PALESTINIAN SECURITY SECTOR GOVERNANCE

Challenges and Prospects
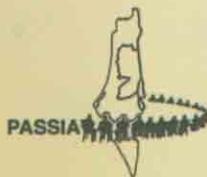
PASSIA

DCAF

Palestinian Academic Society for the Study of
International Affairs, Jerusalem (PASSIA)

Geneva Centre for the Democratic Control of
Armed Forces (DCAF)

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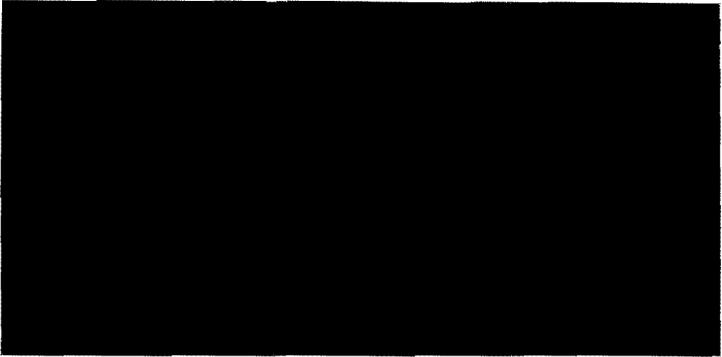
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List of Acronyms

DCAF	Geneva Centre for Democratic Control of Armed Forces
DDR	Demobilization, Disarmament, and Re-integration
MCR	Ministerial Committee for Reform
NSC	National Security Council
PASSIA	Palestinian Academic Society for the Study of International Affairs
PICCR	Palestinian Independent Commission for Citizens Rights, Ramallah
PLC	Palestinian Legislative Council
PNA	Palestinian National Authority
PNC	Palestinian National Council
PSR	Palestinian Center for Policy Survey and Research, Ramallah
SSR	Security Sector Reform

WORKSHOP PROGRAM
30 July 2005, Grand Park Hotel, Ramallah

09:30	**Welcome and Opening**	
	Speakers:	Mahdi Abdul Hadi, *Chairman of PASSIA*
09:45		Arnold Luethold, *Senior Fellow, DCAF, Geneva*
09:45	Introduction:	**Transparent and Accountable Security Sector Governance - An Introduction to the Security Sector Reform Concept**
10:15	Speakers:	Arnold Luethold, *Senior Fellow, DCAF, Geneva*
		Roland Friedrich, *Consultant, DCAF, Geneva*
10:15	Session 1:	**The Challenge of Developing a National Security Policy in the Palestinian Context**
11:30	Speaker:	Mamduh Nofal, *Author, Political Analyst, and PNC member, Ramallah*
12:00	Session 2:	**Challenges of Palestinian Security Governance - Legal Framework, Structures and Institutions**
13:30	Speaker:	Basil Jaber, *Head, Reform Coordination and Technical Support Unit, Ministerial Committee for Reform (MCR)*
	Discussant:	Khalil Shikaki, *Director, Palestinian Center for Policy and Survey Research (PSR), Ramallah*
14:30	Session 3:	**Challenges of Palestinian Security Governance - Legislative Oversight & Public Control**
15:30	Speakers:	Hassan Khreisheh, *First Deputy Speaker, PLC*
		Ma'mun Attili, *Field Researcher, Central West Bank, PICCR*
16:00	Session 4:	**Palestinian Security Sector Reform and the Role of External Assistance**
17:30	Speaker:	John Jenkins, *British Consul General, Jerusalem*

Workshop on Security Sector Reform
Summary Report

Introduction

On 30 July 2005, the Palestinian Academic Society for the Study of International Affairs (PASSIA) and the Geneva Center for the Democratic Control of Armed Forces (DCAF) jointly organized a one-day workshop under the title "Security Sector Reform in the Palestinian Territories: Challenges and Prospects" in Ramallah. The workshop brought together more than 60 Palestinian security practitioners, politicians, representatives of civil society and academics to discuss the challenges of Palestinian security governance and the prospects for Security Sector Reform (SSR). Following up on a smaller PASSIA workshop in 2004, this was the first time that security sector governance and reform were discussed in Palestine, and probably even in the Arab world, with large participation from the civil society. The workshop built strongly on the participants' input and gave rise to a rich discussion of the state and prospects of Palestinian security reforms.

The political transition process in the Palestinian Territories presents great challenges to all areas of Palestinian governance. However, security governance has become the priority issue for all parties involved. Palestinians suffer from a sharply deteriorating internal security situation as lawlessness and anarchy continue to rise. Despite increasing international support, the Palestinian National Authority (PNA) and its security agencies encounter serious difficulties as they try to impose law and order on the Palestinian street. In many areas, Hamas, the Islamic Resistance Movement, has effectively replaced the PNA as the holder of the monopoly of force. Security considerations are also a key concern for Israel as it plans to withdraw its settlers and troops from Gaza and parts of the northern West Bank. The International Community is trying to address the concerns of both sides by increased ground involvement in Palestinian security reform.

The workshop was divided into four sessions addressing key areas of reform: the development of a Palestinian National Security Policy, the institutional set-up of Palestinian security governance, legislative and public oversight mechanisms, and the role of international assistance.

Opening of the Workshop

The event was opened by welcome addresses from Dr. Mahdi Abdul Hadi, Chairman of PASSIA, and Mr. Arnold Luethold, Senior Fellow and Head of the Middle East North Africa Program at DCAF.

Dr. Mahdi Abdul Hadi greeted the participants and introduced the background of, as well as the expectations from, this workshop. He mentioned that to date very limited research has been conducted

with regard to the Palestinian security sector, although it constituted an area of both public and individual concern. While in the last four years a few foreign researchers have shown some interest in the more theoretical aspects of security governance and policy recommendations for reform, Palestinian experts were rather reluctant - not to say cautious - to publicly comment on security related issues, he added.

Dr. Abdul Hadi described the workshop as part of PASSIA's ongoing dialogue between representatives of civil society and government/ security sector and part of its efforts to provide an open forum for the discussion of important, topical and critical issues. The objective of this particular workshop, he said, is to contribute to a better understanding of Palestinian security governance and analyze its significance within the specific national context, which remains strongly influenced by the Israeli occupation, a perception of chaos in the security forces, and a widespread feeling of insecurity amongst the Palestinian population.

Dr. Abdul Hadi emphasized that while this workshop is seeking to take an in-depth look at the state of Palestinian security governance and assess the reform efforts, it was not its goal to accuse, attack, condemn or judge any person or group within the security apparatus or the government. The focus should rather be on the future and what is needed in Palestine to strengthen the security sector and make it more efficient. Ensuring a proper legal framework, a clear separation of powers and a delimitation of roles, Dr. Abdul Hadi said would be crucial for overcoming a governance system which was still influenced by the legacy of the former President. Late President Yasser Arafat had pursued a long-term policy of centralizing control and power in his person, establishing him as the sole arbiter and giving him discretionary powers to

appoint, pay and arm those loyal to him without referring to any coordination or consultation.

Dr. Abdul Hadi added that in recent months, as part of the ongoing reform efforts of the PNA and its new leadership, certain powers have been devolved. As a result, some responsibilities are now shared by the President, the Prime Minister, the Minister of Interior, the National Security Council and various security groups as well as political factions, mainly Fatah.

Dr. Abdul Hadi expressed the hope that this dialogue would mark the beginning of a constructive learning process and would help produce, over time, the sociopolitical changes needed within the Palestinian security sector. He said the workshop has the potential to open the door for a new strategic thinking process that could assist internal and external security reform. It eventually might also help to enhance the capability of Palestinian security forces to guarantee law and order and provide protection for the Palestinian population from Israeli attacks, internal violence and lawlessness.

In his welcome address, Mr. Luethold expressed appreciation for PASSIA's cooperation in preparing and convening this workshop. He also briefly introduced DCAF and its activities. He emphasized that SSR is a highly ambitious undertaking, challenging societies to rethink and reinvent their institutions and political processes. Not only countries in transition toward democracy, but established democracies as well have to define what price they are prepared to pay for what type of security. These hard choices, he said, require discussion and debate and inclusiveness to the greatest possible extent. The workshop was meant to provide one platform for a Palestinian debate.

Introduction to Security Sector Reform (SSR)

After the opening remarks, Mr. Arnold Luethold, Senior Fellow and Head of the Middle East North Africa section at DCAF, and Mr. Roland Friedrich, DCAF Consultant for SSR in Palestine, delivered an introduction to the concept of SSR.

In his presentation, Mr. Luethold gave a brief overview of the various actors of the security sector. He illustrated that the security sector involves not only a wide range of armed forces, but also a complex and multilayered governance structure: In a functioning security sector, executive and legislative authorities, the judiciary, civilian research and training institutions, civilian experts, the media, and eventually the public at large play an important role in controlling and overseeing the defense, security and intelligence organisations and prevent them from becoming a 'state within the state'. Serious deficiencies, he continued, occur when the forces are no longer capable of dealing with security threats (change of nature or level of threats; inadequate training, equipment, resources, structure or size of forces) or if the institutions and the society are too weak to exert effective control and oversight. SSR is the cure for a dysfunctioning security sector, with the aim of building effective forces and establishing a transparent and accountable governance structure, based on the rule of law.

SSR, Mr. Luethold explained, does not just target defense, police or intelligence services. Developing functioning ministries; strengthening the parliamentary role in defense and security; and establishing macro-policy frameworks, proper legal systems and processes for budget scrutiny are equally important components of a comprehensive SSR program. What makes SSR so complex is that it integrates responses to various challenges: building peace, building

institutions, building democracy and building economy. The definition of the reform content and the sequencing of activities is highly dependent on context, Mr. Luethold explained. To avoid the pitfalls of a mechanistic approach, he concluded, any reform at the force level should be matched and underpinned with proper reforms at the governance level.

Mr. Friedrich gave an overview of the general challenges faced by actors who engage in SSR. He underlined the importance of local ownership of the reform process and emphasized that SSR needs a broad consensus among all actors involved in order to succeed. Acknowledging the challenges of a substantive SSR program, Mr. Friedrich pointed out that SSR is not an end-point but a complex social process stretching over a prolonged period of time. 'Like democracy itself', he explained, 'SSR is an ongoing process in which no society will ever achieve perfection.' Therefore, he continued, the sequencing of reforms and the balancing of the reform components with regard to short-term and long-term objectives is key.

Mr. Friedrich explained that an exclusive concern for professionalizing forces without strengthening governance and oversight was highly risky as this might well lead to the consolidation of authoritarian rule instead of democratic progress. To avoid the risks and dangers associated with a piece-meal reform approach, it would be necessary to develop a comprehensive reform strategy that involves all actors of the security sector (force level and governance level) based on the political, economic and social conditions of the specific context: 'If the specific local conditions are not taken into account, reform is very likely to fail.' A useful and necessary instrument in this regard, he concluded, is an overarching policy framework, such as a National Security Policy, that constitutes the basis for comprehensive SSR, including the legal reform process.

1. The Challenge of Developing a National Security Policy in the Palestinian Context

In the first session, Mr. Mamduh Nofal, political analyst and member of the Palestinian National Council (PNC), addressed the needs and concerns related to the *formulation of a Palestinian National Security Policy* in the context of the Israeli occupation. He pointed out that SSR is a Palestinian national necessity and not merely a response to external pressure. Referring to what he described as an Israeli policy of consolidating the occupation of the West Bank, he said that the central policy objective should be to reduce further Palestinian losses, not to maximize gains.

Mr. Nofal underlined the central role of security in Israeli strategic thinking. Trough the Oslo process, he said, Israel has basically accepted the notion that functioning Palestinian security forces are key for its own security. *Providing security to Israel,* Mr. Nofal continued, is a means of securing Palestinian national rights. Further Palestinian rights are therefore dependent on the performance of the Palestinian security forces.

Mr. Nofal recommended that the executive elaborate a National Security Policy and present it to the Palestinian Legislative Council (PLC) for approval. Emphasizing the difference between statehood and the Palestinian context of limited self-rule, Mr. Nofal admitted that the formulation of such a security policy would be difficult. In his assessment, the on-going *occupation* of Palestinian territory, combined with the uncertain outcome of the *Israeli pullout* from Gaza and strong *US support to Israel,* constrains the Palestinian National Authority's capability of assuming security responsibility. As internal constraints, he mentioned the *uncertain future of the Fatah movement,* the significant military *destruction of the Palestinian security infrastructure, Yasser Arafat's legacy* of militarizing the Second Intifada, as well as *lack of political will* on the side of the current Palestinian leadership. Mr. Nofal listed the *coordination of security measures with Israel and the improvement of the image* of the Palestinian security forces as main short-term priorities.

Discussion

Responding to Mr. Nofal's presentation, many participants differentiated between *internal and occupation-related security challenges*. Although the bulk of Palestinian security problems are perceived as a direct result of the Israeli occupation, participants widely shared the assessment that many other security problems are home-grown. Despite the emphasis which the discussion put on the detrimental effects of Israel's occupation, many participants made it clear that there was the possibility for a genuine Palestinian security reform process. In the words of one discussant, 'there are aspects of our lives that can be reformed. Regulating the traffic in central Ramallah has no relation to the occupation.'

Participants also agreed that the high degree of *external domination of the Palestinian polity* posed significant constraints to the formulation of both a National Security Policy and a broader political strategy vis-à-vis the peace process. In this context, discussants underscored the necessity to define as concretely as possible the scope and content of '*Palestinian security*'. Various participants said that there was an inherent contradiction between the provision of security for the Palestinians and the necessity of providing security to Israel according to the Oslo Agreements. "Do we define security in a national framework", one discussant asked, "or are we ultimately subcontracted for providing security to others?"

Most participants agreed that *human security* for Palestinians was to be considered the top priority and the objective of SSR. Several discussants also underscored the necessity to *link security reform to the broader Palestinian development* agenda. "The main goal of reform must be achieving security for the citizens and satisfying their basic needs", as one participant summarized it.

2. Challenges of Palestinian Security Governance – Legal Framework, Structures and Institutions

The second session dealt with structural and institutional dimensions of Palestinian security reform. Mr. Basel Jaber, Head of the Reform Coordination and Technical Support Unit in the Ministerial Committee for Reform (MCR), gave an overview over the Palestinian efforts to establish a legal basis for the Palestinian security sector. He said that the political decision to start comprehensive security reform had been taken. However, the *strategic planning* and the *specific research* required to undertake sound reform were still missing. Mr. Jaber warned against inflated expectations: 'At the moment, we are learning by doing.' He emphasized the need for a *clear legal framework* for Palestinian security governance as a prerequisite for successful reform and regretted that this was still missing.

Mr. Jaber said that the institutional role of the Prime Minister in the security domain remained still unclear. He called on the National Security Council (NSC) to define a *National Security Policy*. He also demanded the quick enactment of the *Basic Security Law* which was decided upon by the Cabinet but has not yet been passed to the PLC. The Basic Security Law is set to determine the general remits and responsibilities of the security forces and the general framework for security-related decision-making. Referring to the draft security laws currently under revision in the PLC, Mr. Jaber criticized many of these drafts for focusing only on the rights of the security forces and their members, yet neglecting their obligations. He demanded that the PLC put all work on security laws on hold until the approval of the Basic Security Law. Mr. Jaber also appealed to the Palestinian civil society to take a more active role in security governance issues.

Responding to the presentation, Dr. Khalil Shikaki, Director of the Palestinian Center for Policy Survey and Research (PSR), emphasized the *close linkage between Palestinian governance reform and the peace process: 'If there is no peace process*, there will be no successful reforms.'

In Dr. Shikaki's assessment, the *Palestinian political regime* constitutes a key problem. With the creation of the post of prime minister in 2003, constitutional responsibility for security lies with the cabinet. Despite this, he argued, the president still aims at controlling the security domain. He cited the direct negotiations between President Mahmoud Abbas and armed Palestinian factions as an example. In his interpretation, this role ambiguity leads to repeated clashes between the President and the Prime Minister, with the Minister of Interior often finding himself in the middle. He suggested that all three office incumbents sit down and formulate a coherent policy. Dr. Shikaki cautioned that PLC could only assume its role in security governance once the Palestinian Basic Law is effectively implemented and the cabinet obtains full security responsibility.

Dr. Shikaki also gave a grim assessment of the ongoing security reform process, saying the restructuring of forces has met with considerable *internal resistance*, and the presidential decree that called for the reorganization of all security forces into three agencies was not being seriously implemented. He also argued that there is no real interest in addressing the *corruption* and factional loyalties in the security forces. He was critical of the PNA policy of staffing the Palestinian internal security service almost exclusively with Fatah loyalists, as this in fact reduced the 'Palestine Preventive Security' to a militia of the PNA. "What would Fatah say of a Preventive Security composed only of Hamas members?", he asked.

Discussion

In the ensuing debate, many participants agreed that SSR had to begin with the establishment of a *legal-normative framework* for the Palestinian security sector and underlined the importance of parallel reform of the judicial system. As one participant emphasized, there is not even a legal framework for the National Security Council (NSC), which is supposed be the main body for conceptualizing security reforms.

Many participants saw in the *politicization of the security forces* one of the main obstacles to reform. In the words of one participant, "the Palestinian security forces essentially replicate the organisation of the ruling party in exile. And as Fatah focused on symbols instead of institutions, the security forces automatically followed the same model. This is why the loyalties of security personnel lie with the commanders and not with the organisation." Various participants warned against the detrimental effects of an exclusively Fatah-dominated security sector. This "feudalization of institutions", as one participant termed it, could have a very negative impact on the Palestinian democratic process. Referring to future legislative elections and hinting at the rising strength of the Islamic movement, participants pointed out that a future government might very well adopt the same strategy and put only its party members in key security positions. "If a new party comes to power", one participant asked, "what will prevent them from copying the Fatah model and employing their own followers?" Successful reform, several said, would imply that official security agencies give up their partisan character and militia behavior and adopt an inclusive approach to recruitment.

Another key issue for reform in the eyes of many participants is the *fight against corruption*. Various discussants demanded that the government come up with a clear anti-corruption plan and share it

with the public. In addition to that, one participant suggested the creation of special financial audit departments in all security agencies with direct connection to the Palestinian State Controller and the Ministry of Finance.

Discussants also criticized the *lack of professionalism and low morale* of the security personnel which resulted in high absenteeism. One participant said that it was not unusual to visit a Palestinian police station and find it almost deserted of all staff. Another participant criticized the government's policy of recruiting security personnel amongst former prisoners. In the current *recruitment policy*, a past record of captivity in an Israeli detention facility is highly valued in the selection process and is often the only qualification that is looked at, he said. Following up on this point, various participants added the need for developing a *coherent strategy for DDR* (Demobilization, Disarmament and Re-integration) of combatants that would also integrate a component of *rehabilitating former prisoners*.

Various security officials said that some progress has been made. They consider the replacement of former chief security commanders by younger officers as a step in the right direction. "Reform will not come over night", they warned. Other officers perceive *the high turnover of personnel* in top command positions within both the security forces and the Ministries as problematic and concluded that reform would require greater stability and long-term commitment. Security officers see the main responsibility for reform as 'laying foremost with the political leadership'. A key concern for many officers remain the *salaries for security personnel*. An increase, they said, would be needed to adjust it to the level of salaries paid in the Civil Service and could help boost morale and prevent corruption.

3. Challenges of Palestinian Security Governance – Legislative Oversight and Public Control

The third session addressed the issue of legislative oversight and public control. Mr. Ma'mun Attili, Field Researcher for the Palestinian Independent Commission for Citizens Rights (PICCR), gave a critical summary of the PLC's oversight record. He pointed out that the degree of parliamentary oversight over the security sector is a key democracy-indicator and concluded that Arab countries could therefore not provide a suitable frame of reference. Mr. Attili also provided statistical data of the use of oversight instruments by PLC members, to illustrate that legislative control over the PNA was practically non-existent. As the main reasons for these shortcomings, Mr. Attili identified four factors:

1. the lack of *willingness* of the PLC to exercise oversight;
2. the nationalistic *political culture* in the Palestinian Territory;
3. the *lack of parliamentary expertise*, and
4. the *monolithic ideological structure* of the Council and its domination by Fatah.

Mr. Attili said that Palestinian *civil society* is weak and for the time being is unable to exert effective oversight.

Dr. Hassan Khreisheh, the First Deputy Speaker of the PLC, delivered an equally strong criticism of the PLC's oversight function and said that under the new Palestinian leadership the situation had become worse rather than better. Citing the absence of a basic *legal framework* for security, he explained that there were still 13 independent security agencies with different security philosophies and traditions, and reiterated that the key problem was that the *loyalty of security personnel* lies with their commanders and not with the institutions. Past attempts to replace some security commanders were met with threats of strike by security personnel loyal to them.

In theory, the PLC has many tools at is disposal, but in reality the Council's *oversight activities have very little impact*, Dr. Khreisheh admitted. When trying to question security commanders, he said, many of these individuals had simply refused to cooperate. When the PLC summoned an officer for hearing, the reaction was almost always: "You are not responsible for me, Abu 'Ammar [Yasser Arafat] is responsible for me". There had been regular parliamentary reports on corruption and human rights violations, but they had no real effect, Dr. Khreisheh added. He illustrated that some of the individuals who had been incriminated by these reports, instead of being persecuted, had been appointed to ministerial positions. In Dr. Khreisheh's assessment, the "only hope for change lies in *new legislative elections* and more *political pluralism*". He also called for the establishment of a local *PLC complaints mechanism* and demanded a general *change in the Palestinian political mindset*.

Following up on Mr. Attili's and Dr. Khreisheh's presentations, Mr. Azmi Shu'aibi, PLC Deputy for Ramallah, said that Palestinian security reforms must include much more than the mere rehabilitation of forces. Although he conceded that part of the work of the security forces was secret by nature, he affirmed that *secrecy* did not mean that there cannot be *strong parliamentary oversight mechanisms*. Mr. Shu'aibi also saw parliamentary elections as the "main way out of the current stalemate." Referring to the growing *lawlessness* in the Palestinian Territories, he said that if general elections were not held before the end of 2005, it was unlikely that there would be any elections for the near future: "If there are no elections, we will have a security chaos which none will be able to control." Mr. Shu'aibi also urged Fatah to set a date for its 6th General Conference, although he emphasized that the *internal reform of Fatah* should not be made a precondition for holding the elections. As to the security forces, Mr. Shu'aibi

said that it was far from clear whether they could actually still be reformed. He hinted that the *dissolution of the existing agencies* and the *creation of new security organisations* might be the more appropriate option.

Discussion

During the following discussion, many participants disapproved of what they perceived as the PLC's inability to issue proper legislation for the governance of the security sector. Discussants said there was a complete *absence of legislative policy* and asked why the Council had accepted individual draft laws on the security services, which were partly drafted by the security agencies themselves. "Why did the PLC not pressure the government to present security laws in package?", one participant asked, adding that it was unacceptable to have a situation where "rights and obligations of members of one agency are completely different from those of another". Various discussants reiterated the demand to put all legislative work on security on hold until the Basic Security Law is enacted. Responding to this criticism, representatives from the PLC said that the main responsibility for the lack of progress on the legal track was with the executive. They related that both the President and the Prime Minister had called for the approval of the *Basic Security Law* but had in fact presented different draft laws to the Council. "As long as the leadership of the Executive does not have a *common vision*, the PLC will be the arena of a power struggle. However, if the executive presented a clear vision, based on the rule of law, the PLC would approve it one day." Referring to the current deadlock, one participant suggested that the PLC and *civil society* jointly intervene and impose their vision of reform, if no substantial progress was being made by the government.

Many participants saw the lack of reform progress partly rooted in the Palestinian *political culture*, which one discussant described as

'part of the Third World experience of institutional development.' They said that the practice of *copying laws from neighboring Arab countries* was detrimental to Palestinian legal development, as legal practice in other Arab countries did not reflect the peculiarities of the Palestinian context and remained substantially below Palestinian expectations in democracy.

Relating to the strengthening of *public control*, many discussants criticized the lack of public knowledge about the security forces as well as their reform. Although the security reform debate has been going on for more than four years, they argued, it was still unclear what has been achieved and where reforms were going. Participants also suggested the enactment of legislation in order to define the relations between the *PICCR as the official PNA ombudsman* and the security agencies.

4. Palestinian SSR and the Role of External Assistance

In his presentation, Ambassador Dr. John Jenkins, the British Consul General in Jerusalem, delivered a critical analysis of the impact of international assistance on security sector governance. In his view, multilateral and bilateral aid channeled into security assistance had produced very limited results. Dr. Jenkins laid out that it was still unclear how the decisions on security were made and urged the Palestinians to define their *higher national interest* as well as their *security policy*. He said that Palestinians had to decide what kind of support they wished to receive. Dr. Jenkins also made it clear that *international assistance* must be channeled through *clear mechanisms* which had yet to be established. Dr. Jenkins said that it was still not clear if the Palestinian side preferred to receive security assistance via institutions or individuals.

Discussion

Discussants widely agreed that there was a need to establish consensus on Palestinian security interests. They also underlined the need to *link security reforms to the peace process* and urged the international community to bring Israel back to the negotiating table. 'It is not possible to improve the internal Palestinian situation without international pressure in order to reopen the channel for negotiations and dialogue', one participant said. Responding to this, Dr. Jenkins emphasized that any reform process had to include *coordination with Israel* but said that it was difficult for the international community to have tangible progress on the peace track without having *diplomatic leverage*. Real Palestinian security reforms could provide such leverage. With regard to the mechanisms of external support, many participants shared the assessment that there had to be a centralized process. As a remedy, one discussant suggested the exclusive channelling of aid to individual ministries through the Ministries of Foreign Affairs and Finance.

Conclusion

Reforming the security sector will be the key challenge for Palestinian governance for the years to come. It became evident during the workshop that the notion of 'security' cuts across all areas of governance and society. In this regard, Palestinian SSR is first of all a political challenge rather than a technical or organizational question. In other words, without creating and maintaining the necessary political conditions for reform, any structural or organizational changes in the Palestinian security sector are likely to be short-lived. Holistic Palestinian security reforms demand a comprehensive political process that involves stakeholders in security governance on all levels over an extended period of time. A serious dialogue between Palestinian policy-makers and society will be of critical importance here. The PASSIA-DCAF workshop was a step in this direction.

The Challenge of Developing and Implementing a Palestinian Security Policy

Mamduh Nofal[*]

Lessons from Past Experiences

In discussing the internal and external challenges to Palestinian security policy and the work of security institutions, two facts must be kept in mind: First, the Israeli concept of security, which depends heavily on colonizing the Palestinian Territories, steers hatred and inflicts harm on Palestinians and Israelis. Israel took almost 50 years to recognize the Palestinians, and 25 years to recognize the Palestine Liberation Organization (PLO) as their legitimate representative. This and four major wars between Arabs and Israelis created much

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[*] The late Mamduh Nofal was member of the Palestinian National Council (PNC), member of the PLO Higher Committee for Palestinian National Security, and the late President Yasser Arafat's political advisor for internal affairs and security. He was a military commander of the DFLP (Democratic Front for the Liberation of Palestine) in Lebanon, member of the DFLP politburo (1972-1986), and one of the founders of FIDA (Palestinian Democratic Union). Mamduh Nofal passed away in July 2006.

resentment in the Arab world. Israel's biased understanding of security complicated the attempts of Israel's Labor Party to make peace and resulted in political uncertainties. As a result, peace remains elusive.

Second, there is no consensus on a Palestinian concept of security among the Palestinian political parties. Ten years after the establishment of the Palestinian National Authority (PNA), its supporters favor one concept, and the Palestinian opposition another. Although the two concepts make use of similar slogans (defending the homeland, protecting the rights of citizens), they disagree on many issues. This nurtures hostility between the two societies.

The supporters of the PNA concept of security seek to achieve Palestinian national goals through negotiation with the occupying power on the basis of land for peace and the implementation of UN Resolutions 242 and 338. They are committed to ending the conflict by peaceful means and according to international resolutions.

In contrast, the opposition forces, both inside and outside the PLO, seek to achieve national goals through military action against the occupying forces and the illegal settlements in the occupied territories. They believe that Palestinian security can only be achieved after the liberation of all occupied land, the return of refugees, and the establishment of an independent state. However, they disagree among themselves as to which international resolutions apply to the Palestinian struggle and the Arab-Israeli conflict. They also disagree on the borders of the future State of Palestine and on solutions for the Palestinian refugee problem. Still, they agree on using violence, particularly suicide missions, for the pursuit of their objectives. They subsequently act counter the PNA's commitments, including PNA agreements with Israel.

This second security concept misunderstands this phase of the struggle and misreads regional and international political trends. This concept

can yield no positive results. It will only bring internal conflict and increase the suffering of the Palestinian people. The risk of conflict however can be avoided by respecting and promoting democracy.

Security as a Priority

Developing and implementing a Palestinian security policy in this phase raises many questions: Why discuss this matter now? What are the necessary components of the policy? How can the challenges to the policy be determined? What methods should be used to overcome these challenges? Is it possible to develop a national security policy under occupation? Who are the parties that should contribute to its formulation and development? How can it be made politically acceptable? What external parties should be asked to contribute?

Regardless of adverse political circumstances, Palestinians need to discuss and agree on a security policy also in time of occupation. There are several reasons for doing so, the most important being:

◆ Growing political conflict within Palestinian areas and with Israel further increases the burden on the PNA Security Services. Their task of upholding law and order becomes more and more difficult as a result of Sharon's Disengagement Plan, the building of the Separation Wall, and the overall rise in crime and violence.

◆ Security is crucial to Israeli political thinking. Regardless of the policy objectives pursued by the Israeli leadership, Palestinians must accept that security concerns shape to a large extent Israeli policy decisions and have to integrate this in any dialogue with Israel. Candid and public discussion of Palestinian security issues may help to develop more transparency and reduce some of the concerns of the Israeli government and public.

◆ Given the failure of the peace process and the rise of extremism on both sides, Palestinian rights will become more difficult to secure if Palestinians cannot ensure law and order in the Territories. Israel made it clear that the peace process will not resume before attacks against Israeli objectives are stopped.

◆ Palestinian security organisations will play a central role in securing the effectiveness and reputation of the PNA. The PNA must have strong security forces to protect itself physically and to enforce its decisions, especially its agreements made with Israel and other external partners. Even if the PNA has limitations in coping with the dangers posed by the Israeli occupation, this is no excuse for the Palestinian opposition to violate the law and to disregard decisions of the President.

Following the attacks in London, New York and Madrid, international concern with terrorism has grown significantly, and internal security has become a worldwide concern of domestic and international policy. A PNA decision to participate in international efforts of combating terrorism would require the development of strong and capable security institutions. Palestinians can no longer afford to ignore the role terrorism plays in international security thinking. Israel has been able to mobilize large international support for its military operations in Palestine, especially after it presented them as an Israeli contribution to 'the international war against terror'.

Components of the Palestinian Security Policy

The components of the Palestinian security policy, and its short- and long-term goals can be summarized as follows:

◆ To maintain and protect the security of the homeland, to protect the Constitution, and to implement the decisions of the Judiciary, the Legislature, and the Executive. Sharon's withdrawal plan has

resulted in a more immediate task as law and order must be maintained in the Gaza Strip following the withdrawal;

◆ To develop the capabilities of the PNA Security Services in terms of human and technical resources, to improve their public image, to enable them to protect the citizens' rights and property in the Territories, and to prepare them for the potential increase in internal conflict;

◆ To guarantee respect for agreements with Israel and other countries; and to abide by commitments made within the frameworks of the Arab League and the UN. The PNA Security Services must act in a manner that protects Palestinian and Israeli security interests;

◆ To secure law and order in all territories under the jurisdiction of the PNA, and ensure that terrorist actors obtain no support.

External and Internal Challenges to Palestinian Security Policy

The challenges to Palestinian security policy can be divided into external challenges which concern the Israeli occupation, and internal challenges from within the Palestinian society.

The Challenges of the Occupation

It is legitimate to ask whether a security policy can be developed under occupation. Israel's ongoing occupation and its policies are the main obstacle to developing an effective Palestinian security policy. Israeli policies neglect to pay attention to Palestinian security and focus exclusively on the security of the State of Israel and of Israelis, including those living in the settlements.

Israel has imposed tight restrictions on the development of the PNA Security Services. Both Labor and Likud governments have sought

to prevent the adoption of a national Palestinian security policy that would accelerate the drive for independence. Palestinian-Israeli agreements – including Oslo, Wye River, and Hebron – restrict the development of the PNA security services and specify their role in a manner that meets the security requirements of the State of Israel, not of the Palestinians.

Past Arab- and Palestinian-Israeli agreements have helped to change Israeli public opinion with regard to security and relations with Arabs and Palestinians. Yet, they have not changed the Israeli government's exclusive focus on Israeli security. Furthermore, Israel continues to reject the idea of any third party having a security role. When disagreements over security matters resulted in the participation of the CIA in official Palestinian-Israeli security meetings, there was an outcry; this response eventually forced the Barak Government to suspend such external involvement.

The Israeli security institutions have also attempted to prevent any cooperation between Palestinian security institutions and those of the Arab countries and the larger powers, especially the US. Moreover, Israel has frequently targeted the commanders and experts of the PNA Security Services, not because they participated in action against Israel, but because they contributed to strengthening Palestinian security relations with third parties, such as France, the UK, and the US. The assassination of Atef Bseisso, one of the founders of the Palestinian security institutions, illustrates this policy.

Israeli operations during the occupation have also weakened the PNA Security Services in terms of infrastructure. During the *Intifada*, security service headquarters, equipment, and personnel became primary targets for the Israeli armed forces. Such acts seemed designed to prevent security services from performing their duties.

The PNA Security Services have performed relatively well despite

these challenges: They resisted instrumentalization by Israeli policy, but cooperated with the Israelis as instructed by their own leadership. Despite of very limited resources, they defended, within the limits of their possibilities, the rights and property of Palestinians.

The Internal Challenges

The PNA Security Services face structural problems in defining the proper organization of the services, in selecting and training appropriate personnel, in defining an effective system of rank, and in setting appropriate and sufficient salaries, allowances, and bonuses. To these problems are added the technical and organizational limitations imposed by Palestinian-Israeli agreements. This resulted in the shortage of human and financial resources, which impact on procurement, operational capability and organizational development.

The internal challenges are primarily political and are related to the status of the PNA and the role of the Fatah Movement, which, as the ruling party, is controlling the PNA Security Services. The Palestinian political leadership so far has failed to provide an integrated and clear security policy. Politicians confuse the security needs of the State with the security needs of Fatah as a liberation movement. The leadership, while trying to abide by its political commitments, often ignored the rise of violent opposition groups from within the movement. Thus, the security services often clashed with ideas and acts of the Al-Aqsa Martyrs Brigades, the Abu Rish Brigades, and other brigades that basically belong to the PNA ruling party. By ignoring these groups, the leadership facilitated their rise and their expansion of activities. As this often placed the PNA in contradiction with its external obligations and agreements, the PNA's international stance became more complicated.

Other internal challenges concern the relations between the PNA and the Islamist opposition, which portrays armed struggle as the sole

method for achieving 'liberation' and Palestinian national goals. Through elections, the opposition has won a substantial number of seats in local councils. They are also expected to win many seats in the PLC. Because the opposition enjoys large public support, it demands that its political views be reflected in Palestinian official policy. It also demands a greater role in the Palestinian security sector, which is still dominated and controlled almost exclusively by Fatah. More than 97 percent of the members of the PNA Security Services are affiliated with the Fatah Movement and loyal to the Fatah leadership. The political struggle for control of the services constitutes a very dangerous and complex challenge that could lead to increased militarization of the Palestinian struggle. Should the opposition win the forthcoming elections, it can be expected that the struggle for control of the security sector will primarily influence national developments. Such could significantly alter the behavior of the PNA Security Services in the future and ultimately also threaten their survival.

Conclusion

The PNA Security Services face numerous and complex challenges. Because of conflicting demands and because factional interest are being placed above national interests, it will be very difficult to define a Palestinian national security policy and even more difficult to implement it. Without a shared Palestinian concept of security and an agreed plan on how to achieve it, it will be impossible to achieve Palestinian security or to develop effective PNA Security Services.

Over the past ten years no solution has been found that would satisfy both Israeli security requirements and the Palestinian demand for sovereignty. Israel seems unwilling to accept an international solution. Thus, the Palestinians have no choice but to defend their homeland and rights, while rejecting an Israeli security concept that denies Palestinian sovereignty.

Without abandoning their legitimate security interests, Palestinians must nevertheless abide by their obligations including those under the Oslo Accords and the Road Map, which explicitly call for a balancing of Palestinian and Israeli security interests.

Challenges to Security Sector Reform - Legal Framework and Organizational Structures

*Basil Jaber**

Introduction

Much has been said of the need to provide Palestinians with lasting security, and of the benefits this would bring for social and economic development, for sound democratic governance, for the rule of the law, and for human rights. As the traditional idea of security weakens, it is clear that the Palestinian security sector needs reform. Security does no longer simply mean protection from external threats. Rather, security must be seen as the basis for providing citizens with safety, justice, democracy, and economic development.

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The Current Situation

The current situation in the Palestinian Territories is characterized by the following basic facts:

◆ The security organisations of the Palestinian National Authority (PNA) are all weak in terms of human and financial resources. There is a lack of adequate equipment, buildings, and facilities; salaries are low. The PNA Security Services are not able to perform their ordinary duties, especially those related to the security of citizens, the control of security conditions, and the enforcement of law.

◆ During the last *Intifada*, security service headquarters, prisons, and detention centers were systematically destroyed. Also, many personnel were arrested by Israeli troops or killed. Such measures made the services unable to perform their duties.

◆ The ongoing Israeli occupation and incursions by the Israeli army in the Palestinian Territories have limited the ability of the PNA Security Services to exert security control in many areas.

◆ Certain members of the services, including some high-ranking officials, have violated the law and interfered in political decision-making and in the Judiciary. Their actions brought harm to law and security.

◆ The Judiciary is weak. It lacks qualified individuals capable of performing their tasks in a satisfactory manner. Moreover, the Judiciary also lacks physical protection and does not have adequate facilities and court buildings. Court sentences are rarely effectively implemented. Another problem is that legislation proceeds slowly, which is of concern when it comes to laws that organize the work of the Judiciary. The laws that have been ratified have many shortcomings and need

amending. The parties controlling the Judiciary are making only modest attempts to improve things. None of these attempts meet current needs, despite the knowledge that the rule of law is required to maintain order.

A variety of other factors have increased frustration amongst Palestinian citizens and shaken the confidence in the authorities:

◆ Militant Palestinian factions have interfered with the Judiciary and the security services. By ignoring the rule of law, these factions have further weakened the authorities and contributed to the deterioration of the overall security situation in the Territories.

◆ Violence is encouraged by the availability of weapons, especially illegal weapons in the hands of citizens.

◆ The weakness of the security services and the Judiciary has led to the establishment of an 'alternative' judicial system. Although this phenomenon predates the last *Intifada*, alternative mechanisms of dispute resolution have become much more important as a result of the prevailing security chaos. Alternative dispute resolution can also be seen in the PNA security services due, in part, to the absence of a law defining their respective jurisdictions. Such problems weaken confidence in the PNA and the Judiciary and contribute to lack of security.

Why Is Palestinian Security Sector Reform Important?

Given the internal and external challenges Palestinians face in building a viable state, the status quo seriously threatens Palestinian security.

Security sector reform is needed to develop effective and professional

institutions capable of providing security to the Palestinians. The PNA has taken steps in this direction, but successes have been rare. Much remains to be done in order to develop institutions meeting the necessary standards.

Security is the basis for effective and sustainable development. But to have security, there must be law and the law must be obeyed. Without this rule of law the government will be unable to provide its citizens with a secure environment. The government risks to lose authority as citizens may seek to achieve their security by other means. Security sector reform would help to reduce the risks of conflict and would benefit the security of the citizens. Moreover, reform would help to provide an environment for sustainable development, for investment, and for poverty reduction.

Palestinian citizens have a constitutional right to have their basic freedoms protected. They also have the right to resort to the courts and to have access to an effective Judiciary. The government has a constitutional duty to protect the rights of citizens and maintain public order and internal security. In order to strengthen the rule of law, and thereby to strengthen Palestinian institutions, the government must make a determined effort to control the current situation. This can be done, in part, by stating a clear strategy for security reform.

The Security Sector Reform Strategy

The amended Basic Law Article 69/7 gives the Council of Ministers responsibility for maintaining public order and internal security. Their reform work is guided by the following goals:

◆ To ensure internal security and to protect the Palestinian citizen from dangers threatening their life, property, or family;

◆ To reorganize and restructure the PNA Security Services under a clear and unified chain of command;

◆ To help achieve the above by:

- providing the necessary legal framework;

- providing the human resources to operate and develop effective security organisations; and

- providing the physical and financial resources needed for genuine reform.

Principles for Security Sector Reform

Palestinian Security Sector Reform should be guided by the following principles:

◆ Security reform requires political will, clear decisions and sound administration of the security services.

◆ Security reform cannot be separated from judicial reform, as the basic task of the security services is to enforce the law.

◆ The issuing of a Palestinian Security Law must be expedited. This law should be the basic law regulating the work of the security services, and its bylaws will define the task of each individual security organisation. The law must ensure the following:

- Guarantee the protection of human rights as stipulated in the Basic Law (the Palestinian Constitution);

- Guarantee the protection of the individual rights of citizens against any abuse of authority on the part of security personnel;

- Enable the political leadership to lead and monitor the performance of the security services;

- Enable Parliament to oversee the activities of the security services;

- Guarantee job security and dignity of security personnel;

- Define jurisdictions and responsibilities and help to prevent overlap;

- Enable citizens to file complaints that will be followed, if appropriate, by legal action; and

- Contribute to making the security services credible and enable them to gain the confidence and respect of the public.

◆ The institutional framework of the security services must be rebuilt and developed, making use of trained and qualified personnel.

◆ The security services must be politically neutral and accountable.

◆ Heads of security organisations must be free to decide, within the law, how they will implement their political instructions. Also, it must be clear that they will be accountable for failure.

◆ Appropriate salaries must be given to security personnel. Salaries should be determined in a manner that takes into account the duties required of each individual, as well as the difference in salaries between security and military personnel, and civil servants;

◆ Security personnel should be given certain social benefits as in other countries, such as medical services and housing. Personnel should feel that the protection of their institution and the State has both a national and a personal dimension;

◆ In performing their duties, personnel must have the protection and support of the political leadership. Responsibility for particular outcomes must only be attributed to the PNA, not to a specific security organisation.

Institutionalizing the PNA Security Services

A Palestinian Security Law was drafted as part of the reform process in April 2005. The draft law defines the principles of security as well as the basic features of the security services. The draft law also provides for a National Security Council (NSC) and specifies the rights and duties of security personnel. The NSC is to ratify general policies and security strategies and to supervise their implementation. The draft law describes the structure of the security sector as follows:

1. The internal security forces maintain public order, protect the citizens and public and private institutions, and help to enforce the rule of law. The security organisations under the command of the Ministry of Interior, are the following:

   - Civil Police
   - Preventive Security
   - Civil Defence

According to Presidential Decree No. 12 of 2002, the Police, the Preventive Security, and the Civil Defence are under the command of the Ministry of Interior and shall answer to the Council of Ministers through the Minister of Interior.

Article 84 of the Basic Law states that the Police and the other internal security forces must be organized according to a law specific to these forces. The Draft Police Law has been prepared for ratification. This law must not contradict the general framework given in the Draft Palestinian Security Law.

2. External security is the responsibility of the General Intelligence, which performs intelligence tasks and operations to provide Palestinian Territories with security and safety. It is to be assisted by the other security services. The General Intelligence is under the

direct command of the President. The General Intelligence Law was submitted for parliamentary approval on 15 February 2005 and was enacted on 6 July.

3. The responsibilities of the National Security Forces are the following:

- To defend the Palestinian Territories;

- To protect the country from both internal and external dangers;

- To perform any task assigned to them by the President.

There is some confusion regarding the terms of reference for the National Security Forces. Article 39 of the Basic Law states that the President of the PNA is the Supreme Commander of all Palestinian security services, including the National Security Forces. Legally speaking, however, the only security responsibility of the PNA is maintaining public order and internal security, both according to the Oslo Agreements and Article 69/7 of the Basic Law. The National Security Council was only very recently established and has yet to be constitutionally formed; the Council of Ministers is solely responsible for internal security. Currently the National Security Forces are put under the Ministry of Interior by decision of the President.

The Draft National Security Forces Law was submitted for parliamentary approval on 15 February 2005.

Progress in Security Sector Reform

Security sector reform has focused on the legal basis for organizing the work of the security services, and on personnel matters (e.g., transfers, retirement, training, and rehabilitation).

A number of laws have been either enacted, or approved by parliament

or submitted to parliament for approval. Table 1 provides an overview of legislative progress.

Table 1: Progress of security sector legislation

	Submitted to Parliament for approval	Approved by Parliament	Enacted by the President
Palestinian Security Law (its bylaws not included)	Oct. 2005		
Military Service Law		May 2005	June 2005
The Insurance and Pension Law		Dec. 2004	Dec. 2004
The Retirement Law for Military Personnel		April 2004	April 2004
The General Intelligence Law	Feb. 2005	Sept. 2005	Oct. 2005

In addition, the internal security services and the National Security Forces were placed under the control of the Ministry of Interior by Presidential Decree; their activities and personnel can be monitored by the Palestinian Legislative Council (PLC) through the Ministry.[1]

◆ The Palestinian Security Law was submitted for parliamentary approval in May 2005. Its bylaws will define the individual security services.

◆ The Military Service Law was enacted by the President in July 2005. It regulates the internal management of security personnel.

◆ The Insurance and Pension Law for the Palestinian Security Forces

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[1] This reflects the situation in July 2005. Changes that intervened after this date have not been taken into account in this article.

and the Retirement Law for Military Personnel were enacted in 2005. They regulate the financial aspects of security personnel.

◆ The General Intelligence Law was approved by the PLC and enacted by the President in July 2005.

◆ Draft laws regulating the work of the National Security Forces and the Police were submitted for parliamentary approval in 2005.

With regard to administration and personnel, the following has been done:

◆ Over 1,000 senior officers over the age of 60 were sent into retirement. New security commanders were appointed to head the Civil Police, the Preventive Security, the National Security Forces, and the General Intelligence.

◆ Work is underway to reduce the number of personnel working for the security services, and to introduce a monitoring of performance.

◆ Some security personnel have been sent to Egypt and Jordan for training.

◆ The payment of salaries for security personnel is now done directly into personal accounts. External financial transfers by the security services were limited by the Council of Ministers on 31 January 2005.

Recommendations for Palestinian Security Sector Reform

The security reforms conducted so far have helped consolidate the security services and making them accountable to the Minister of Interior. However, the following reforms are still needed:

- ◆ The tasks and structure of each service must be redefined to establish unity in command, and encourage proper use of resources, transparency, and accountability;

- ◆ The work and jurisdiction of each service must be clearly defined in law so as to limit overlap and interference;

- ◆ The National Security Council must be activated and provide clear security policies that are within the law. The Council must also see that such policies are implemented and respected by the security services;

- ◆ Standard operating procedures must be established for the services so that they may operate effectively while respecting the law and citizens' rights. This is needed especially with regard to inspections, arrests or detentions, and interrogations;

- ◆ Violations of citizens' rights by security personnel must be punished firmly. Doing so will reduce the number of violations and enhance the public's confidence in the security services;

- ◆ The security services must be restructured, especially at the senior level. This must be done to unify the leadership and to reinforce proper chains of command.

Palestinian Security Governance and Legislative Oversight

*Ma'mun Attili**

Parliamentary Oversight

Parliamentary oversight is the supervision of the Executive exercised by the elected Legislature (the parliamentary body) – in this case, the Palestinian Legislative Council (PLC). The Legislature monitors the performance of the Executive in light of its stated policies. The effectiveness of oversight is an important indicator of the effectiveness of parliament itself, as well as the society's overall level of democracy.

Successful parliamentary oversight requires a suitable legal framework, sufficient human and material resources and an enabling political culture: Parliamentarians must be committed to exercising oversight in an honest, effective manner and they must be supported in their task by an appropriate democratic culture (active participation

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of all concerned parties, free elections, open media, the alternation of power, and an active civil society).

The Palestinian Legislative Council and Parliamentary Oversight

In discussing Palestinian parliamentary oversight, one must consider the conditions under which the Palestinian Legislative Council (PLC) has had to operate:

a. There is no parliamentary tradition in Palestine. The absence of any local parliamentary culture or norms that could guide the evolution of the PLC makes progress difficult.

b. There is no opposition party. The elections of 1996 gave control of the PLC to the same political force that controlled the Executive. The lack of opposition within the PLC has weakened its oversight performance and its influence on politics in general.

c. The security environment, the prevailing political conditions and the Israeli occupation have weakened the PLC; legislative elections have not been held for years.

Oversight Tools Available to the Palestinian Legislative Council

The PLC's monitoring mandate is given in Article 47 of the Amended Palestinian Basic Law of 2003, which reads:

> *"... In a manner that does not contradict with the provisions of this law, the Legislative Council shall assume its legislative and monitoring authorities in the manner stated in its bylaws."*

The basic oversight tools of the PLC regarding the Executive are as follows:

- ◆ Submitting inquiries;
- ◆ Questioning;
- ◆ Summoning individuals for hearings;
- ◆ Investigative commissions; and
- ◆ Issuing votes of no-confidence.

Oversight Practices of the Palestinian Legislative Council in Relation to the Security Services

One can divide the oversight history of the PLC into three phases.

Phase 1: The First Four Terms (March 1996 – March 2000)

The relationship between the PLC and the Executive during this phase was dysfunctioning. The Executive was indifferent to the Council; many PLC decisions were never implemented by the government. Furthermore, the Executive failed to ratify many laws passed by the PLC, even though these laws had gone through all necessary procedures.

During this phase, the PLC made only five inquiries to security officials. Also, the rules for oversight were inconsistent. For example, during the second term the PLC could make inquiries to security officials, despite the fact that these officials answered to the President of the Palestinian National Authority (PNA). However, on 17 November 1999, the PLC's Speaker's Office prohibited direct inquiries to the Head of the Petroleum General Commission on the ground that the Commission was under the direct supervision of the President. This made evident that the Commission was not accountable to the PLC, although parliamentary standards require accountability for all Executive activities. This can explain why the PLC did not investigate further security officials.

The PLC refrained from summoning security officials for hearings during this phase. This is significant because the end of the first phase coincided with the beginning of the *Intifada*, a period during which security personnel allegedly committed grave human rights violations. The PLC received many complaints about mistreatment by security officials, not only from the public but also from PLC members. Although the Council took several decisions in this regard, none were implemented.

Investigative commissions were the main oversight tool of the PLC – whether as permanent committees or as special commissions for particular cases. They examined rights violations allegedly committed by the security services. However, the letters sent by the PLC to the President calling for further investigations were merely letters. They could not substitute for effective oversight tools.

It would have been appropriate for the PLC to take a vote of no confidence in the Minister of Interior because of these violations, or even to take such a vote on the entire government. However, since the Ministry of Interior was represented by the President during this period, it was not possible to oversee the security services effectively.

Parliamentary oversight was also difficult because it involved eight different security services. Furthermore, some services had two separate and uncoordinated commands – one in the West Bank, and one in the Gaza Strip. For such reasons, the PLC did not use its oversight tools, even though it was known that several commanders were involved in human rights abuses.

By the end of the fourth term, the security services were violating various rights and freedoms of citizens, such as the right to life, the right to personal freedom and safety, and the right to freedom of movement. The majority of these violations were politically motivated; the Executive placed political interests above of the rule of law.

Phase Two: The Second Four Terms (March 2000 – March 2004)

With the beginning of the *Intifada*, it became more difficult for the PLC to oversee effectively the activities of the Executive. It was almost impossible for members to convene on a regular basis because of Israeli restrictions on movement in Palestinian areas.

The fifth term was one of the worst in the Council's history. During the first four terms, the PLC's challenges had been mainly internal. But the fifth term brought external challenges that almost stopped the PLC from functioning. The PLC could not hold regular, adequately attended sessions. This brought legislation, accountability and oversight almost to a stillstand. PLC members increasingly focused their activities on their own constituencies rather than the Council as an institution.

In the sixth term, oversight then came to a complete stop: The PLC made no inquiries to the Executive during the sixth term; the PLC did not question any ministers or officials, call for votes of no confidence, nor hold a single hearing. During this term, the PLC formed two investigative committees to examine events that took place at the Islamic University in the Gaza Strip and in the city of Jabalia. But during this entire phase there was no investigation of rights violations reportedly committed by the security services.

During the seventh term many external developments had an adverse effect on the performance of the Executive. For example, Israel destroyed most of the headquarters of the ministries and the security services. However, internal and external pressures on the Executive did result in a number of steps towards reform. The most important of these were the ratification of the Basic Law and the Judicial Authority Law, and the reorganization of the Council of Ministers. Furthermore, government action plans were approved on 23 June 2002 and 28 October 2002, and a date was set for presidential and legislative elections.

The PLC also ratified on 27 June 2002 the merger of the Preventive Security, the Police, and the Civil Defense into one body responsible to the Ministry of Interior. Subsequently, the commanders of these three organisations were replaced. However, authority remained in the hands of the President. At this time he was still the head of the National Security Council, and so retained practical control of the security services.

Steps were also taken to improve the financial situation of security personnel. Salaries for personnel of the Police, the Preventive Security, the General Intelligence, and the Civil Defense – some 23'000 personnel – were now paid directly into individual bank accounts and no longer to commanders. Before this, security commanders had been responsible for distributing salaries.

At the start of the eighth term, the Basic Law was amended and, in response to domestic and international demands for reform, the post of Prime Minister was introduced. The President had to give up the portfolio of the Ministry of Interior, but refused to relinquish control of the security service. This resulted in increased tension between the President and the Prime Minister. The Prime Minister eventually resigned on 6 September 2003.

During the eighth term, the PLC did not run any special inquiry or fact-finding commission to examine the activities of security personnel. Furthermore, the PLC did not even threaten to use the no confidence vote to exert pressure on the Executive. Thus, the security services remained immune to accountability.

Although oversight over the security services was weak during the first phase, it was still superior in comparison to the second phase. During the first phase, five inquiries were made to security commanders, more than ten investigative committees and fact-finding commissions were formed to examine the security services,

and one threat of a vote of no confidence was made. There was nothing similar during the second phase except for the formation of two investigative committees, neither of which concluded their tasks. During all the terms of the PLC, not once has the Council questioned a security official.

Phase Three: The Ninth Term of the Palestinian Legislative Council (March 2004 - March 2005)

During the ninth term, the PLC established a special committee for reform with the objective to advance administrative reform and enhance parliamentary oversight. This should have resulted in Executive reforms in all fields. However, the committee failed to present its report in time.

A reform committee, formed within the Executive, included several PLC members. Its task was to examine the situation of the PNA in various fields. In its report to the PLC on 18 August 2004, the committee made several recommendations relating to the consolidation of the security services, the financial and administrative situation of the PNA, and suggested new legislation to increase transparency and integrity. However, none of the recommendations have been implemented.

Nevertheless, there were some improvements in oversight. Inquiries became a more frequently used tool for overseeing the Executive. After none of the total of 67 inquiries issued in this period had received an answer, the PLC resorted to hearings with the security services. The General Oversight and Human Rights Committee summoned the Minister of Interior and several security commanders. Some of the hearings were:

◆ 16 October 2004 – hearing with the PLC's Interior, Security, and Local Governance Committees;

- ◆ 14 December 2004 – hearing with the Undersecretary of the Ministry of Interior;

- ◆ 26 December 2004 – hearing with the General Director of the Palestinian Police;

- ◆ 26 December 2004 – hearing with the Director of the Civil Defense. The hearing addressed the relationship of the Civil Defense with the Ministry of Interior, and the reasons for certain shortcomings in the performance of the Civil Defense; and

- ◆ 2 January 2005 – two hearings held with the heads of the Preventive Security in the northern and southern districts.

Much of the increased activity can be attributed to the President's announced merger of the existing eight security organisations into three: National Security and Internal Security (Police, Preventive Security, and Civil Defense), both reporting to the Ministry of Interior, and General Intelligence. The latter remains under the control of the President and therefore escapes oversight by the PLC.

On 17 November 2004, the Council of Ministers called for special laws governing the Police and General Intelligence. Four draft laws were presented to the Council:

- ◆ the Military Personnel Retirement Law
- ◆ the General Intelligence Law
- ◆ the Palestinian Security Forces Service Law
- ◆ the Draft National Security Law.

In addition, on 2 March 2004 the Council ordered the Minister of Finance to arrange for all security service salaries to be paid directly into the personnel's bank accounts.

Despite of all reform plans, at the end of the ninth term, there were still eight security organisations operating. They had not been unified and their financial and administrative relations and structure remained unclear. No comprehensive legislation relating to the work of the security services has yet been issued. Although the President has taken several decisions on the structure of the services, and despite the fact that salaries are now paid directly into bank accounts, it appears that there has been no substantial reform of the security sector.

Table 2: Use of oversight tools during the nine terms

Monitoring Tool (Pertaining to Security Services)	(1st-5th term)	(6th-8th term)	(9th term)	Total number
Inquiry	5	-	-	5
Questioning	-	-	-	-
Hearing Sessions	-	-	6	6
Investigation Committees & Fact-finding Commissions	10	2	2	14
No Confidence Vote or Threat to Call for a No Confidence Vote	1	-	-	1

Recommendations:

◆ The PLC must be enabled to oversee the Executive. Rather than directing blame at the Executive or issuing declaratory statements, the Council should make effective use of questionings and the no-confidence vote.

◆ The security organisations must be unified and placed under the authority of the Ministry of Interior. None of the services shall be exempt from parliamentary oversight. This must apply equally to the General Intelligence Service.

◆ The Executive, including the commanders of the security services, must not obstruct the work of the PLC. Cooperation benefits all Palestinian institutions and the general public.

◆ The results of PLC investigations into rights violations by the security services must be made public. The public must be convinced by the PLC's determination to investigate such cases, and to bring persons who have committed violations to justice.

◆ The Executive must implement legislation pertaining to the possession and use of firearms, especially regarding the rules of engagement. Members of the security services should be banned from carrying their weapons outside working hours.

◆ The government must perform its legal duties by investigating the misuse of weapons and disclose names of persons who have harmed citizens and bring them to justice.

◆ The PLC should regulate by law the responsibilities of the Palestinian Independent Commission for Citizens' Rights (PICCR), in particular regarding its oversight function in the security sector.

◆ Civil society organisations should be involved in all security sector reform activities.