

Aspects of the Palestinian Political System according to the
Draft Constitution

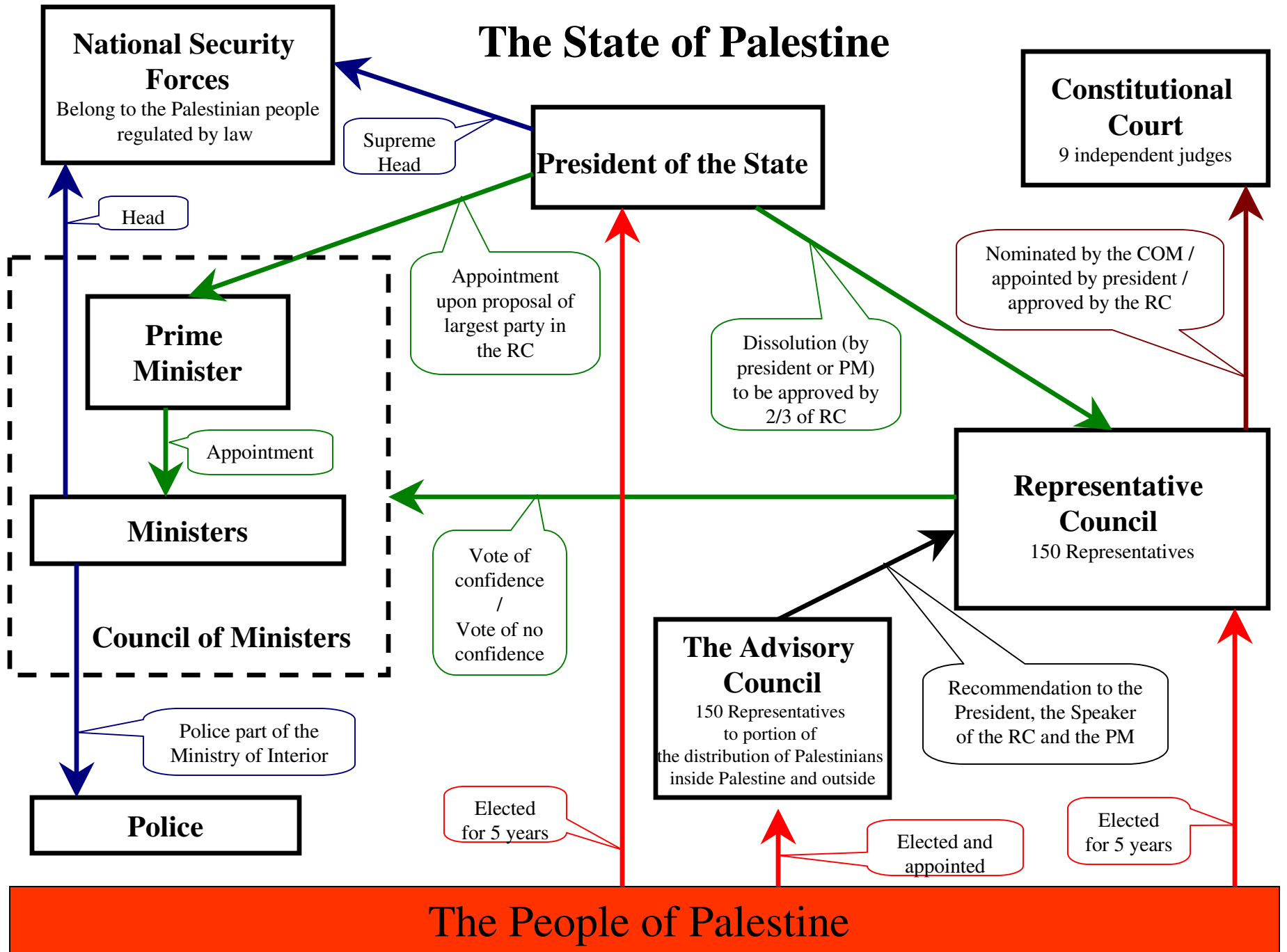
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A Brief History of Palestinian Constitutions

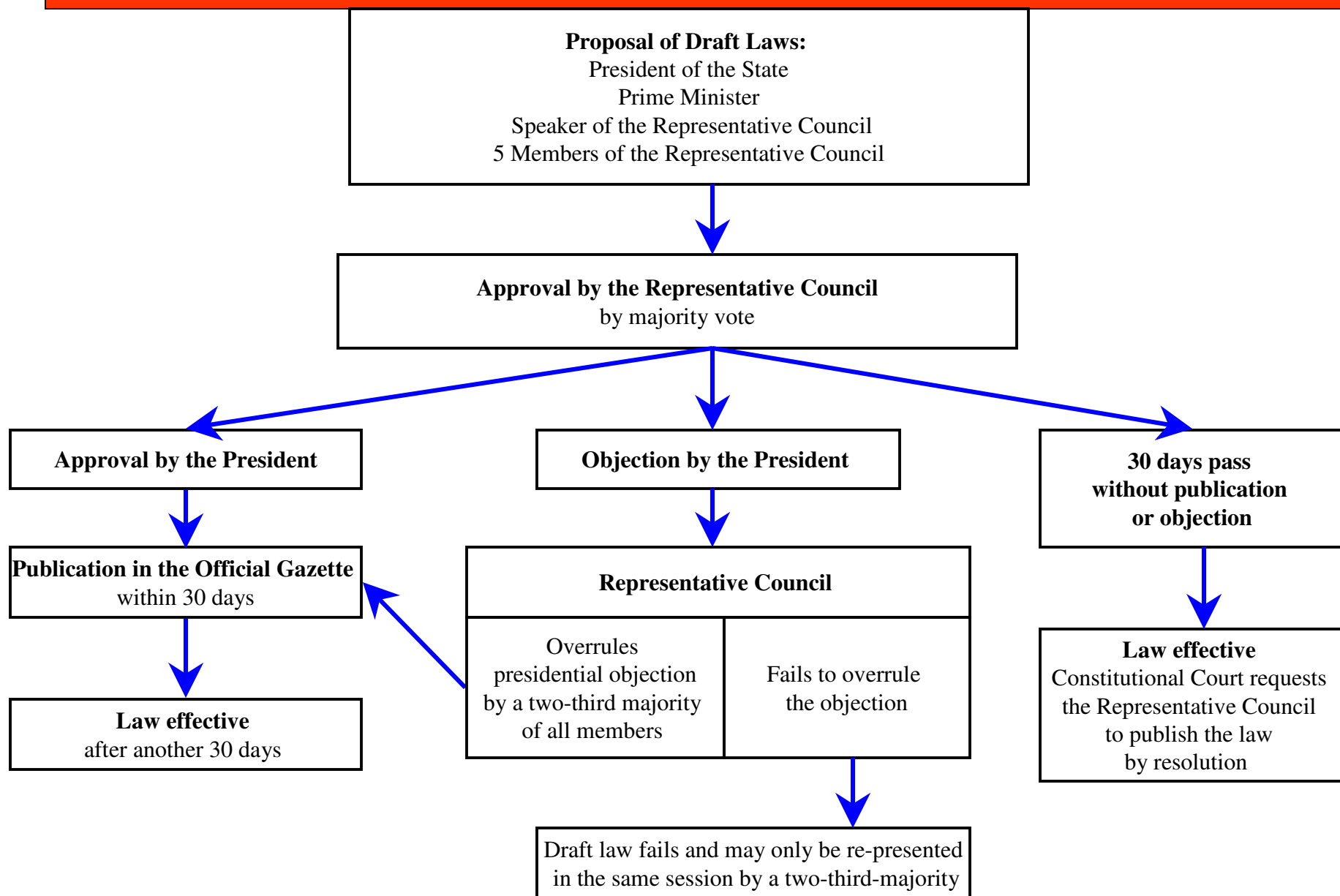
- 1988: The PNC (Palestinian National Council – the most important organ under the PLO umbrella) declares a Palestinian state and authorized a committee to draft a constitution.
- 1994: PNA (Palestinian National Authority) created under Oslo Accords
- 1996: Elections of PLC (Palestinian Legislative Council)
PLC assumes control over the drafting process
- 1997: Basic Law (interim constitutional document for the PNA) becomes effective
Basic Law not approved by President Arafat until 2002 and still not fully implemented.
- 1999: PLO's Central Committee authorized the drafting of a constitution to accompany a declaration of statehood → first draft 2001
- 2003: The drafting of a constitution becomes part of the “Roadmap”
Third Draft Constitution for a Palestinian State
Major amendments to the Basic Law

The constitution for a future independent Palestinian State is supposed to end the PNA-era. One important question is the fate of the PLO. Will it end to exist after the establishment of Palestinian State?

The State of Palestine



Legislation Procedure



General Foundations of the State (1):

- Political System: republican, parliamentary representative democracy – based on political pluralism and the guarantee of the rights and freedoms of all citizens
- Indivisible unit within the borders on the eve of June 4, 1967
- Arab unity is a goal
- Palestine abides by the Charter of the United Nations, the League of Arab States and the Universal Declaration of Human Rights.
- Jerusalem is the capital
- Arabic is the official language
- Islam is the official religion – “Christianity and all other monotheistic religions are accorded sanctity and respect. The constitution guarantees equality in rights and duties to all citizens irrespective of their religious creed.” (Art. 5)
- The principles of the Islamic shari’a are a main source for legislation.

General Foundations of the State (2):

- Rule of law and justice shall be the basis of governance
- Palestinian nationality for anyone who required it prior to May 10, 1948.
This right passes on from fathers or mothers to their offspring
- Right to return to the Palestinian state and Palestinian Nationality for all Palestinians expelled or emigrated from Palestine as a result of the 1948 war
- Negotiations to strive to implement the legitimate right of Palestinian refugees to return to their homes and to compensations
- Preservation of a clean, balanced environment shall be a duty of the state and the society
- Free economy within the context of a free economy
- Special protection for “those who suffered during the struggle to realize the Palestinian national project..” (Art. 17)

Public Rights, Freedoms & Duties (1)

- All Palestinians are equal before the law.
“The term ‘Palestinian’ or ‘citizen’ wherever it appears in the constitution refers to male and female” (Art. 19)
- Voting-age: 18 years
- Anyone who bears Palestinian nationality shall have the right to enter his candidacy for the presidency of the republic or for membership in the Representative Council and/or assume a ministerial or judicial position.
- Women shall have the same rights, basic freedoms as men as well as the same duties
- Citizens shall have freedom of residence and travel – no Palestinian may be extradited to a foreign state.
- Right of asylum for political refugees
- Freedom of creed – right to practice the rites of worship in accordance with the law- access to holy places
- Freedom of opinion and its expression
- Freedom of the media – within the framework of society’s basic values – no conflict to the rule of law
- Intellectual property rights
- Education is a right for the individual and the society
- Independence of the universities

Public Rights, Freedoms & Duties (2)

- Work is a right of every citizen – workers may form unions and professional associations in the context of work – right to protest and strike within the framework of law
- Right to hold private meetings in a matter not conflicting with law and without the presence of the police for every individual
- Right for every individual to assemble and hold public meeting, and to demonstrate in a peaceful manner without bearing arms – restrictions only by law
- Right to address public authorities and to present and sign written petitions and complaints
- Basic rights and freedoms may not be suspend – law shall define those rights and freedoms that may be limited temporarily in exceptional cases
- “Defending the nation is sacred duty and serving it is an honor for every citizen. It shall be regulated by law.” (Art 61)
- “It is not permitted for individuals and groups to acquire, trade, bear, or possess arms in violation of the provisions of the governing law” (Art. 61)
- The payment of taxes and public fees is a duty regulated by law.

State of Emergency:

- The president of the State may, by agreement with the prime minister and with the consultation of the speaker of the Representative Council announce a state of emergency.
- In case the country is exposed to threat of war or natural disaster or siege in a way that threatens the safety of the society.
- Effective period: 30 days – may be renewed only once by the agreement of two thirds of Representative Council, except in case of war.
- The Council of Minister may issue decision to be approved by the President within 15 days which shall have the force of law – however, the Representative Council has to pass them in its first meeting possible or their legal force ceases retroactively.
- During a state of emergency it is permitted to limit basic rights and freedoms except to the extent necessary to preserve public order. All emergency decision of the Council of Ministers are subject to judicial review.