committee's structure, and the lack of a specialized team that will support its work.

### **Six: Relations Between the Legislative and Executive Authorities**

The Basic Law and the Council's Internal Bylaws sought to define relations between the three branches of authority in the Palestinian political system. The Legislative Council is responsible for contributing and participating with the other authorities in setting the foundations for a democratic system. This will be achieved by drafting, reviewing, and adopting draft laws and general budgets, supervising operations of the Executive Authority, and developing public policy.

On the legislative level, Internal Bylaws sought to organize the mechanism for drafting laws from the moment those are presented by the Cabinet to the Legislative Council, until the law is transferred to the President of the Palestinian National Authority and is issued and published. The mentioned mechanism explains relations between the Legislative and the Executive Authority during all the stages a law goes through.

Also Internal Bylaws explain the relation between the two Authorities, in terms of the Legislative Council exercising its supervisory role over official institutions and the development of public policy, utilizing the mechanisms stipulated in the Internal Bylaws for posing questions, questioning, blaming, no confidence, and the authorities associated with approval of agreements and developmental plans.

Council's Internal Bylaws are clear in determining the tasks and relations with the Executive Authority. However, the record is mostly one of clear violations of the text, in terms of impediments by the Executive Authority when it comes to issuing new laws, and not making the necessary announcement in the official newspaper. While the Council did in fact issue some laws that society considers as priority in the economic, political, and social fields, however, one cannot say that the Legislative Council joined the Government in drafting a clear strategy regarding a package of laws considered a priority for building Palestinian society. Despite the numerous supervisory mechanisms stipulated in the Council's Internal Bylaws, the Legislative Authority demonstrated tremendous weakness in its supervisory role, in terms of the rarity of resorting to written questioning as a mechanism and to no confidence

motions, and sufficed with presenting questions, assigning blame, and making recommendations to the Executive Authority.

Also, the Executive Authority worked on marginalizing a number of areas stipulated in the Internal Bylaws. The final budget accounts were not presented, while this is the most important mechanism for measuring the extent of the Executive Authority's adherence to the decisions adopted as part of the General Budget, whether in terms of revenue or expenditures, or in measuring the delay in presenting the proposed budget law.

Moreover the Executive Authority is not being responsive to guidance made by the Council. The Executive Authority neglected the role of the Legislative Council in the development of public policy and the approval of agreements.

### **Seven: Relations Between the Legislative Council and the Public**

The Legislative Council is aware of the importance of relations with the public and the dissemination of information about performance, so that support can be generated. Relations between a parliament and the people do not begin or end at the ballot box, but it is rather a continuous and reciprocal process.

Two months after the Council was formed, it adopted in mid June 1996 a resolution stating that meetings will be open to the public and the media, so as to have good relations with the public.

On the administrative level the Legislative Council asked the Public Relations and Protocol Department, the Media Department, and the Sub-Offices Department, to remain in touch with the public.

Despite the Council's willingness to remain in touch with the people, there are a number of impediments. Namely, the novelty of the experience, lack of expertise among the various departments concerned, at the same time when the Executive Authority is preventing the media from broadcasting Council sessions. The Israeli Occupation and its policies, such as the siege and closures, are the main impediments to communication between the Legislative Council and the public.

## **Practical Recommendations for Activating Performance of the Palestinian Legislative Council in Legislation, Supervision, and Development of Public Policy**

### ***One: Recommendations Pertaining to the Palestinian Legislative Council***

#### **1. Parliamentary Blocks**

- There is a need to effect a fundamental change in the Palestinian Election Law, so as to make political parties the basic foundation in parliamentary work, and to adopt a proportional representation system or at least a mixed system (50% for the election of individuals and 50% for proportional representation).
- Amending the Internal Bylaws to strengthen the work of parliamentary blocks and to create incentives and to give them needed weight, and to affirm the host of rights normally granted to a parliament, such as the right to be represented in all committees, delegations, and activities exercised by the Council, and the right to put any item on the agenda for discussion or as a draft law.
- Each block is to agree on a set of its own internal regulations, to be submitted to the Office of the Chairman of the Legislative Council.
- Establishment of an office for coordination with parliamentary blocks and contributing to development of their role.
- A special budget is to be allocated to each block from the Council's budget, so that the blocks can cover their activities. This will constitute an incentive for the various blocks to work as units.

#### **2. Council Affairs Committee**

A parliamentary committee is to be formed, representing all trends in the Council, Office of the Chairman, and Committee Chairs, to explore all issues pertaining to the Council, with particular emphasis on the following:

- Determining the Legislative Council's agenda.
- Determining the Council's legislative agenda during each parliamentary cycle.
- Transferring the draft laws to specialized committees in the Council.
- Discussing the first draft of the Council's budget.
- Following-up all the Council's internal issues.
- It is permissible for the Council Affairs Committee to establish specialized committees for administration, finance, etc....

#### **3. The Secretariat**

- To abolish the position of the Secretary, and to appoint a civil servant as Secretary General under supervision of a committee of council members or the Council Affairs Committee.
- The Council administration should be independent and neutral, serving all members and blocks without discrimination.

- Administration staff in the Council, at all levels, should facilitate and support the legislative process without participating in it. A code of honor should govern staff performance.
- To devise an administrative plan with clear responsibilities, taking into consideration the specific requirements of running a parliament. The Legislative Council must adopt the new administrative structure. The 1999 plan, revised in 2000 for development of the Council, can be revived and implemented after taking a fresh look at it.
- To review the mechanism for Council employment and promotions based on qualifications and experience.

#### **4. Sub-Offices**

The human and financial resources in the sub-offices should be utilized in a new manner, based on setting a specific and equal monetary amount under discretion of every Council Member, in a manner that will enable them to organize their work and presence in their electoral districts. Expenditure should take place based on vouchers that indicate the amounts paid, to ensure transparency and clarity in financial matters pertaining to employees and office rent. The Council's financial plan will determine the broad guidelines that must be adhered to.

#### **5. Committees**

- To reexamine the current structure of committees and to combine some of them.
- To assign broader authorities for committees in their daily activities with the various institutions, and to create specialized follow-up committees.
- To implement provisions of the Internal Bylaws regarding supervision of the Office of the Council Chairman over the work of committees, their programs, plans, and meetings.
- To review and develop the legislative procedures to prevent the freezing of draft laws in the committees for extended durations, and to adhere to deadlines mentioned in the Council's Internal Bylaws.
- To provide the necessary human resources needed by some committees. The shortage is caused because of the small number of members in the Legislative Council, also because 1/3 of the members are ministers. It is recommended that the percentage of Council members represented in the Government should be lowered to 10% at the most.
- To make sure that committee leaders are changed periodically with the aim of increasing effectiveness. This requires adjustment of the Internal Bylaws whereby the duration of a Committee Chairmanship will be limited to one or two cycles.

#### **6. The Legal Department**

- To strengthen the Department's capacities and to raise qualifications of its staff in the field of legislation drafting.



- To determine the tasks and jurisdiction of the various departments, in the field of proposed legislation, and to remove any contradiction existing with the Legal Committee.

## **7. Budget Committee**

- To provide a large consultative team that can give advice not only on the budget, but also on financial and economic matters.
- To provide the resources needed by the committee to remain in constant communication with the various ministries and government institutions, not only during the period when the budget is being discussed. Communication and information exchange must be continuous. It can take place by assigning to each committee member the responsibility for follow-up with a certain ministry and to provide the information about it to the committee.
- All draft legislation with financial aspects must be transferred to the Committee from the Council Chairmanship.

Moreover, a set of recommendations are added to the above mentioned items, as pertaining to the mechanism of analyzing the budget and coordinating the work of the Committee with other committees. Also, coordination must take place with the financial sector, and the one dealing with supervision over public funds, and legislation that has financial relevance. Following are the axioms that must be addressed:

### ***Axiom Number One: Budget Review and Analysis***

- To carry out thorough supervision of budgetary objectives in its occupational and economic aspects.
- To carry out thorough supervision of the long-term objectives and plans of the government agency in question.
- To review financial changes and suggestions made in the mechanism of hiring new employees.
- To carry out field supervision visits to the various facilities in question and to the capital improvements that are suggested.
- To carry out performance assessment during the financial year that will be ending, and to include a review of financial arrangements and qualification mechanisms.
- To review the need for particular programs, and to be knowledgeable in similar programs that offer similar services.
- To review administrative capabilities of the government agencies in question.
- To carry out a review to determine employment vacancies, in accordance with the organizational and administrative structure of the government system.
- To carry out a review of staff training and qualification programs.
- To carry out a comparison between salaries and wages in government agencies in question compared to institutions it is competing with.
- To carry out financial audit on all budget items.

***Axiom Number Two: Internal Work Related to Studying the Budget***

- To distribute ministry budgets to all subcommittees that will be studying it.
- To assign a committee member that will serve as liaison with the Budget Committee.
- Each Committee member will be asked to do the follow-up with one ministry or more during the financial year.
- To establish a coordination committee to facilitate information exchange.
- To hold hearings for senior officials from the Ministry of Finance (the Budget Department), and with relevant ministries, regarding their budgets.

***Axiom Number Three: Involving the Private Sector in Budget Discussions***

- To facilitate the flow of information to civic institutions regarding the general budget. Office of the Budget Committee will serve as focal point between the Committee and civic society institutions. The aim is to increase transparency.
- To hold general hearings that will discuss budget items, and the various expenditures allocated to health, unemployment, and social assistance programs, etc...

***Axiom Number Four: Supervision Over Public Funds***

- To ask for a yearly progress report about the work of government agencies in question.
- To hold public hearings on the expenditure of public funds and the general budget.
- To question government ministers and senior employees on the expenditure of public funds.

***Axiom Number Five: Legislation***

- To speed up the process of studying the laws and legislation presented to the Committee.
- To demand that ministries speed up the process of presenting financial laws.
- To review financial regulations and procedures and its consistency with the approved provisions of the law.

**8. Relations Between the Legislative and Executive Authorities**

- To decrease the number of Council members serving as ministers, which will decrease the hegemony of the Executive Authority over the Council, and will ensure a separation of authorities.
- To develop a coordination mechanism between the Legislative Council and the Cabinet. This can be done through a committee that will meet periodically, to follow-up implementation of Council decisions and recommendations, and to activate relations between the two authorities.

- To emphasize neutrality of the Chairman of the Legislative Council, to ensure political neutrality and not to be affected by the ruling party during operations of the legislative process.
- To ask the Executive Authority to issue laws completed by the Council. The Cabinet must speed up the process of studying the draft legislation submitted to it, before the draft is transferred to the Council.
- To make sure that the Basic Law will include provisions on the creation of the post of Government Legal Advisor. The aim is to appoint someone to examine all Government procedures, to ensure that there are no contradictions with the law.
- To speed up the process of examining the General Elections Law.

## **9. Relations with the Public**

- To speed up the process of establishing the Council's radio and television, in case the Government continues to refuse to broadcast Council sessions through the official radio and television.
- To hold public meetings periodically, organized by Council committees, and to broaden the participation of public and civic society institutions.
- To prepare a program for student visits from the schools and universities to attend Council sessions.
- To organize period meetings between the Chairman of the Legislative Council and representatives of political forces, civic society institutions, public opinion representatives, and local media.
- To create a new department within the Council's structure for communication with the public. It can be part of the Media Department or the Department of Public Relations. It should be responsible for putting and implementing plans regarding relations between the Council and the general public.
- To put an annual plan regarding relations between the Council and the general public, especially on certain occasions such as Democracy Day, to ensure a broader public and official participation in key occasions.
- To modernize and develop the Council's Homepage, and to continue developing it, as a main mechanism for providing information about the Council and disseminating its news.

### ***Two: Recommendations Pertaining to the Cabinet***

- Drafted legislation must be consistent with the National Reform Plan and in a manner that will ensure its implementation.
- To strengthen the role of the *Al-Fatwa and Legislation Agency*. Also, to re-examine the publishing of *Palestinian Chronicles*, to make sure that laws are not frozen on the pretext that they were not published there.
- To find a mechanism for putting the programs and plans adopted by the Government in front of the Legislative Council for review.
- To make sure that the Cabinet is presenting the Council with periodic reports about operations of the various ministries and government agencies, and to provide the Council with reports prepared by the General Supervision Commission.

- To give the Legislative Council the opportunity to review the Government's general policies and to approve it through the Council's specialized committees.
- To follow-up Cabinet activities when it is issuing executive regulations based on the adopted laws.
- To prepare and implement a program on awareness and adherence to the law.
- To ask all ministers to prepare plans for their ministries in a manner consistent with the programs determined in the general budget. This will facilitate the process of supervision over the ministries.
- To work on explaining to certain public institutions the legal and institutional ramifications, so as to facilitate their submission to accountability in front of the Legislative Council.
- To broadcast Council sessions on the official radio and television, and to allow all the interested television and radio stations to broadcast the Council proceedings.