




TASK FORCE REPORT



STRENGTHENING PALESTINIAN PUBLIC INSTITUTIONS

REPORT OF AN INDEPENDENT TASK FORCE
SPONSORED BY THE COUNCIL ON FOREIGN RELATIONS

MICHEL ROCARD, CHAIRMAN
HENRY SIEGMAN, PROJECT DIRECTOR
YEZID SAYIGH AND KHALIL SHIKAKI, PRINCIPAL AUTHORS



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*Report of an Independent Task Force
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Council on Foreign Relations*

Michel Rocard, Chairman
Henry Siegman, Project Director

Yezid Sayigh and Khalil Shikaki, Principal Authors

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CONTENTS

Foreword	v
<i>Leslie H. Gelb</i>	
Acknowledgments	vii
<i>Henry Siegman</i>	
Preface	ix
<i>Michel Rocard</i>	
Task Force Members	xi
Experts Group Members	xiii
Glossary of Acronyms	xv
Executive Summary	1
Task Force Report	23
I. Introduction	23
The Oslo Framework	24
The PLO	25
Israeli Policy	26
International Donor Community	28
Terms of Reference	30
II. Constitutional Framework and Political Institutions	33
Introduction	33
Constitutional Framework	34
Executive	40
Legislature	46
Judiciary	55
III. Operational Institutions	61
Introduction	61
Contextual and Background Factors	63
Public Sector Management: Public	
Administration, Personnel, and Planning	64

Strengthening Palestinian Public Institutions

Public Administration	66
Personnel	72
Planning	77
Public Finance	81
Social Services	89
Economy	100
Police Force	110
Additional View	119
Background and Briefing Papers	120
Glossary of Palestinian-Israeli Accords	121
About the Authors	123

FOREWORD

To date, there has been no comprehensive and systematic assessment of the institutions of the Palestinian Authority, its structure and procedures, its ability to set priorities and to allocate resources, and its transparency and accountability. Nor has there been systematic examination of overlap between institutions and of institutional redundancy, or the effect of this redundancy on decision-making. This Task Force is the first such undertaking.

Unlike most other Independent Task Force Reports sponsored by the Council on Foreign Relations, this one on Strengthening Palestinian Public Institutions is not focused on U.S. policy. It does not take positions on the Middle East peace process, nor does it address the issue of Palestinian statehood. Its goal, instead, is a practical one: to assist the Palestinian Authority and organs of the international community—the World Bank, the International Monetary Fund, the United Nations, the European Union, and the donor community working with the Palestinian Authority—to improve the efficiency and credibility of the emerging Palestinian self-governing institutions. The distinguishing characteristics of this Task Force Report are its practical and detailed guidelines for the development of sound institutions and good governance.

The Task Force finds that despite its significant achievements, the Palestinian Authority must make extensive changes to ensure good governance—including a participatory political system, a pluralist civil society, sustainable development, and a free market economy—during transition to a permanent settlement and beyond. Among other measures, the report urges that the Palestinian Authority adopt a constitution, establish accountability for the executive branch to the legislature, centralize all public revenues and expenditures in the Ministry of Finance, encourage devolution of programs and projects not related directly to the conduct

of the presidency to appropriate ministries and municipalities, and ensure the independence of the judiciary.

Confidence in the Palestinian Authority's institutions affects its contest for legitimacy with elements that reject the Oslo accords and claim to do a better job than the Palestinian Authority at delivering certain services to the Palestinian people. This confidence bears on the Palestinian Authority's ability to negotiate with Israel and affects Israel's confidence in the Palestinian Authority's ability to implement agreements. Good governance is therefore a necessary condition for the success of the peace process.

It is particularly encouraging that the Task Force, by way of follow-up to its report, will continue to serve as an advisory body to assist the Palestinian Authority in prioritizing and implementing the report's recommendations.

The Task Force comprised an unusually distinguished group of European, Middle Eastern, and American statesmen. I would especially like to thank Michel Rocard, Henry Siegman, Yezid Sayigh, and Khalil Shikaki for their hard work and commitment to this project. The impressive report they have produced should serve as a significant contribution not only to Palestinian institution-building but to Middle East peace as well.

Leslie H. Gelb
President
Council on Foreign Relations

ACKNOWLEDGMENTS

The Council on Foreign Relations is indebted to the distinguished members of the Task Force for their careful review of and important contributions to the various drafts of this report. We thank members of the Experts Group for their dedicated and hard work at the many meetings in Ramallah, for their interviews with key Palestinian officials, and for their drafting contributions.

Because this project involved participants on three different continents, special thanks go to the Center for Palestine Research and Studies, which served as secretariat for the project in the West Bank and Gaza Strip, and especially to Olfat Hammad for her coordination of the meetings of the experts. The Center also produced an Arab-language version of the Executive Summary and of the full report. My thanks also to Jonathan Paris, fellow at the Council's U.S./Middle East Project, for his effective coordination among the various parties, and to my executive assistant, Barbara McCurtain.

Above all, I am indebted to Les Gelb, president of the Council, without whose counsel and support the work of the U.S./Middle East Project would not have been possible.

The Council on Foreign Relations acknowledges with gratitude the generous financial support given to this project by the European Commission and the government of Norway. Special thanks to Ambassador Miguel Angel Moratinos and Ambassador Terje Roed-Larsen for the constancy of their friendship and support, and to Michel Rocard for his balanced, wise, and steady chairmanship of the Task Force.

Strengthening Palestinian Public Institutions

From Yezid Sayigh and Khalil Shikaki, the principal authors of this report, I learned a lesson in the meaning of academic integrity and civic courage I will not soon forget.

Henry Siegman
Project Director and Senior Fellow
Council on Foreign Relations

PREFACE

The Palestinian Authority administers 2.9 million people, a population greater than that of Mauritania, Gabon, Kuwait, Mongolia, or Slovenia. In fact, more than fifty member states of the United Nations have smaller populations than that of the Palestinian Authority. However, the Palestinian Authority is not yet a state. Its formation and the recognition of its identity go back to September 1993, when Israel and the Palestine Liberation Organization (PLO) signed the Oslo accords in Washington, D.C.

Although the Palestinian Authority does not have complete control over the entry and departure of its own citizens, over travelers who visit it, over the goods it trades, or over its limited mineral resources, and the areas it controls lack geographic contiguity, the Palestinian Authority has come a long way since its establishment. A legislative assembly has been elected under conditions recognized as democratic; public services have begun to operate; an administrative structure is being established; pluralism is emerging; freedom of religious belief is practiced—although freedom of the press remains a serious problem; and, despite shocks mostly due to Israeli closings of the borders, the economy is showing signs of progress.

The emergence of what may become a democratic, secular, and pluralist society in the Arab world is of particular significance. If the Palestinian Authority succeeds in creating a modern society that fully respects human rights and the principles of the United Nations, it will be an achievement of interest to the entire world. The symbolic dimension is obvious. It influences both the survival of a people and the peace of a sensitive region. Above all, it is of significance to the Arab world if Palestinians, so fragile and disadvantaged, are nevertheless capable of creating a society fully adapted to the standards of the modern world.

Clearly, the task of nation-building is far from complete. Political stability is uncertain and institutional stability even more so.

Strengthening Palestinian Public Institutions

Our recommendations aim to strengthen the Palestinian Authority and its institutions.

We believe the implementation of the recommendations contained in this report will bring about improvements in the running of the Palestinian Authority and in the quality of life of the Palestinian people. It will also inevitably enhance the future state, however defined, to which the final-status negotiations may give rise.

For me, a former prime minister of France and current president of the Development and Cooperation Committee of the European Parliament, it has been an honor to have been entrusted with chairing the work carried out by this Task Force. Its members' strong sympathy for the cause of peace in the Middle East and for the consolidation of the Palestinian Authority has made this task a moving enterprise for me, one that incidentally has produced deep friendships.

Regarding this, we owe many thanks to the Council on Foreign Relations, and especially to Henry Siegman for having the initial idea of this project and for having obtained President Yasir Arafat's encouragement and cooperation. Thanks are also due to Mr. Siegman for having assured the financial support of the European Union and the government of Norway to make possible the logistical and administrative backup for the entire operation.

Michel Rocard
Task Force Chair

TASK FORCE MEMBERS

CARL BILDT is Chairman of Sweden's Moderate Party. He was Prime Minister of Sweden.

HANS-DIETRICH GENSCHER was Foreign Minister of Germany.

FELIPE GONZALEZ is Deputy President of the Socialist International. He was Prime Minister of Spain and Secretary General of its Socialist Party.

ABDLATIF AL-HAMAD is Director-General and Chairman of the Board of the Arab Fund for Economic and Social Development in Kuwait.

LEE HAMILTON* is Director of the Woodrow Wilson International Center for Scholars. He was a U.S. Congressman from Indiana for thirty-four years and served as Chairman of the House Committee on International Relations.

DOUGLAS HURD is Deputy Chairman of Coutts & Co. He was Foreign Secretary of the United Kingdom.

NANCY KASSEBAUM BAKER, was a U.S. Senator from Kansas.

OTTO GRAF LAMBSDORFF is Chairman of the Board of the Friedrich-Naumann Foundation. He was Minister of Economics in Germany.

JACQUES DE LAROSIÈRE is an Adviser of Banque Paribas. He was Managing Director of the International Monetary Fund, Governor of the French Central Bank, and President of the European Bank for Reconstruction and Development.

Note: Institutional affiliations are for identification purposes only.

*Individual largely concurs with the statement but submitted an additional view.

Strengthening Palestinian Public Institutions

TERJE ROED-LARSEN is Special Adviser to the Foreign Minister of Norway. He was U.N. Special Coordinator in the Occupied Territories.

MIGUEL ANGEL MORATINOS is European Union Special Envoy to the Middle East Peace Process. He was Ambassador of Spain to Israel.

ROMANO PRODI is President-Designate of the European Commission. He was Prime Minister of Italy.

MICHEL ROCARD is President of the Committee on Development and Cooperation of the European Parliament. He was Prime Minister of France.

HENRY SIEGMAN is Senior Fellow on the Middle East and Director, U.S./Middle East Project, Council on Foreign Relations.

MARIO SOARES is President of the European Movement. He was President of Portugal.

DICK SPRING is Labor Party Spokesperson and Member of Parliament of Ireland. He was Deputy Prime Minister and Foreign Minister of Ireland.

DOV S. ZAKHEIM is Chief Executive Officer of SPC International. He was U.S. Deputy Undersecretary of Defense in the Reagan administration.

EXPERTS GROUP MEMBERS

SAMIR ABDULLAH

- Chair, Arab Economists Association, Ramallah
- Publisher, *Palestine Economic Pulse*

GABI BARAMKI

- Consultant, Ministry of Higher Education, Ramallah

REX BRYNEN

- Associate Professor, Department of Political Science, McGill University, Canada

EUGENE COTTRAN

- High Court Judge, United Kingdom

IBRAHIM DAKKAK

- Deputy Head, Palestine Economic Policy Research Institute (MAS), Ramallah

BASEM EZBIDI

- Professor, An-Najah University, Nablus

IHAB ABU GHOSH

- Head, Legal Aid Center, Ramallah

IZZAT ABDUL HADI

- Head, Nongovernmental Organization Network, Ramallah

JAMIL HILAL

- Senior Researcher, Ramallah

RICK HOOPER

- Director, FAFO Program for International Cooperation and Conflict Resolution, Norway

NASR ABDUL KARIM

- Former Dean of Economics, An-Najah University, Nablus

ANIS KASSIM

- Attorney, Amman
- Member, Palestine National Council

Strengthening Palestinian Public Institutions

MARWAN KHAWAJA

- Researcher, FAFO, Norway

CAMILLE MANSOUR

- Director, Center of Law, Birzeit University, Ramallah

JAMIL RABAH

- Ph.D. Candidate, Ramallah

EBERHARD RHEIN

- Political Adviser, European Policy Centre, Brussels
- Former Director for Mediterranean and Middle East/North Africa, European Commission

RAMZI RIHAN

- Vice President of Development and Planning, Birzeit University, Ramallah

TALEB SARIE

- Associate Professor, University of Jordan, Amman

HASHIM ABU SEIDO

- Deputy Projects Manager, Welfare Association Consortium (PINGO), Gaza

SALAH ABDUL SHAFI

- Head, Development Resource Center, Gaza

THEODORE SORENSEN

- Attorney, Paul, Weiss, Rifkind, Wharton & Garrison, New York
- Former Senior Adviser to President John F. Kennedy

RAJI SOURANI

- Director, Palestinian Center for Human Rights, Gaza

DENIS SULLIVAN

- Professor, Northeastern University, Boston
- Consultant to the World Bank in West Bank/Gaza

SALIM TAMARI

- Director, Institute for Jerusalem Studies
- Professor of Sociology, Birzeit University, Ramallah

GLOSSARY OF ACRONYMS

- CGPA — Core Group on Public Administration
- GCI — General Control Institute
- GPC — General Personnel Council
- MHE — Ministry of Higher Education
- MLG — Ministry of Local Government
- MOE — Ministry of Education
- MOF — Ministry of Finance
- MOH — Ministry of Health
- MOPIC — Ministry of Planning and International Cooperation
- MSA — Ministry of Social Affairs
- PA — Palestinian Authority
- PADU — Public Administration Development Unit
- PCBS — Palestinian Central Bureau of Statistics
- PDP — Palestinian Development Plan
- PECDAR — Palestinian Economic Council for Development and
Reconstruction
- PF — (Palestinian) Police Force
- PLC — Palestinian Legislative Council
- PLO — Palestine Liberation Organization
- PNC — Palestine National Council
- PNLA — Palestinian National Liberation Army
- PPIP — Palestinian Public Investment Plan
- PRCS — Palestine Red Crescent Society
- PSRC — Public Sector Reform Committee
- SSMs — Social Services Ministries
- UNRWA — U.N. Relief and Works Agency
- WBGS — West Bank and Gaza Strip

EXECUTIVE SUMMARY

The Interim Period of Palestinian Self-Government Arrangements in the West Bank and Gaza Strip as stipulated in the Declaration of Principles signed by the PLO and the state of Israel on September 13, 1993, came to an end on May 4, 1999. During that period the two parties signed additional agreements on the transfer of functional and territorial jurisdiction to the Palestinian Authority, which assumed direct responsibility for the conduct of daily life and for cooperation and coordination with Israel in a wide range of spheres.

Progress toward a permanent settlement of the decades-old conflict between Palestinians and Israelis, as well as toward peaceful relations in the region, requires the establishment of a capable, credible, and meaningful Palestinian political entity. Good governance is a necessary condition for the success of the peace process, and therefore all parties bear a responsibility to assist and facilitate the strengthening of Palestinian public institutions.

The United States, the European Union, Norway as chair of the international donor community, and the international community as a whole hold this view firmly. They have demonstrated a sustained commitment to these goals, extending strong political support, reassurance, and diplomatic input to the process. Moreover, the international community pledged \$4.1 billion in assistance for Palestinian reconstruction and development in 1994–98, of which some \$3.6 billion was committed against specific projects and \$2.5 billion was actually disbursed by the end of 1998. Around 10 percent of total disbursement was directed toward Palestinian institution—building.

The construction and consolidation of effective and democratic governing institutions based on transparency and accountability is a major step on the road to attaining genuine self-determination for the Palestinians, peace and security for Israel and its

neighbors, and stability for the region as a whole. It is the basis for the Palestinians to gain ownership over the assistance, investment, and planning programs that are at present shepherded by the international donor community and its representative institutions on the ground. Ownership is necessary for the Palestinians to make a successful transition from externally assisted emergency rehabilitation and post-conflict reconstruction to sustainable social and economic development, greater self-reliance, and confident competitiveness in global markets.

A primary goal of the Palestinian Authority, and of its partners and counterparts in Israel and the international community, should therefore be to achieve good governance, based on the following:

- a constitutional government;
- political accountability and judicial review;
- the transparent and accountable management of public resources;
- the rule of law and citizens' rights;
- democratic participatory politics and pluralist civil society; and
- an effective and responsive public administration.

The issue is not only one of organization—that is, of the structures composed of individuals working toward common ends. Even more important, it is one of the rules, norms, and practices that define public institutions and their operating culture and determine relations with their constituents. The Palestinians are moving into a new and decisive phase in their national history, and the purpose of this report is to assist in identifying what needs to be done in order to make that transition successfully.

PURPOSE OF THE REPORT

This report performs both diagnostic and prescriptive functions with respect to the public institutions of the Palestinian Authority. Its three objectives are as follows:

Executive Summary

- to determine the actual condition and effectiveness of those institutions;
- to identify the difficulties they have encountered and the impediments to their effective functioning; and
- to propose practical measures to improve their effectiveness and credibility in the medium to long term.

To these ends, the report assesses Palestinian public institutions in relation to the following four requirements:

- accountability to lawfully established political bodies legitimized by popular mandate;
- operation in accordance with a clear legal and regulatory framework, providing transparency, accountability, and judicial review;
- responsiveness to the participation and consultation of civil-society bodies, including nongovernmental organizations (NGOs), political parties, and the private sector; and
- effectiveness and efficiency in performing set tasks and mandates and in mobilizing and utilizing public resources.

The report is intended for use by four audiences: first, members of the executive, legislative, and judicial branches of the Palestinian Authority; second, senior civil servants and police officers in the Palestinian Authority; third, nongovernmental organizations and other private-sector and civil-society associations in the West Bank and Gaza Strip; and fourth, the governments and multilateral institutions providing and coordinating international assistance to the Palestinians. For this reason the report is being issued in both English and Arabic, and the Task Force proposes to follow up its main recommendations through a continuing dialogue with the Palestinian Authority and other relevant bodies.

NATURE OF THE CHALLENGE

The Palestinian Authority assumed its responsibilities under conditions of particular adversity and complexity for a governing institution in a post-conflict situation. The Palestinian Authority was expected, under exceptionally difficult circumstances, to build public institutions capable of promoting good governance, a democratic political system and pluralist civil society, and a free market economy. By the end of the stipulated Interim Period, it was directly responsible for the civilian affairs of 95 percent of the Palestinians, other than those living in East Jerusalem.

Yet the Palestinian Authority has lacked undisputed control over key resources such as land, water, and contiguous territory. It does not have exclusive jurisdiction over the legal and administrative systems that serve its population, nor does it have unfettered access to external markets. A large share of its operating budget remains dependent on transfers of taxes and duties collected by Israel on its behalf, reaching 40 percent of the Palestinian Authority's domestic revenue in 1998.

Furthermore, by May 1999 Israel still exercised full control over 71 percent of the West Bank and 30 percent of the Gaza Strip, and over the movement of people and goods between the two areas and within them. Israel also held responsibility for overall security in an additional 19 percent of the West Bank that came under the territorial and functional control of the Palestinian Authority, and in which roughly half the local Palestinian population resided. Finally, Israel has retained complete control over all external borders, airspace, territorial waters, and the electromagnetic sphere of the West Bank and Gaza Strip.

Within these parameters the Palestinian Authority was expected both to construct a pluralist political system and maintain law and order internally, and to enhance peace with Israel and security for Israelis externally. It has confronted these challenges in a political atmosphere that was highly charged and marred by violence. At the same time it was also required to pursue difficult negotiations with Israel over the transfer of additional territory, while dealing in a peaceful and orderly manner with issues of major con-

tention such as Israeli settlement activity, house demolitions, and border closures.

In the five years since its formation, the Palestinian Authority has succeeded in the following:

- establishing a functioning cabinet;
- conducting general elections for the presidency and the Legislative Council;
- delivering education, health care, and other basic services;
- revitalizing tax collection;
- drafting enabling legislation and regulatory frameworks for the conduct of public administration and of private economic and commercial activity; and
- maintaining security and public law and order.

The Palestinian Authority should be measured against performance in the real world, not an ideal one. *It has achieved levels of service delivery, revenue mobilization, financial accountability, and utilization of international assistance that are at least commensurate with, and in some aspects exceed, those in countries of comparable development and income.* Recent data show an upward trend in key social and economic indicators. Because these important achievements tend to be overlooked in reports such as ours that focus primarily on remedial action, they deserve special emphasis.

Yet much remains to be done. The Palestinian Authority suffers shortcomings that range from insufficient institutionalization of citizens' rights and the concentration of executive power, through the use of large-scale public-sector hiring to ease unemployment and to reward political loyalty, to instances of police violence and flawed financial management.

The Palestinian Authority faces the same dilemma other emerging economies do: every advance in raising standards of living and promoting economic growth heightens consumer expectations and deepens the need for capital-intensive and technologically advanced imports. Similarly, social and economic development

coupled with population growth propels rapid urbanization, which in turn poses complex challenges for the provision of infrastructure, services, and other resources, and highlights the need for effective local government.

The Palestinian Authority faces additional challenges that will impose an increasing burden on its human and financial resources and organizational capacity in the future. Foremost is a population with a very high natural growth rate that will add an estimated 1.8 million Palestinians to the 2.9 million already living in the West Bank and Gaza Strip, including East Jerusalem, by 2010. Additionally, since 1991 the West Bank and Gaza Strip have received large population inflows as Palestinians have lost residence and employment in Kuwait, Libya, and Algeria. To this must be added the potential impact of the possible return of Palestinian refugees of the 1948 and 1967 wars from the diaspora.

Population growth poses an increasing demand for public infrastructure and services, and therefore a continuing need for appropriate expansion in public administration, hiring, and finance. This is a consideration that both the Palestinian Authority and the international donor community must take into account when recommending and designing reforms. Yet excessive and nonproductive public-sector hiring has already shackled the Palestinian Authority with the paradoxical mix of a large wage bill and low pay, and a future pension requirement that it cannot meet. Furthermore, every advance in providing public infrastructure involves long-term, recurrent costs for operation and maintenance. Debt management will therefore soon become an additional challenge.

The Palestinian Authority and the public alike should conclude from the nature of these challenges that present policy and practice cannot be sustained. The international community has recently pledged \$3.3 billion in assistance for 1999–2004, but it neither will nor can maintain financial and technical assistance at these levels indefinitely, whatever its political commitment to Palestinian-Israeli peace and to Palestinian self-determination.

The political and material circumstances, both past and present, are difficult. External actors, including Israel, are responsible for helping resolve problems to which they have contributed.

However, this does not make it any less incumbent on the Palestinian Authority to address the flaws and gaps in its institution-building and to strive constantly for improved performance and more effective and accountable governance.

It is imperative for the Palestinian Authority, in its own interest, to demonstrate its ability to see and acknowledge its own shortcomings and to take ownership of the reform process by leading it. *The end of the stipulated Interim Period offers a timely opportunity to usher in a new phase of constitutionality and reform as the Palestinians move toward full self-determination.* That opportunity should be seized.

STRENGTHENING PUBLIC INSTITUTIONS UNDER ADVERSITY

It must be recognized that the Palestinian Authority has had to establish and operate effective public institutions in a short time span within a framework of limited territorial jurisdiction; geographical fragmentation; nonsovereign control over land, population, and natural resources; and stringent security obligations toward Israel. The time span and framework have often impeded the development of optimal institutional structure and proper practice. They also have imposed at times contradictory requirements on the Palestinian Authority in such areas as respect for human rights, freedom of political expression, and provision of security. *The risk is that if present structures and practices go unreformed, they will shape and even predetermine future ones in negative ways.*

In the Palestinian view, many of the shortcomings and tensions arising from institution-building during the Interim Period can be remedied only in the context of sovereign statehood. In this view, duality of control and confusion over the proper chain of command, as well as division of political authority between PLO bodies and the Palestinian Authority, exemplify the problems that arise because the Palestinians do not exercise their right to self-determination in the form of an independent state. Palestinian concern is understandable, especially if constitutional, political, and administrative arrangements designed for limited autonomy during the

Interim Period were to acquire unwanted permanency, whether by design or by default.

Without prejudging the outcome of negotiations between the PLO and Israel, this report recommends reforms that are within the present powers of the Palestinian Authority to implement even under adverse circumstances. These recommendations are fundamental to the establishment of good governance, a democratic political system and pluralist civil society, and sustainable development and a free market economy during the transition to the permanent settlement and beyond. Palestinians may regard these reforms as essential steps in the formation of an effective, efficient, and democratic state:

1. *A formal constitution or Basic Law* would set forth the fundamental principles underlying the establishment, functions, separation, autonomy, and accountability of the executive, legislative, and judiciary branches of government.
2. *A leaner office of the presidency*, transferring routine administrative and operational tasks to other offices, branches, and levels of government, would strengthen the president's ability to provide more efficient political, diplomatic, and national leadership, while enhancing the performance of those lesser tasks.
3. *A more effective Legislative Council* would exercise enforceable oversight and decision-making authority on broad policy and budgetary issues, and be responsible for receiving and implementing the external audit findings of a statutorily established General Control Institute (GCI).
4. *A more independent judicial system*, supervised by an autonomous Supreme Judicial Council, would enforce the rule of law, the sanctity of contracts, and a newly integrated, harmonized national legal and regulatory framework more suitable to a free society and market.
5. *More transparent, accountable, and unified financial operations* would improve the cost-effectiveness of public administration and employment, the capability to anticipate increased needs

of a rapidly growing population, and the comprehensiveness of both internal and external audits. They would also enhance public confidence.

6. *A leaner public administration*, with significantly reduced personnel, meritocratic recruitment criteria, and a simpler organizational structure, would ease the financial burden and improve the effectiveness and efficiency of service delivery.
7. *A civilian-controlled police force* would be subject to political, legal, and financial oversight by the Legislative Council as well as the appropriate ministries, and its role, rules, and relationship to local government would be clear to all.

POLITICS OF REFORM

The principal challenge facing the development of effective public institutions is not technical, organizational, or financial, but political. The Palestinian Authority has considerable human resources at its disposal, with many highly qualified professionals and an educated and skilled workforce. In addition, it has the political goodwill and material support, both financial and technical, of the international community. Numerous management consultancy studies and reviews identifying needs and recommending specific solutions have already been conducted for the full range of governing institutions in the West Bank and Gaza Strip. However, what determines the effectiveness of governance is the nature of the emerging institutional culture and the manner in which the different parts of the system interact. It is in this sense that any improvement will be highly political, and that the beneficial impact of reform of any type will be comprehensive.

The most serious costs to the Palestinian Authority of shortcomings in its public institutions are also likely to be political. Opinion polls conducted in the West Bank and Gaza Strip regularly reveal dissatisfaction with the level of public services, a perception of waste and corruption in the public administration and police,

and a loss of faith in the institutions of governance, particularly the Palestinian Legislative Council and the judiciary.

These negative consequences have provided ammunition to the Palestinian Authority's detractors in the Palestinian opposition, in Israel, and abroad. Equally serious is the possible erosion of political support in the international donor community, with taxpayers and parliamentarians questioning the wisdom of directing a high proportion of a limited aid "pie" to the Palestinians instead of other developing countries. Not to reform is not an option.

To strengthen and reform public institutions requires considerable political will and skills. To do so while conducting final-status negotiations with Israel and preparing for the transition to a permanent settlement and full self-determination requires even greater courage, foresight, and perseverance. These are qualities demonstrated by the Palestinian leadership, which has engaged constantly since 1994 in the arduous task of setting up effective self-government while negotiating further phases of the Interim Period.

The Palestinian leadership needs to be strong, capable, and self-confident in order to meet the challenges ahead, and it is entitled to define and steer its own course accordingly. It should therefore see good governance, as well as the reforms intended to bring it about, as a source of strength. Integral to the Palestinians' exercise of genuine self-determination are the institutionalization of citizens' rights, establishment of the rule of law, creation of a viable and independent system of justice, empowerment of civil society, invigoration of the private sector, and delegation of authority and assertion of institutional autonomy throughout the public administration.

MAIN RECOMMENDATIONS

Constitutionality

The Oslo accords and subsequent agreements between the PLO and the state of Israel formed the framework within which the constitutional basis and legal system of the Palestinian Authority were to be formed. The Palestinian Legislative Council (PLC) that

Executive Summary

was formed through general elections in January 1996 approved a Basic Law as the primary constitutional document of the Palestinian Authority, but this has not been promulgated by the executive. Instead, the mixture of inherited codes and laws in effect until June 5, 1967, have been applied. This has led to accusations of over-concentration of presidential power, rule by decree, selective use of legal codes, and disregard for democratic process. The fact that the Oslo framework did not provide explicitly for the renewal or extension of the presidency and Legislative Council has increased the perceived ambiguity of constitutional arrangements.

1. The president of the Palestinian Authority should either promulgate the draft Basic Law as a whole, or at least promulgate parts of it and pass them into law separately. In the latter case the separate Basic Laws should govern the legislative process, independence of the judiciary, and citizens' rights. The end of the stipulated Interim Period and transition to the permanent settlement need not affect this, because basic constitutional principles should remain unchanged.
2. The Palestinian Authority should establish a constitutional court, or suitably empower the supreme court, to ensure that laws and systems are constitutional.

The Executive

The executive branch of the Palestinian Authority follows the presidential model of government, with a high degree of concentration of power. This includes the power to issue legal decrees in all spheres, to make appointments to the civil service and the police, to establish or dissolve public institutions, and to disburse public funds. Much of this concentration of power was embodied in the Oslo framework. Yet the centralization of authority, detailed micromanagement, and lack of delegation of administrative authority in some fields have weakened executive ability to manage a growing and increasingly complex system of public administration and finance. The risk is that social and economic policy will drift, organizational evolution will be haphazard, and public personnel will expand unchecked. Modification of current exec-

Strengthening Palestinian Public Institutions

utive practice would reduce the administrative burden on the presidency in particular, and so strengthen political leadership and macromanagement.

1. The cabinet should formulate a plausible, consistent, and clearly articulated program for government and adhere to it. Ministers should be enabled to operate according to set tasks and budgets that are not subject to sudden or arbitrary change or to constant renegotiation.
2. The cabinet should be further empowered to coordinate government policies and to oversee the development and reform of public administration and the public sector more generally.
3. The cabinet should submit the general budget to the legislature for review and approval in a timely manner.
4. Reduction of the number and range of public institutions presently attached to the president's office would reduce the administrative burden on the presidency and so strengthen its ability to formulate and pursue key policy objectives.
5. The president's office should devolve to the appropriate ministries and agencies all programs and projects that involve disbursement of funds but that do not relate directly and necessarily to the conduct of the presidency.
6. The Palestinian Authority should enhance the role of local government. To this end municipal elections should take place, and the Palestinian Authority should devolve greater powers of service delivery, revenue collection, and public works to local government and delineate responsibilities clearly between the Ministry of Local Government (MLG), the Ministry of Interior, the police force, and municipal councils.

The Legislature

The creation of the Palestinian Legislative Council through general election and universal suffrage in January 1996 was one of the major achievements of the Palestinian Authority. Palestinian law-

Executive Summary

makers have accumulated valuable experience and demonstrated growing capability to debate legislation, government policies, and budgets. However, they face a principal challenge to avoid marginalization and to reinforce the role of the legislature. The Oslo framework did not provide explicitly for the renewal or extension of the presidency and the Legislative Council, raising further questions about their role and relationship beyond the end of the stipulated Interim Period.

1. The Palestinian Legislative Council should adopt a multiyear legislative agenda, as a more realistic means of organizing and completing its primary function.
2. The executive authority should enable the Palestinian Legislative Council to review the general budget more effectively, by making timely submissions to the legislature and by adhering to its approved terms.
3. The Palestinian Legislative Council should be empowered to exercise effective oversight over the executive authority. To this end it is the Palestinian Legislative Council that should approve the operating budgets of the judiciary and other independent oversight bodies, including the General Control Institute.
4. The ongoing consolidation and integration of the diverse and often conflicting body of laws and ordinances presently in effect in the West Bank and Gaza Strip should be completed.
5. The legislature played a central role in drafting the Palestinian constitutional framework for the Interim Period and should continue to play this role as the Palestinian Authority prepares for the permanent settlement. The draft Basic Law provides a useful starting point for any new constitutional document to be prepared for the next phase.

The Judiciary

The rule of law and the provision of oversight over the executive and legislative branches of government cannot be achieved without a functioning judiciary, which is equally important for the con-

duct of civil society and free market enterprise. Yet the judiciary is in a state of disrepair. Part of the burden has been taken up by traditional social institutions and practices, while another part has been undertaken informally by public officials, such as the governors appointed by the president of the Palestinian Authority. These mechanisms can usefully provide alternative dispute resolution, but excessive virtue should not be made of necessity. Such mechanisms cannot replace the need for trained and independent judges and a unified legal code, without which there is a serious threat to the rule of law, public order, and enforceable contract.

1. The Judicial System Law passed by the Palestinian Legislative Council in December 1998 should be promulgated.
2. The executive authority should assist the reestablishment of a Supreme Judicial Council enjoying genuine independence.
3. The powers and responsibilities of the minister of justice should be fully defined, and should not duplicate or supplant those of the Supreme Judicial Council or senior judicial officers.
4. The recommendations and targets stated in the Rule of Law Strategic Development Plan issued by the Ministry of Justice in 1996 should be implemented on an accelerated timetable, as a matter of urgency.
5. State security courts should be abolished. As a first step the executive authority should define their mandates clearly, make them open, allow for credible defense, and provide for appeal to the Supreme Court.

Public Administration

Public administration in the Palestinian Authority is still weak in certain areas. These include duplication of functions and redundancy of institutions, competing chains of command, insufficient delegation of authority, excessive compartmentalization in certain respects and lack of departmental autonomy in others, inadequacy of formal procedures, insufficiency of information flows within and between institutions, and inadequacy of routine external audit.

Personal and political interventions mean that internal rules and regulations do not consistently operate as stable, institutionalized, and predictable procedures that are not easily reversed.

1. Until the promulgation of the Basic Law or another constitutional document, laws of establishment defining mandates, tasks, and job descriptions should be issued for all ministries and agencies.
2. A general review of public administration should be conducted with a view to simplifying its overall structure and reducing the number of ministries and agencies.
3. The raft of reforms recommended by the Palestinian Authority's Core Group on Public Administration (CGPA) should be implemented without delay.
4. Internal statutes, rules, and regulations should be fully available to all public personnel and should be applied without regard to personal association, political affiliation, or commercial consideration.

Personnel

The Palestinian Authority has a significantly inflated payroll. In the civil service there is overstaffing and job inflation in certain ministries and agencies and at certain levels of appointment. Others are understaffed, especially those requiring specialized or highly qualified personnel. The desire to ease unemployment, combined with political and personal factors, has partially converted public hiring into a means of rewarding loyalty and of securing a mass constituency. This has left the Palestinian Authority with a much higher proportion of the labor force in public employment than is the case in other post-conflict situations. The result is sub-optimal quality and efficiency of public services and reduced cost-effectiveness. This threatens the domestic legitimacy of the Palestinian Authority, while burdening it with an exaggerated wage bill and a potentially unmanageable future pension requirement.

1. All provisions in the new Civil Service Law, other than those relating to pay, should be put into immediate effect. A central,

unified structure for civil service jobs in the West Bank and Gaza Strip should be put into place.

2. Recruitment to the civil service should be initiated and approved only by the duly authorized officials and institutions and should be subject to audit by an appropriate central, independent body.
3. Personnel matters in the civil service should be under the jurisdiction of the General Personnel Council (GPC).
4. The civil service payroll should be under the exclusive jurisdiction of the Ministry of Finance (MOF).
5. A program should be put into effect to review staffing in key ministries. This program should cover the number and level of posts, as well as the skills and experience required to fill them.

Planning

The Palestinian Authority has attained higher levels of planning, in a short span of time, than many developing countries. Increased attention to a sectoral approach, prioritization of projects, and macro-economic analysis have allowed it most recently to assume ownership of the revised Palestinian Development Plan for 1999–2003. However, insufficient clarity in the Palestinian Authority about overall policy goals has impeded definition of explicit social, economic, and administrative targets, not to mention formulation of appropriate operational strategies. This also impedes long-term planning to address questions of economic viability and of the sustainability of social policy in view of high population growth rates and projected trends in regional and global markets. The challenge is partly technical, but it is also one of political authority and the proper division of tasks between the relevant public institutions.

1. There needs to be a single Palestinian planning body, a role provided at present by the Ministry of Planning and International Cooperation (MOPIC), with undisputed authority over

the planning process. To this end it should receive the political support of the cabinet and the legislature.

2. The Ministry of Planning and International Cooperation should lead duly formed sectoral working groups representing relevant “clusters” of ministries and agencies.
3. The division of responsibilities regarding public expenditure management should be clarified between the Ministry of Planning and International Cooperation and the Ministry of Finance.
4. The Ministry of Planning and International Cooperation should be confirmed as the clearinghouse for all applications for international assistance made by all ministries and agencies.
5. Planning should take special account of anticipated increases in demand for public infrastructure and services as a result of population growth, social and economic development, and changing technologies and trade patterns in global markets.

Public Finance

International assistance to the Palestinians is tightly monitored by the donor countries and representative institutions, but the domestic revenues and expenditures of the Palestinian Authority lack transparency and completeness of accounts. This has led Palestinian bodies to make accusations of financial waste, mismanagement, and misappropriation of funds, especially with regard to the 1994–96 period. There is a high level of international satisfaction with implementing agencies such as the Ministry of Finance and the Palestinian Economic Council for Development and Reconstruction (PECDAR), but proper financial management, planning, and practice need to be strengthened further. The diversion of public revenue to accounts not under the purview of the Ministry of Finance has caused liquidity problems. This has led in turn to compression of cash expenditure, costly domestic borrowing, and accumulation of arrears. At the same time, the centralization of revenue collection away from municipal authorities has increased the central trea-

sury's administrative costs, but without ensuring that transfers to local governments mandated by existing legislation are actually made.

1. The general budget prepared by the Ministry of Finance should be submitted by the executive branch to the legislature for debate and approval in a timely manner. It should reflect all public revenues and expenditures and contain full, detailed breakdowns of both items.
2. All public revenues should be disclosed, and should accrue to a single account under the Ministry of Finance.
3. The regulatory frameworks and implementation mechanisms developed by the Ministry of Finance to ensure proper financial practice throughout the Palestinian Authority should be put into effect without delay.
4. Preparation of the public payroll should be brought entirely under the Ministry of Finance, in order to secure the separation of financial and administrative control.
5. The Ministry of Finance should assume control and management of public-sector pension funds and provide transparent accounting for government liabilities generally.
6. The General Control Institute should have a definitive framework of laws and regulations against which to audit the public sector and should be made answerable to the legislature.
7. Central government should devolve collection of the property tax to local government, and municipal authorities should charge the real cost of services to users.

Social Services

The ministries delivering social services have borne an especially heavy burden since the establishment of the Palestinian Authority, and they have performed remarkably under severe financial and administrative constraints. However, their capacity is impeded by limited ability to attract qualified staff, a lack of appropriate facil-

Executive Summary

ities and equipment, and inadequacies in long-term projection and planning capabilities.

1. Performance indicators and cost calculation systems should be developed and applied in order to improve the efficiency and quality of social services delivery.
2. The social services ministries should further develop the legal and regulatory framework enabling nongovernmental and private-sector providers to compete directly for service delivery.
3. Forward-looking planning and projection methodologies should be developed as a matter of urgency, in order to anticipate increased demand for public services as a result of population growth and of social and economic development.

The Economy

There is unnecessary duplication and fragmentation of ministries and agencies dealing with various aspects of the economy. Lack of an effective enabling legal and regulatory environment for the proper operation of a free market economy has led to market distorting interventions. Largely unregulated and unaccountable public import monopolies and quasi-monopolies have been created. This leads to undisclosed commercial dealings by public servants and to privileged access for private actors to the award of contracts, licenses, and exclusive dealerships. Pledges made by the Palestinian Authority to privatize monopolies have not yet been fulfilled, and their revenues have not been consolidated under the Ministry of Finance as promised.

1. Existing ministries and agencies dealing with the economy should be reviewed with the aim of reducing their overall number, merging or subdividing them as necessary in order to eliminate overlapping specialization and duplication of functions.
2. Sectoral working groups, development strategies, and other formal mechanisms should be established for consultation, coor-

dination, and collaboration between the ministries and agencies dealing with the economy.

3. The powers of regulatory bodies should be increased and they should be made genuinely autonomous. The Palestinian Monetary Authority should play an increased role in supervising the banking sector.
4. The draft laws governing taxation, investment, company registration, competition, and other economic activities should be completed and promulgated as soon as possible.
5. The privatization of public import monopolies and quasi-monopolies established by the Palestinian Authority should proceed as promised, and all commercial concessions should be disclosed.
6. All public servants, both civil and police, and elected officials should be required to disclose, and if necessary divest, private commercial interests.

Police Force

The police force established by the Palestinian Authority has ensured public law and order in a particularly difficult political and security environment and has achieved a relatively high level of discipline and cohesion. However, it has drawn charges of repeated abuse of human rights, insufficient observance of due process, inadequate separation of functions and responsibilities between its branches, occasionally violent interservice rivalries, and uncontrolled proliferation of parallel security agencies. This threatens the performance of the various police branches, public approval, and the confidence of Israel and the international community.

1. The police force should be brought under clear civilian authority and should be made subject to political oversight by the legislature. It should also be subject to external audit by a body that reports to the legislature.

Executive Summary

2. The chain of command within the police force as a whole and within its separate branches should be clarified and observed in practice.
3. The mission statements and rules of procedure drafted by the Higher Council for National Security should be ratified, implemented, and made available for public scrutiny.
4. Cost-effectiveness in the police force needs to be improved, in part by reducing personnel numbers substantially.
5. The police force should prohibit any form of revenue collection or commercial activity by its various branches that are not authorized by their law of establishment.
6. The relationship between the police force and local government should be clarified.

I. INTRODUCTION

The Palestinian Authority (PA) is a creation of the Israeli-Palestinian peace process that began in Oslo in 1993. For the first time, the PLO and the government of Israel negotiated directly with one another. The outcome of these historic negotiations was the exchange of letters of mutual recognition and the Declaration of Principles signed in Washington, D.C., on September 13, 1993. The PA was established upon the conclusion, in Cairo, of the Agreement on the Gaza Strip and Jericho Area on May 4, 1994. That agreement was followed on September 28, 1995, by the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip (WBGS), which set the stage for the extension of the PA's authority to additional areas, including Palestinian population centers in the West Bank.

The Oslo framework continues to impose severe constraints on Palestinian jurisdiction and control in both internal and external spheres. Nonetheless, Palestinian jurisdiction has gradually extended to additional areas and population centers in the West Bank. The PA now has territorial and functional control over 70 percent of the Gaza Strip and 29 percent of the West Bank. These areas contain 95 percent of the Palestinian population, other than those living in East Jerusalem, where the PA is not allowed to maintain offices or provide public services. The PA provides civil and legal administration to the population of the WBGS, although the U.N. Relief and Works Agency (UNRWA) for Palestine Refugees in the Near East remains responsible for a substantial share of social services, expenditure, and employment. The PA is also responsible for internal security in 70 percent of the Gaza Strip and 10 percent of the West Bank, with the remaining areas under the overall security control of the Israeli military government.

The Palestinians conducted their first general election on January 20, 1996. More than 780,000 Palestinians resident in the West

Bank and Gaza Strip, representing 75 percent of the electorate, cast two separate votes. Palestinians living in East Jerusalem cast their votes at polling stations in the city. The first vote was to select 88 members for the new Palestinian Council, representing 16 electoral districts. The second vote was for the president of the executive authority. PLO Chairman Yasir Arafat was elected president with 88 percent of the vote. The Palestinian Council has come to be known as the Palestinian Legislative Council (PLC), while its executive authority is known as the Council of Ministers, or cabinet. The PLC, presidency, and cabinet, together with the judiciary and the ministries and other operational institutions, collectively form the PA.

The Interim Period as stipulated in the Declaration of Principles came to an end on May 4, 1999. The PLO and Israel conducted a first round of final status negotiations in May 1996, but have yet to begin concrete discussion of the permanent settlement. Major issues of contention postponed by mutual agreement in the Declaration of Principles have yet to be addressed, and resolved. They include Jerusalem, refugees, settlements, security arrangements, borders, foreign relations, and other matters. Whatever the details of a final agreement on these and other issues, the Palestinian people are firmly committed to attaining self-determination in the form of an independent, sovereign state.

The construction of Palestinian public institutions in the WBGS has been extensively shaped by four factors external to the PA: the Oslo framework, the PLO, Israeli policy, and the international donor community.

THE OSLO FRAMEWORK

The Oslo accords and subsequent interim agreements have contributed positively and decisively to Palestinian institution-building, not least by launching genuine Palestinian autonomy, by allowing the creation of the PA, and by allowing the first national elections in modern Palestinian history. However, the transitional and open-ended nature of the Oslo framework has also generat-

Introduction

ed uncertainty and increased the incentive for both Palestinians and Israelis to minimize risk. On the Palestinian side, anxiety about further progress of the peace process and lack of assurance that it will lead to the exercise of full self-determination in the form of an independent state have reinforced arguments for a strong and continuing PLO role in PA affairs.

An inadvertent consequence of the stalemate of the peace process and the resulting emphasis on the political agenda has been to divert Palestinian public attention from institution-building. This weakens public demand for good governance and democratic practice. At times, the centrality of security concerns to the peace process has come at the expense of other budgetary priorities and undermined proper regard for human rights and the rule of law.

Moreover, the Oslo framework limits the power of the PA to pass primary legislation and deprives it altogether of legal jurisdiction over Israelis or any activity involving Israelis in the WBGS. The PA lacks responsibility for overall security in the autonomous areas, international crossing points, and foreign relations. It also lacks general control over land, water resources, and the movement of people and goods within the WBGS. This affects the development and functioning of its executive, legislative, and judicial branches of government.

THE PLO

It is worth emphasizing that it was the PLO, in its internationally recognized capacity as sole legitimate representative of the Palestinians, that signed the Declaration of Principles and subsequent interim agreements with Israel. The PLO authorized the creation of the PA and conferred legitimacy upon it, a legitimacy that was confirmed and expanded by the 1996 general election. The PLO has continued to negotiate with Israel, to maintain foreign relations, and to sign international agreements on behalf of the PA, which lacks sovereign character. The PLO also maintains its status as the representative of all Palestinians, including those of the

Strengthening Palestinian Public Institutions

diaspora, and is therefore the only entity that has the authority to negotiate and guarantee a permanent settlement with Israel.

The continued relationship between the PLO and the PA has therefore been, and remains, necessary for the peace process. However, it has also had some negative effects on the construction of effective and viable public institutions in the WBGS and on the promotion of good governance. One problem is the seeming overlap between certain PLO and PA institutions, which is reflected in disputes over political and functional jurisdiction. One of the clearest examples is the PLO's Executive Committee and its parliament-in-exile, the Palestine National Council (PNC), on the one hand, and the PA's cabinet and its Legislative Council on the other. Furthermore, the difficulty of distinguishing the mandates of PLO and PA institutions has impeded the promotion of key elements of good governance, especially the exercise of constitutional power, transparency and accountability, and the rule of law. Inherited PLO norms and practices allow arbitrary decision-making, subordinate formal structures to informal ones, and erode due administrative and legal process. Opinion polls show growing public disaffection and loss of confidence in the PA. The situation is further aggravated by the persistence, among certain segments of the Palestinian population, of a traditional political culture that encourages deference to leaders even at the expense of good governance.

ISRAELI POLICY

By signing the Declaration of Principles with the PLO in 1993, the government of Israel acknowledged the need for a Palestinian partner capable of providing the political, economic, and social underpinnings of genuine, long-term peace. It therefore committed itself to facilitating the establishment of effective and viable Palestinian public institutions. Yet the partial severance of links between the West Bank and Gaza Strip, border closures, and denial of free access to markets have had a direct and adverse impact on institution-building and governance in the PA.

Introduction

On an administrative level, Israeli travel restrictions have compelled Palestinian public institutions to build redundancy into their structure and hire additional staff to maintain parallel departments in the West Bank and Gaza Strip. On an economic level, border closures and restricted access to domestic and external markets have made PA revenue unstable and unpredictable, thus encouraging monopolistic and other market-distorting practices.

Border closures, along with the restrictive Israeli policy regarding permits for travel to Israel or between the West Bank and Gaza Strip, led to lost opportunities worth \$3 billion in direct cumulative income from 1993–98.¹ This must be measured against an economy with real GNP of \$3.96 billion and real GDP of \$3.32 billion in 1998. Border closures contributed to a 14.5 percent decline in per capita income since 1992, pushing up to 20.1 percent the number of Palestinians in the WBGS who lived below the poverty line in 1997. As a result, as much as 25 percent of total international assistance disbursements to the end of 1998 were diverted into emergency relief, instead of being spent on public investment as originally intended.

At the same time, Palestinian private investment has slowed as a result of declining sales and competitiveness coupled with increased costs of production and operation. Trade flows have collapsed. Private investment in the Palestinian economy stands at only 10 to 11 percent of GDP instead of the more usual 15 to 20 percent for countries at similar levels of development. Associated consequences are unemployment, which has averaged 31 percent, and a 17 percent net decline in per capita income since 1994. This weakens the income tax base, as well as purchasing power and the associated purchase and value-added taxes and import duties. Finally, it reduces the ability of lower-income groups to pay user fees for public services.

Israeli restrictions on the issue of permits allowing Palestinians to enter Israel or to travel between the West Bank and Gaza Strip have further impeded the normal conduct of Palestinian affairs. For example, whereas the permits issued to a reported 27,000 Pales-

¹UNSCO, "The Economy of the West Bank and Gaza Strip: A Retrospective on the 1990s and Future Challenges" (AHLIC meeting, Frankfurt, February 4, 1999), p. 8.

Strengthening Palestinian Public Institutions

tinian business travelers in early 1999 allowed them entry to Israel, only 4,000 of these permits allowed them to go additionally between the West Bank and Gaza Strip.² This has led the two areas to develop bifurcated economies, complicating the efforts of Palestinian public institutions working to provide a unified legal and regulatory framework for both.

Market distortions have also resulted from the failure to revise some of the more restrictive provisions of the Paris Protocol of 1994 that forms the basis for Palestinian-Israeli economic relations. Israeli policy has impeded implementation of preferential and free-trade agreements between the Palestinian and external economies. Indeed, although the incidence of border closures was greatly reduced in the eighteen months before May 1999, the lack of access to the outside world remains the major barrier to Palestinian free trade.

INTERNATIONAL DONOR COMMUNITY

The programs and priorities of the international donor community have had both direct and indirect effects on Palestinian institution-building. In October 1993, two weeks after the signing of the Declaration of Principles, donors pledged \$2.4 billion to support Palestinian socioeconomic development over a period of five years. With additional pledges made over the period, that figure increased to \$4.2 billion by 1998, although for various reasons actual disbursement to the end of 1998 was \$2.5 billion. In November 1998, donors pledged a similar level of support for a further five-year period. In both absolute and per capita terms, the donor effort for the Palestinians has been one of the largest ever undertaken by the international community.

Donor funds were crucial to the establishment phase of the Palestinian Authority, covering a significant portion of start-up, salaries, and other running costs for both the civil service and the Palestinian Police Force. Such support amounted to approximately

²Stuart Eizenstat, "Special Policy Forum: Economic Security and the Middle East" (The Washington Institute for Near East Policy, March 17, 1999), No. 375.

\$520 million by 1998, or some 21 percent of the \$2.5 billion in total donor disbursements over the period. In addition, approximately \$450 million, or 18 percent of total disbursements, were used to provide various forms of technical assistance to support the development of Palestinian public institutions.

International assistance has had a major impact on the development of all branches of Palestinian government. At the time of the signing of the Declaration of Principles there were no Palestinian governing institutions in the West Bank and Gaza Strip, and thus the Palestinian Authority had to be built from scratch. As a result, PA institutions initially lacked the ability to determine long-term needs and prioritize short- and medium-term objectives. In such a situation, programs were partly or largely donor-driven, particularly in the area of institution-building.

PA capacity in planning and prioritization greatly improved during the period 1994–99 as the Ministry for Planning and International Cooperation gradually assumed the central role for these matters. Nevertheless, competition among PA institutions for donor assistance has also led some donors to conclude direct arrangements with PA ministries, regional agencies, and municipalities. In these cases the striving of separate PA institutions to identify priorities and “shop” for funding has only confused priorities further. In others, donor support for competing institutions has worsened fragmentation, as in the environmental sector. This has been most problematic in the case of institutions that lacked the political or organizational skills to lobby for funding, thus compounding their weakness while favoring other sectors.

Overall, the coordinating mechanisms between the donor community and the PA have worked well, particularly when the scale of the effort and the complex political circumstances associated with the ongoing negotiations process are taken into consideration. Tight oversight and monitoring of international assistance have assured proper use of donor funds and encouraged transparency and accountability in the Palestinian counterpart institutions. Indeed, compared with other contemporary post-conflict situations, performance in general has been outstanding.

Strengthening Palestinian Public Institutions

Nonetheless, there is room for improvement. Palestinians should continue to assume greater ownership of the planning and prioritization process. This will require that the PA play an increasingly central role in multilateral coordination forums. These forums include the Ad Hoc Liaison Committee of major donors, which is composed of representatives from donor capitals and headquarters of international organizations, and the Local Aid Co-ordination Committee of all donors, which is based in the West Bank and Gaza Strip. The forums are by now well-established arenas for the PA to present its priorities for the use of donor aid and other concerns related to the socioeconomic development aspects of the Oslo process.

Not all donors have delivered fully or in a timely fashion on their pledges: they should be urged to do so without further delay. Restrictions by certain donors requiring aid to be spent on goods and services from their own nationals and companies have also limited the net transfer of capital and technical know-how to the Palestinians.

TERMS OF REFERENCE

As Palestinians prepare to enter into permanent arrangements, it is time to take stock of the PA's achievements. It is also time to point out areas in which the PA needs to improve the level of effective, efficient, and democratic government in order to ensure the transition to genuine and meaningful Palestinian self-determination. Of course, even with the best of intentions and under the best of circumstances, the requirements of good governance can be blocked or derailed by external actors or by constraints imposed by the Oslo framework. However, this only underscores all the more the need for Palestinians to address any shortcomings in their own institutional capacity, performance, and culture for which they are responsible or capable to ameliorate and correct. No other party or partner can undertake this role on their behalf.

Good governance and democracy require the creation and consolidation of effective and viable institutions. These should be

capable of satisfying the Palestinian population's needs in a way that ensures popular acceptance of government authority. This report assesses Palestinian public institutions and recommends specific reforms for improved governance within a framework that is politically relevant and responsive to local conditions. At the same time, it seeks to apply guiding principles that are applicable globally.

Palestinian public institutions should meet four requirements:

1. *Political and bureaucratic accountability.* Public institutions should report, and be accountable, to a source of legitimate authority with a clear chain of command and a popular mandate. Public servants should answer for their actions, and they should do so to independent bodies. Accountability is also a crucial ingredient of political legitimacy and popular acceptance, and for that reason transparency and openness about governmental decision-making are required. In general, public institutions need to be constitutionally established and to observe the separation of powers.
2. *The rule of law and due process.* Public institutions should operate according to a clearly articulated and comprehensive legal and regulatory framework, and be subject to judicial review and adjudication. The rule of law and due process should be applied effectively and equally to all bodies and individuals both inside and outside government. A fair, reliable, and independent judicial system with the support of the forces of law and order is necessary to ensure such application.
3. *Strong, participatory civil society.* Public institutions should cooperate with and be responsive to the institutions of civil society, including nongovernmental organizations, social associations, private sector actors, and political parties. For this requirement to be met, it is imperative that policymaking be open and predictable, especially in matters relating to public resources and resource management. It is also essential that full freedom of association and participation, freedom of information and expression, and respect for social and cultural rights be ensured.

Strengthening Palestinian Public Institutions

In such an environment, the institutions of civil society would be able to question and criticize the appropriateness of government actions. Responsive governance requires popular powers to select and remove political representatives through a guaranteed electoral process. It also requires that government, especially local government, be not conducted at a distance from most of the population.

4. *Competent, effective, and efficient public institutions and administration.* Public institutions should have clearly defined mandates, operational objectives, and strategies and be able to generate effective policies under the direction of policymakers. They should have the means to ensure proper and transparent internal regulation and accountability, and procedural methods to monitor and assess performance. The civil service should be recruited on the basis of professional capability and merit, and should be able to implement policies independently of private commercial interests and without corruption or patronage.

In examining Palestinian public institutions and the extent to which they meet the four requirements mentioned above, this study has three objectives:

- to determine the actual condition and effectiveness of existing Palestinian institutions;
- to identify difficulties these institutions have encountered and impediments to their effective functioning; and
- to propose practicable means of improving the effectiveness and credibility of these institutions in the medium to long term.

II. CONSTITUTIONAL FRAMEWORK AND POLITICAL INSTITUTIONS

INTRODUCTION

This section addresses the public institutions that constitute the principal elements of the Palestinian political system in the West Bank and Gaza Strip. Referred to here as “political institutions,” they determine the overall purpose, program, and policy of government, as well as the budget, structure, and regulatory framework of public administration. The political institutions consist of the executive authority, comprising the presidency and cabinet, the Palestinian Legislative Council, and the judiciary.

The first purpose of this section of the report is to assess the constitutional framework within which the three branches of government fulfill their primary roles. Constitutionality is a *sine qua non* of democracy and citizens’ rights, and a fundamental element for the promotion of good governance. The report therefore addresses the separation of powers, clarity of mandates and delineation of authority, and checks and balances within the system.

The second purpose of this section is to assess the capacity and performance of the political institutions. It does so with particular reference to:

- effectiveness in implementing primary roles and overall policy management;
- ability to exercise oversight functions, including over the police;
- ability to establish appropriate structures and clear operating procedures;

Strengthening Palestinian Public Institutions

- responsiveness to input from civil society; and
- ability to institutionalize citizens' rights.

CONSTITUTIONAL FRAMEWORK

Context

The Palestinian Authority has operated since 1994 in a constitutional framework characterized by multiple, changing, and often contradictory legal sources. The accords signed with Israel, starting with the Cairo Agreement of May 1994, defined the initial structure and powers of the PA, as well as the areas of functional responsibility that were to be immediately transferred to it by the Israeli military government in the WBGS.

However, for the purpose of setting the context within which the PA has sought to establish its constitutional basis, the most important accord is the Interim Agreement of September 1995. This provided for the establishment of a "Palestinian Council," which was to assume the responsibilities already transferred to the PA in addition to new ones now transferred from the Israeli military government. The council was to have legislative, executive, and judicial powers and responsibilities, and was empowered to issue a Basic Law delineating them. A committee drawn from the council would exercise executive authority on its behalf, while the council would legislate and perform oversight functions over policy and the budget. The president, to be elected separately, would propose the members of the executive authority to the council for approval, and would also be an *ex officio* member of the executive authority. The council would have within its jurisdiction an independent judicial system.

The Palestinian Council has come to be known as the Palestinian Legislative Council, while the executive authority is known as the Council of Ministers or cabinet. The PLC, presidency, and cabinet, together with the judiciary and the ministries and other operational institutions, are taken collectively to form the PA. The absence of a Basic Law or other constitutional document has led

to continuing legal ambiguity about the precise powers and responsibilities of each branch of the Palestinian government.

Given this ambiguity, two other sources of political and legal authority have affected constitutional arrangements in the WBGS. One is the PLO, which concluded the various accords within the Oslo framework to date and is responsible for negotiating the final status of the WBGS with Israel. Its legacy is mixed. On the one hand, it has bequeathed to the PA the foundations of a constitutional framework. In 1988, the Palestine National Council (the PLO's parliament-in-exile) committed itself to the establishment of an independent state based on a "democratic parliamentary system," freedom of expression, equality, a constitution, the rule of law, and an independent judiciary. On the other hand, the confusion of mandates and overlap of authority between PLO and PA institutions has impeded transparency, accountability, the rule of law, and other elements of good governance.

Most importantly, the PLO and its constituent parts—the Palestine National Council, Central Council, Executive Committee, and Chairman—are imbued with a higher degree of legitimacy and authority than the PA and its institutions: the PLC, cabinet, and president. The legitimacy, authority, and tenure of the PA are derived from the Declaration of Principles and at the same time limited by it. The end of the stipulated Interim Period in May 1999 has therefore complicated even further efforts to strengthen and reform PA institutions by placing them on a clear constitutional basis. Indeed, in April 1999 the PLO Central Council decided to prepare a new, provisional constitution in anticipation of statehood, potentially superseding arrangements already in force or under consideration for the PA.

The other source of legal authority affecting constitutional arrangements in the WBGS is the extensive mixture of laws and legal traditions in force. In Gaza this consists of the Anglo-Saxon common law tradition, as applied by the British Mandate up to 1948, and elements of civilian and military law in force during the period of Egyptian administration up to 1967. The legal system in the West Bank is derived from the Napoleonic tradition and the introduction of Jordanian law in the 1950s and 1960s. In both

areas the Israeli military government introduced further modifications in the form of military orders. The PA has also invoked the British Defense and Emergency Regulations of the 1930s and 1940s when setting up the state security courts, although it has not recognized the regulations to be in force. The Interim Agreement of 1995 allows the abrogation of existing laws and military orders by the PA, as long as the change does not violate the terms of the agreement. This legal mixture continues to complicate the delineation of powers and responsibilities among the branches of Palestinian government.

Achievements

In 1997, the PLC approved a Basic Law in its third and final reading, following an extensive debate in full view of the Palestinian public and with the participation of civil society bodies. The draft provides for a parliamentary democracy based on the rule of law and some separation of powers. It affirms basic civil rights and freedoms, and seeks a strong legislature directly elected by the people and entrusted with the tasks of legislation and oversight of the executive. The members of the legislature are to enjoy immunity. They also have the right to grant and withdraw confidence in the executive, and to review and approve its proposed budget. The draft Basic Law upholds the independence of the judiciary, and stipulates the establishment of a higher judicial council responsible for the management and oversight of the judicial branch. It also calls for the establishment of a high constitutional court, and gives the PLC a role in approving the executive selection of the attorney general or public prosecutor.

The draft Basic Law also seeks to institutionalize safeguards against violations of citizens' rights. The presidential decree that created the Palestinian Independent Commission for Citizens' Rights soon after the establishment of the PA provided an ombudsman as an additional safeguard. An independent judiciary provides further guarantees, while proposed laws dealing with political parties, nongovernmental organizations, press freedom, and other issues potentially provide further protection.

Constitutional Framework and Political Institutions

Although it has yet to be promulgated by PA President Arafat, the fact that the draft Basic Law provides guarantees of constitutional rule in the WBGS represents a significant departure in Palestinian political practice. It also marks a departure from most Arab constitutional experience by providing checks and balances to executive power, as well as mechanisms to ensure implementation of accountability. Failure to promulgate the Basic Law by the end of the stipulated Interim Period has placed its status in doubt, but it nonetheless provides an important starting point for any future constitutional document.

Challenges

Though some progress has been achieved, the Palestinian political system still suffers from a distinct lack of clarity regarding constitutional rules and roles. It is inevitable that constitutional arrangements in a transitional system should be subject to political contest and negotiation. In this case the overlap of PLO and PA institutions has further confused the issue. PA cabinet meetings have been replaced by weekly meetings of the “Palestinian leadership,” a loosely defined gathering of the president, cabinet ministers, PLO Executive Committee members, the PLC Speaker and his deputies, and heads of the negotiating teams. Thus, a forum that is not accountable to the PLC or other PA bodies currently makes policy decisions affecting the PA.

Legal ambiguity about constitutional powers has also weakened the PLC and confused its relationship with the executive authority. The PLC is supposed to ‘be the body that determines overall policy and approves the budget, and thus provides oversight of the cabinet. In practice, however, government policies are formulated, implemented, and assessed by the executive authority alone. Individual ministers have often agreed to attend PLC committee hearings and answer questions, but the executive authority has no clear obligation to do so, and other ministers have refused to appear.

Accountability, especially of the executive authority, has equally suffered. In the absence of a Basic Law, PLC bylaws lack clear provisions to ensure and regulate a system of accountability.

Moreover, the PLC has failed to use votes of confidence as an effective tool to bring the executive authority to account, and therefore lacks a credible mechanism for enforcing its decisions.

The absence of a constitutional court or similar authority prevents proper resolution of disputes of interpretation between the executive and legislative branches. Lack of an independent judicial oversight body has allowed the executive authority to apply inherited laws selectively. These include the British Emergency Regulations of 1945, which allow it to suspend civil rights and due process. The same constitutional flaw removes legal restrictions on the possible use of emergency rule by the executive authority.

Indeed, in the absence of a Basic Law, the existing constitutional framework as shaped by the Interim Agreement of 1995 maintains ambiguity concerning constitutional protection of citizens' rights, which are not formally codified at present. The executive authority has failed repeatedly to enforce court decisions, including those issued by the Supreme Court, relating to violations of human rights and civil liberties committed by the police. In many cases, persons released after unlawful arrest have been rearrested. The PA has invoked the British Emergency Regulations of 1945 to justify creating the state security courts, but its refusal either to confirm or refute their applicability makes human rights violations possible while simultaneously complicating legal defense.

Constitutional ambiguity has also allowed an extension of executive power in relation to civil society organizations. Following the failure of early attempts to impose a restrictive law governing the registration and operation of NGOs, the executive authority adopted a cooperative approach. However, a more equitable draft law passed by the PLC has yet to be promulgated by the president. The General Intelligence Directorate and the Ministry of Interior have continued to make separate attempts to compel NGOs to report to them. There is also a continuing dispute between the Ministries of Interior, Justice, and Social Affairs over which should register NGOs. And the president has intervened in the operation of civil society organizations, such as the bar association, by appointing their heads and board members.

Constitutional Framework and Political Institutions

The extension of executive power has gone hand in hand with restrictions on freedom of expression, in particular through the various public media. To its credit, the PA does not apply formal censorship of the press, nor does it have an official censor. Yet the Palestinian press has been subjected to intimidation by PA security agencies and to commercial pressures, resulting in self-censorship. The Ministry of Information must approve media applications before issuing licenses, and several newspapers and radio stations have been closed down by the executive authority for varying lengths of time for expressing undesirable political views. Donors ceased giving aid to the Palestinian Broadcasting Corporation because it failed to ensure pluralism in coverage and access. The General Intelligence Directorate has established a Bureau of Press Information that monitors foreign media and seeks to control their accreditation in the WBGS.

The record since 1994 indicates that as the political system has evolved, it has concentrated power in the hands of the executive authority, particularly the president. The legislature and judiciary are marginalized, and basic civil rights and freedoms are not fully and formally protected. The end of the stipulated Interim Period only makes it more imperative that the Palestinian people define their constitutional framework.

Recommendations

1. The president of the PA should either promulgate the draft Basic Law as a whole, or at least promulgate parts of it and pass them into law separately. In the latter case the separate Basic Laws should govern the legislative process, independence of the judiciary, and citizens' rights. The end of the stipulated Interim Period and transition to the permanent settlement need not affect this, as basic constitutional principles should remain unchanged.
2. The PA should establish a constitutional court, or suitably empower the Supreme Court, to ensure that laws and systems are constitutional.

Strengthening Palestinian Public Institutions

3. The executive authority should clarify and delineate more effectively the PA-PLO relationship. PA cabinet meetings should be held separately from those of the PLO Executive Committee. PLO Executive Committee members or other PLO officials should not be empowered to act in ways that affect PA institutions, operations, or resources while remaining unaccountable to the appropriate PA oversight bodies.
4. The PA should cease application of the British Emergency Regulations of 1945, and should seek to abrogate Israeli military orders that infringe on citizens' rights, consistent with current agreements.
5. In the absence of a ratified constitutional document, such as the Basic Law, the PA should consider passing a bill of rights to safeguard citizens' rights.
6. The PA should take active steps to ensure freedom of expression and freedom of the press. These include repealing the restrictive elements of the Press Law and removing the role of the security agencies in monitoring the media.

EXECUTIVE

Context

By the end of the stipulated Interim Period in May 1999, the PA was responsible for political, economic, and social issues and for law enforcement relating to 95 percent of the Palestinian population of the WBGS, excluding the residents of East Jerusalem. Much of the structure and of the decision-making and policymaking processes of its executive authority had to be developed after May 1994, when the PA was established. The Interim Agreement of 1995 empowered the executive authority to determine its own internal procedures and decision-making processes. Its provisions concentrated considerable power in the hands of the president, who additionally wields U.S.-style presidential veto authority

over the legislature. This power includes issuing legal decrees in all spheres, making appointments to the civil service and the police, establishing or dissolving public institutions, and disbursing public funds.

The executive authority, comprising the cabinet and the presidency, has additionally drawn on two other main sources: the Israeli-run Civil Administration and the PLO. In the first instance, the PA inherited many of the departments and agencies of civilian government from the Israeli-run Civil Administration, as well as their internal rules, regulations, and operating procedures. However, because Israeli officers headed the latter body at all decision-making levels, Palestinian civil servants in the WBGS lacked senior-level expertise. This applied in particular to policymaking, planning, and prioritization. It followed that Palestinian civil servants had no experience with the requirements of a functioning ministerial cabinet, nor with public administration development or legislating for social and economic development.

Secondly, the PLO bequeathed the PA considerable expertise in political management, but correspondingly little in social and economic management. On the one hand this imbued the PA with political legitimacy, allowing it to assume effective control of existing public institutions in the WBGS relatively quickly and to manage a largely disruption-free transition to autonomous Palestinian rule. On the other hand the PA inherited PLO executive norms and practices, many of which were authoritarian and have tended to impede good governance and effective public administration.

The PA therefore inherited a structure of government that in many ways was less developed than in other recent post-conflict situations. Besides the lack of previous experience of civilian government, it faced dilapidated public services and infrastructure and a collapsed judiciary in the WBGS, not to mention domestic and external opposition to the peace accords, and Israeli trade restrictions and border closures. All of these factors have had major implications for the PA's ability to provide efficient public services and to promote a legal and regulatory environment that will support a free society and market. It has also had serious implications for

the emergence of transparency, accountability, and other key elements of good governance.

Achievements

Despite difficult circumstances, the executive authority of the PA has achieved major successes in the five years since its formation. It has established a functioning ministerial cabinet; conducted general elections for the presidency and the legislature; delivered education, health care, and other basic services; revitalized tax collection; drafted enabling legislation and regulatory frameworks for the conduct of public administration and of private economic and commercial activity; extended local government by creating new municipalities and village councils; and maintained security and public law and order.

The executive authority carries out additional tasks. It assists in the negotiation of accords with Israel and supervises their implementation; negotiates agreements with external governments and multilateral institutions within the spheres prescribed to it by the Oslo framework; lays down and implements the general policies of the government; prepares and implements the general budget; proposes primary legislation to the legislature and promulgates it if approved; issues secondary legislation, including orders, decrees, and regulations; and supervises the public administration.

In terms of internal procedure and administrative practice, the Ministries of Justice and of Planning and International Cooperation have received assistance from the international donor community in acquiring the technical capability to draft, review, and analyze policies and legislation. This is important for the establishment of uniform rules and procedures for policymaking and exercising legislative functions by the executive authority.

Within the executive authority itself, the cabinet office has evolved incrementally in its key function of providing secretarial services to ministerial meetings. To this end it has set up seven functional units to coordinate policies between ministries in preparation for ministerial discussions. It also plays a role in planning the restructuring and reform of the public administration, along with the min-

ministerial-level Public Sector Reform Committee (PSRC) and the Public Administration Development Unit (PADU). The international donor community has again provided useful technical support for the development of the cabinet office.

Challenges

The PA's executive authority has faced challenges in three general areas:

- the ministerial cabinet;
- the presidency; and
- the relationship between central and local government.

Broadly speaking, problems have arisen in these areas since 1994, resulting from the acquisition of new functions without the human skills and technical capacity to handle them.

In the first instance, the PA cabinet has not been able to operate properly as a ministerial body able to define and implement policies that are consistent and clearly articulated. Its transformation into a "Palestinian leadership" that typically has forty-five people in attendance instead of the twenty to twenty-four ministers, has made its agenda too broad and lacking in focus on ministry needs. The fact that much of this leadership's attention has been devoted to negotiations with Israel, foreign relations, and domestic political and security issues has further impeded policy formulation in the social and economic spheres. Moreover, senior ministers often have more than one job to do, leaving them with little time for internal management.

The cabinet has also been unable to submit the general budget to the PLC in a timely manner, despite the best efforts of the Ministry of Finance to prepare its detailed items punctually. The budget has been submitted later and later every year, and it lacks detailed breakdowns for the expenditure of various ministries and agencies. This adds to the occasionally strained relationship between the executive authority and the PLC. Although there has been some improvement in response rates, the executive authority has often been reluctant to comply with the PLC's requests for

information. Equally important is that the executive does not acknowledge the PLC's right to monitor actual expenditures.

The cabinet's internal operations are also in need of improvement, because the cabinet office still lacks experience and human resources and does not yet coordinate government policy effectively. This also affects its ability to provide the cabinet with strategic analysis of particular policy areas, and to shape and coordinate public sector reform.

Finally, cabinet practice is affected by informal factors, among them the domination of the principal PLO faction, Fateh, which is headed by PA President Arafat. Ministers who do not belong to Fateh may find it difficult to acquire budgets and other resources or to assert their authority within their own ministries without the president's backing. In general, the executive authority operates according to a *de facto*, rather than *de jure*, division of labor, rules and regulations, and internal policy oversight.

In contrast to the weakness of the cabinet, the PA president wields extensive executive power. This is reflected in, among other things, the number and range of agencies attached directly to his office by executive decree. A sample list includes: the Council of Higher Education; General Personnel Council; Bureau of National Institutions; Higher Council for Health, Planning and Research Center; Palestinian Central Bureau of Statistics (PCBS); Water Authority; Energy Authority; Office of Public Information; General Control Institute (GCI); Environmental Authority; National Center for Studies and Documentation; Bethlehem 2000 Project; School of Talented Students; and Council for Tribal Affairs.

The president nominates the heads and a number of board members of these and other institutions such as the Palestinian Monetary Authority. He does the same for quasi-NGOs such as the Palestine Economic Policy Research Institute and the Academy for Scientific Research. He also personally heads government agencies such as the Water and Energy Authorities. In certain cases this undermines the role of government ministries. For example, the new Industrial Zones Authority answers directly to the president rather than to the Ministry of Industry. The overall result has

Constitutional Framework and Political Institutions

been to increase the administrative burden on the presidency, while limiting the autonomy and performance of these institutions.

Just as serious are the extensive micromanagement activities of the president and some ministers. Bureaucratic minutiae, such as requests from civil servants and police officers for vacation leave, mission per diems, and petty expenditures, must all receive the president's personal attention and approval. This goes hand in hand with a marked reluctance to delegate authority and a tendency to diminish the autonomy of government ministries and agencies.

Particularly serious for the timely and efficient operation of government is that the Ministry of Finance may not disburse approved budgets to ministries and agencies according to a fixed timetable, even after approval by the PLC. Rather, the ministers and agency heads concerned must seek individual approval from the president. The result has been liquidity problems, domestic borrowing, accumulation of arrears, and delays in service delivery.

The tendency toward greater centralization of executive authority is reflected in the relationship between central and local government. The PA has not granted genuine autonomy to lower levels of government. The new local government law passed in 1997 failed to relax central taxation or supervision, and imposed uniformity on municipal and village councils. The establishment of parallel administrative structures, such as the provinces headed by governors attached to the Ministry of Interior, and the failure to delineate powers and responsibilities clearly have further restricted local government.

Recommendations

1. Reduce the number and range of public institutions currently attached to the president's office. This would reduce the administrative burden on the presidency and thus strengthen its ability to formulate and pursue key policy objectives.
2. The president's office should devolve to the appropriate ministries and agencies all programs and projects that involve disbursement, but which do not relate directly and necessarily to the conduct of the presidency.

Strengthening Palestinian Public Institutions

3. The president's office should delegate powers and authority that are not essential for its internal functioning or for the purposes of political and public macro-management.
4. The cabinet should formulate, and adhere to, a plausible, consistent, and clearly articulated program for government. Ministers should be enabled to operate according to set tasks and budgets that are not subject to sudden or arbitrary change or to constant renegotiation.
5. The cabinet should hold its meetings separately from other PA or PLO bodies, and on the basis of a clearly defined agenda.
6. The cabinet should be further empowered to coordinate government policies, and more generally to oversee the development and reform of public administration and the public sector.
7. The cabinet should submit the general budget to the legislature for review and approval in a timely manner.
8. The cabinet office's ability to tackle high-level issues of ministerial overlap, coordination, and communication should be strengthened in order to improve the government decision-making process.
9. The PA should enhance the role of local government. To this end, it should act to set up municipal elections. It should also delineate responsibilities clearly between the Ministry of Local Government (MLG), Ministry of Interior, police force, and municipal councils.

LEGISLATURE

Context

The 88-member Palestinian Legislative Council came into being as a result of the general elections of January 20, 1996. These were held in the presence of international and Palestinian observers, and declared generally free and fair. The PLC held its first ses-

sion two months later, launching a new experiment in Palestinian parliamentary life.

Previous experience of electoral process on a national scale was erratic and varied. The West Bank took part in Jordanian parliamentary elections in the 1950s, while a limited electorate voted for the Palestinian National Union in the Gaza Strip in the early 1960s. The PLO established a parliament-in-exile in 1964, but its membership was largely appointed, with the exception of a modest number of delegates representing some PLO factions, trade and labor unions, and other social associations.

Still, the PLC is not completely unconnected to past developments. Its mandate was defined by the Interim Agreement of 1995 and further described in the Election Law issued by the PA later that year. Although the Election Law lays the basis for routine, periodic elections, the Interim Agreement provided only for the general elections of January 1996. The PLC's mandate therefore nominally ended, along with that of the PA president, at the end of the stipulated Interim Period on May 4, 1999.

The Interim Agreement granted the PLC power to issue primary legislation relating to all areas and responsibilities except those not transferred to the PA. The agreement also prohibited the PLC from issuing legislation that was inconsistent with the provisions of the various Palestinian-Israeli accords or that abrogated existing laws and military orders in force. The Election Law imposed no further constitutional restrictions on the PLC's power to legislate or to exercise oversight of the executive and judicial branches.

The PLC has operated in an extremely challenging context. Not least is the continuing ambiguity about its constitutional relationship with the executive authority. A further complication is its ambiguous relationship with the Palestine National Council and the PLO more generally. The PLC's legitimacy and authority derive from an electoral mandate, but this is limited to the Palestinian people of the WBGS, including the residents of East Jerusalem. By contrast, PLO institutions, while not based on elections, nominally represent all Palestinians, both in the WBGS and in the diaspora. The PLO is the higher authority that concluded the accords

with Israel by which the PLC came into being, and that formally constituted the PA. In 1996 the PLC rejected the executive authority's assertion that the council is part of the PNC, but allowed PLO Executive Committee members to participate in its plenary debates, albeit without the power to vote on its decisions.

A second major challenge to the PLC lies in the Palestinian relationship with Israel. The final status of relations with Israel has yet to be clarified, preventing the PLC from legislating on a wide range of issues that remain subject to negotiation. In the meantime, Israeli restrictions on the movement of all Palestinians impede the operation of the Council and its committees. Many PLC members and staff have experienced long delays and some harassment at Israeli crossing points as they travel between the West Bank and Gaza Strip.³

The division of PLC activities, facilities, and departments between the Gaza Strip and West Bank necessitates duplication of resources and extensive travel—PA civil servants going from the Gaza Strip to the West Bank, or vice versa, are often compelled to make the long and time-consuming circuitous journey through Egypt and Jordan rather than cross through Israel—and levels of coordination that would be difficult even for highly developed legislatures to attain. Continued Israeli control over much of the WBGS and their external borders also limits the PLC's ability to address the needs of its constituents.⁴

Nonetheless, the PLC has benefited from the consistent political backing and technical assistance of the international donor community. This has been instrumental in developing PLC capacity in virtually every regard, from legislation and oversight activities, through record-keeping and policy-relevant research, to administrative organization and procedures.

³"An Assessment of the Palestinian Legislative Council," prepared by the National Democratic Institute for International Affairs for USAID and written by S. R. Benda and K. Johnson with the assistance of T.O. Melia, May 1, 1996, p. 3.

⁴USAID, "Development Needs of the Palestinian Legislative Council and Possible Methods of Meeting Those Needs," prepared by ARD Inc., January 17, 1997, p. 7.

Achievements

Despite the restrictions noted above, the general elections of January 1996 represented an important step in the process of institutionalizing parliamentary life in the WBGS. The promulgation of the Election Law, establishment of a permanent election committee, division of the country into electoral districts, and conduct of free and largely fair elections in the presence of international observers contributed significantly to this outcome.

The PLC has been in existence little more than three years, but in this short time it has achieved much. It has issued its own bylaws or standing orders, organizing its internal affairs as well as its relations with the executive authority. According to the Interim Agreement of 1995 and its own bylaws, the PLC has the power to initiate, draft, and approve legislation, including that proposed to it by the cabinet. Since 1996 the PLC has approved 24 laws and submitted them for the PA president's signature. This includes the Basic Law, which was passed after its third reading and has awaited promulgation since 1997. The PLC has also conducted oversight activities, particularly review and analysis of the general budget.

To this end, the PLC has formed 12 permanent committees. These meet on a fortnightly basis and report the results of their deliberations to the PLC as a whole. The committees may request information directly from cabinet ministers or other senior officials, or request their attendance at hearings on issues within their remit. To date the committees' investigations have included allegations of corruption and financial mismanagement and human rights abuses.

Internally, the PLC has set up a record-keeping system and a secretariat charged with the administration and organization of its departments and staff. The secretariat additionally oversees the 16 district constituency offices, as well as administrative, financial, media, public relations, legal, and other departments. The PLC has established standard procedures for debate, questions, and agenda setting.

Thanks in part to these provisions, the PLC conducts a developed level of parliament-constituency relations. Moreover, it has

increased its interaction and cooperation with Palestinian NGOs, in both policy and technical areas. This was evident in the public debate on the Basic Law and other pieces of major legislation. More recently NGOs have played an active role in providing information to PLC members concerning the nongovernmental sector, and the PLC has in turn passed a responsive NGO law. Another example of cooperation is the Parliamentary Research Unit, which was set up by a local NGO and attached to the PLC to serve its needs.

The PLC has also benefited from generally open and lively political debate. This stems largely from a history of pluralism and grassroots activism in Palestinian politics, whether in the PLO or in the WBGS under Israeli occupation. Its sessions were televised for public broadcast during a trial period. Some remain open to public attendance and are shown on closed-circuit television within the PLC building.

Challenges

An effective and independent parliament is essential for accountable and responsive government. Yet the PLC faces considerable challenges in its ability to perform three main functions: legislate, provide effective oversight, and build relations with constituents.

Its foremost obstacles are the restrictions imposed by the Oslo framework, the ambiguity of its constitutional relationship with the executive authority, and its own technical shortcomings and lack of experience.

Concerning its legislative functions, the PLC remains constrained by its inability to legislate for powers and responsibilities that are not under PA jurisdiction. It is also impeded by the limitations placed by the Oslo framework on tackling areas subject to final status negotiations with Israel.

The PLC is also impeded by the standstill of the effort launched in 1996 to consolidate and integrate the diverse and often conflicting body of laws and ordinances in effect in the WBGS. A large number of public institutions and nongovernmental organizations have been involved in that effort, but lack a formal coordinating mechanism. Seven law commissions have been set up to assist the

Ministry of Justice, but they have nongovernmental status and have been largely stalled; this despite the continuing work of interested parties in the PLC, the Palestinian Independent Commission for Citizens' Rights, and the Law Center at Birzeit University. In the meantime the PLC has failed to address the resort by the executive authority to the British Emergency Regulations of 1945, nor has it attempted to repeal them.

Furthermore, the lack of a system for defining, implementing, and monitoring an overall PA policy vision has become increasingly problematic. As laws are drafted, it is unclear to what values they subscribe and what kind of system they are meant collectively to produce.

Finally, the executive authority has frustrated the PLC's attempts to issue primary legislation. PA President Yasir Arafat has delayed promulgation of important laws passed by the PLC, including the Basic Law. Palestinian lawmakers assert that he has also used the power accorded by the Interim Agreement of 1995 to issue primary legislation in the guise of secondary legislation, which does not need PLC approval. To date more than 800 presidential decrees and orders or cabinet orders have been issued in this manner and published in the official gazette. In other cases, the executive has given laws to the PLC for review that should really be secondary legislation, thus taking up the legislature's time and clogging up the legislative agenda. There is a need on both sides for greater skills and accumulation of experience in the whole legislative process.

Concerning oversight, the PLC's functions have been greatly impeded by the executive authority's lack of cooperation. This is particularly evident in the tardy submission of the general budget to the PLC, with delays reaching eight months and over. In April 1999 the cabinet reported all public revenues and expenditures for the first time, but still failed to provide either a detailed breakdown or a formal budget. The PLC has no means of determining whether expenditures are in line with the approved budget, and the executive authority does not submit nonbudgetary expenditure and supplementary budgets to the council for approval.

The executive authority has frequently declined to release information or documents requested by the PLC or its committees. This restricts the PLC's ability to monitor executive performance. The executive authority has ignored the PLC's recommendations for the investigation or dismissal of cabinet ministers on allegations of administrative malfeasance and financial mismanagement. Conversely, the findings of commissions of enquiry set up by the executive authority, such as the Presidential Anti-Corruption Commission, have not been released to the PLC, let alone the general public. The PLC has no authority over the PA's external auditing body, the General Control Institute, and thus cannot order publication of its reports.

The problem facing the PLC in such instances is that it lacks the constitutional power and an effective system of sanctions to enforce executive compliance. It does have the power to cast a vote of no confidence as a means of bringing the executive authority to account, but has effectively abandoned this tool. This is partly because President Arafat's party, Fateh, dominates the PLC, which in turn has enabled him to marginalize the PLC during critical votes. The fact that the president came to office through direct election increases his political strength in relation to the PLC, and in any case the present constitution does not provide for impeachment.

The Oslo framework additionally restricts the oversight function of the PLC by denying it the power to act on issues relating to foreign policy, including negotiations with Israel. These issues are discussed extensively in the PLC, but remain the sole prerogative of the PLO. But the PLC has not been able to debate agreements concluded by PA ministries or other agencies with outside parties even concerning matters that lie within its area of responsibility as stipulated by the Oslo framework.

These problems derive in part from the PLC's own shortcomings. At one level, its preoccupation with the peace process and other political issues has deflected it from legislation, oversight, and constituency relations. Moreover, it needs to develop the legislative skills of its members and their ability to review and monitor the budget. The PLC lacks a comprehensive, systematic

strategy for collecting and processing information. It also lacks formal, clearly defined mechanisms for coordination and consultation with the executive and judicial branches, constituents, and civil society organizations.

Furthermore, the PLC tends to ignore its own rules and bylaws regarding deadlines, strict debate and voting procedures, and agenda setting and circulation. More generally, although the PLC has been able in a relatively short time to institutionalize itself, it does not appear to have a clear long-term strategy regarding capacity-building and the scope of its work. It needs further clarification of the relationships between its committees, between the PLC Speaker and the committees, and between its operational staff and PLC members. Finally, the PLC needs to develop its internal work flow processes, provide clearer job descriptions for staff, and prepare manuals to guide PLC relations with its counterparts and other stakeholders.

In terms of building relations with constituents, PLC members have generally made considerable progress, but their actions tend to be reactive rather than proactive. There appears to be insufficient thought given to establishing structured and regular consultations with the electorate. This is partly because the Oslo framework does not provide for new general elections within the stipulated Interim Period, and thus acts as a disincentive for PLC members to reach out to voters. The concept of responsiveness and accountability to constituents is still new to PLC members.

Moreover, although PLC offices have been opened in the 16 electoral districts, most legislators do not have appropriate constituency offices. This limits their ability to acquire information about the circumstances of their constituents and to handle requests. PLC members also lack personal offices within PLC buildings, as well as appropriate technical and administrative support.

The PLC similarly has not yet developed a structured consultative process involving civil-society organizations. Concepts such as lobbying and advocacy are new to many PLC members, as well as to local NGOs and interest groups. At the same time the PLC has partly lost its ability to take debates to the general public. The initial televised broadcasts of PLC plenary debates, although

Strengthening Palestinian Public Institutions

reaching only a small geographic area and audience (because of Israeli restrictions on Palestinian use of the airwaves) were discontinued under pressure from the executive authority. The public may attend some sessions from the gallery or through closed circuit television, but these facilities are inadequate. The PLC has been unable to counter the intimidation and closure of the media by the executive authority.

Recommendations

1. The PLC should adopt a multiyear legislative agenda as a more realistic means of organizing and completing its primary function.
2. The executive authority should enable the PLC to review the general budget more effectively by making timely submissions to the legislature and by adhering to its approved terms.
3. The PLC should be empowered to exercise effective oversight over the executive authority. To this end it is the PLC that should approve the operating budgets of the judiciary and other independent oversight bodies, including the General Control Institute.
4. The ongoing consolidation and integration of the present, diverse and often conflicting body of laws and ordinances in effect in the West Bank and Gaza Strip should be completed.
5. The legislature played a central role in drafting the Palestinian constitutional framework for the Interim Period, and should continue to play this role as the PA prepares for the permanent settlement. The draft Basic Law provides a useful starting point for any new constitutional document to be prepared for the next phase.
6. In the interest of developing responsive legislative-constituency relations, the PLC should ensure that its members have appropriate constituency offices, as well as personal offices within Council buildings, with appropriate technical and administrative support.

JUDICIARY

Context

The PA inherited a judicial system in a state of virtual collapse upon its establishment in 1994. Palestinian legal structures that functioned prior to 1967 deteriorated dramatically during the protracted Israeli occupation, to the point where the judicial system was moribund and decapitated.⁵ The two bar associations in the WBGS witnessed similar deterioration. This was due partly to the refusal of Palestinian lawyers to participate in the justice system under occupation, and partly to the severe restrictions placed by the Israeli military government on the formation of a professional Palestinian lawyers' association in the West Bank.⁶

The Palestinian court system continues to suffer a severe shortage of judges, prosecutors, court administrators, and other staff. Cases frequently had to be postponed, and a massive backlog has developed. Years of poor record-keeping hinder access to previous decisions as well as use of precedent. Disruption of the justice system during the intifada of 1987–93 exacerbated the situation.

The present Palestinian justice system continues to draw on Ottoman, British, and Jordanian law. President Arafat cancelled the applicability of Israeli military orders in 1994, but their exact status today is unclear. The Oslo framework has also reduced the jurisdiction of the Palestinian judiciary. Whereas settlers and other Israelis appeared in Palestinian civilian courts after 1967, this no longer occurs unless at their own request, regardless of the nature of the case or involvement of Palestinian parties.

The advent of the PA introduced a new source of legislation, as well as an additional court system based on the PLO Revolutionary Penal Code of 1979. This brings to five the number of court systems in operation in the WBGS: two separate systems of civil and criminal courts at the magistrate, district, and appellate levels; Islamic *shari'a* courts that handle personal status matters;

⁵A study commission by USAID in November 1994, cited in UNSCO, Rule of Law Development in the West Bank and Gaza Strip, Survey and Status of Development Effort, July 1997, p. 12.

⁶"Judicial Administration Project in the West Bank and Gaza," prepared for USAID by the Global Bureau, Center for Governance and Democracy, March 1996, pp. 1–2.

Strengthening Palestinian Public Institutions

Palestinian military courts that try members of the police force and security agencies; and state security courts for matters pertaining to national security. In addition, Israeli security courts operate in areas not under Palestinian internal security control.

Such progress as has been achieved in the judicial system owes much to the technical and financial assistance of the international donor community. A multifaceted program to upgrade the justice system has been underway at a cost of \$72 million since 1996. This has involved four PA ministries, the judiciary, PLC, Palestinian NGOs, seventeen donor countries, and ten U.N. agencies. The program has sought to achieve six aims: unify laws; improve court buildings and facilities; unify judicial systems and procedures; standardize prosecution procedures and improve prosecution buildings and facilities; develop computerized legal and judicial data bases; and develop an independent forensic science capability. The international community has also played a crucial role in developing a “national plan of action for human rights.”

Achievements

The PA has signed numerous agreements with outside parties to assist in judicial rehabilitation and reconstruction, and the Ministry of Justice has formulated a detailed, comprehensive “Rule of Law Strategic Development Plan.” Progress has been slow, but the PLC took an important step toward unifying the court system in the WBGS by passing the Judicial System Law in December 1998. Once promulgated by the PA president and implemented, it should also ensure the independence of the judiciary.

The extension of the mandate of the Supreme Court in Gaza to cover the West Bank is another notable achievement, as is the reopening of levels of courts previously closed during the Israeli occupation. Traditional forms of dispute resolution and other procedures initiated as alternatives by senior PA officials, such as the governors of provinces, have also helped reduce the backlog of unheard cases.

Challenges

A functioning judiciary capable of exercising oversight of the executive and legislative branches of government is fundamental to good governance. Without trained and independent judges and a unified legal code, there is a serious threat to the rule of law, public order, and enforceable contract that are vital for a free society and market. The accords with Israel impose real limitations, particularly in relation to revising the legal framework; but there is still much that the PA can do to create a rehabilitated and capable justice system. Despite the positive steps noted above, this effort has barely started, more than five years since the establishment of the PA.

The Palestinian judiciary faces three major impediments:

- the absence of consolidated, clear lines of authority both within the justice system and between it and the executive authority;
- the absence of unified laws and administrative procedures between the West Bank and Gaza Strip; and
- a severe shortage of qualified personnel, buildings and equipment, legal texts, and funds.

Regarding lines of authority, the executive authority has failed to reestablish a Supreme Judicial Council. In its absence the PA president and the minister of justice have assumed its powers to establish and close local and regional courts; appoint, promote, demote, transfer, dismiss, and retire judges at all levels; hire and dismiss court personnel; and determine salaries and pensions. The post of attorney general, or public prosecutor, has been attached to the executive authority, which therefore makes appointments to this post. Furthermore, the PA president has extended executive intervention by appointing the head and board members of the new, unified bar association of the WBGS.

Lines of authority have also been confused and circumvented by the executive authority itself. The last attorney general to hold the post resigned because of continuous intervention by both the executive authority and heads of various police branches and

security agencies. The posts of attorney general and chief justice have both remained vacant since 1997. Additionally, the heads of the two supreme courts in the West Bank and Gaza Strip were removed from office by the executive due to critical statements attributed to them or decisions made by their courts.

Regarding laws and administrative procedures, the PA has made little progress in simplifying the complex maze of laws in effect in the WBGS. Admittedly this is no simple task, but the PA has not even established a permanent secretariat to coordinate the various law commissions working in this area, let alone provide them with technical and support staff, office space, legal materials, and supplies. The consequences are far-reaching, but particularly notable are the absence of coordinated planning for legal safeguards for human rights and the slow preparation of laws pertaining to commercial contracts and economic activity.

Further complicating matters is that, with the seat of judicial power effectively in Gaza, much in the way of new legislation has been done by decree or fiat without consultation or notice in the West Bank. This undermines the notion that the unification of legal and administrative systems should be achieved in a balanced manner, and aggravates resentment in the West Bank of a perceived intrusion of Gaza legal traditions and norms.

Similarly, the PA has made little progress with the unification of the separate court systems and their overlapping jurisdictions in the WBGS. Indeed, it has added two new courts: military courts that try PA police and security personnel accused of criminal acts or disciplinary violations, and state security courts that try cases involving national security. The latter are known to be based on the PLO Revolutionary Code of 1979 and possibly on the British Emergency Regulations of 1945, but are closed and offer no right of appeal. Recently the state security courts have additionally taken to trying civilians accused of “economic crimes” such as smuggling, sale of expired food, and VAT evasion.

The justice system continues to experience a major lack of basic operational capacity. Trained and independent judges are sorely needed, as are bailiffs, clerks, court buildings, legal texts, and equipment. This applies equally to the prosecution service. Judges

and prosecutors are poorly paid, and lack the security of tenure. Intervention by the executive authority in judicial decisions has further demoralized judges. The congestion of courts and overload of casework have indeed invited such intervention. Training is generally ad hoc and below the required standards, and Palestinian institutions do not yet have the capability to provide it effectively.

The justice system also suffers from lack of cooperation with law enforcement agencies. This is particularly evident in security cases, but the ability of courts to enforce judicial decisions is generally varied. The lack of a standardized national curriculum for police training also impedes cooperation with the justice system. A related problem is the dilapidated state of the penal system, in both administrative and material terms. There is a prison authority, but it has limited control over its own facilities and it badly lacks equipment, structures, and regulations.

The justice system would benefit considerably from greater provision for alternative dispute resolution. However, alternative dispute resolution, collective bargaining, administrative dispute resolution, and other non- or quasi-judicial mechanisms for resolving conflict are extremely limited.

Recommendations

1. The Judicial System Law passed by the PLC in December 1998 should be promulgated by the executive authority.
2. The executive authority should assist with the reestablishment of a Supreme Judicial Council enjoying genuine independence.
3. The powers and responsibilities of the minister of justice should be fully defined, and should not duplicate or supplant those of the Supreme Judicial Council or senior judicial officers.
4. The recommendations and targets stated in the Rule of Law Strategic Development Plan issued by the Ministry of Justice

Strengthening Palestinian Public Institutions

in 1996 should be implemented on an accelerated timetable, as a matter of urgency.

5. State security courts should be abolished. As a first step the executive authority should define their mandate clearly, make them open, allow for credible defense, and provide for appeal to the Supreme Court.
6. The judiciary requires qualified, independent, and protected judges with a suitable pay scale and promotion system. It should also have clerical staff, budgets, buildings, and equipment.
7. Specialized courts should be set up to reduce the caseload of regular courts and provide better adjudication. Examples are settlement, administration, traffic, municipal, labor, and tax courts.
8. The posts of head of the Supreme Court in the West Bank and in the Gaza Strip, currently vacant, should be filled.
9. Although it does not form part of the justice system, the bar association should be unified and enabled to select its head and board members freely and without intervention by the executive authority, in the interest of regulating the legal profession.

III. OPERATIONAL INSTITUTIONS

INTRODUCTION

This section of the report assesses the capacity and performance of the ministries and agencies (“operational institutions”) of the Palestinian Authority that are directly responsible for delivering services to the Palestinian public and for promoting a legal and regulatory environment that will support a free society and market. The report presents recommendations with the aim of strengthening the institutional framework for more effective and efficient:

- management of public employment (including the police);
- management of public budgets and resources;
- provision of public services, infrastructure, and utilities;
- provision of legal and regulatory mechanisms for public and private actors; and
- cooperation with nongovernmental organizations and private sector actors involved in service delivery.

These issues gain added importance if the PA is to meet potential challenges such as rapid population growth, compliance with General Agreement on Trade and Tariffs/World Trade Organization (GATT/WTO) criteria to ensure external market entry, and highly competitive market trends related to information and other technologies.

The report envisages five primary targets in the development of PA public institutions:

- personnel structures and systems;
- public administration and public service delivery;

Strengthening Palestinian Public Institutions

- financial management and control systems;
- interfaces between the PA and nongovernmental service providers; and
- synergy between the PA and external donors.

These targets have been assessed against the present capability of PA operational institutions to fulfill the following specific tasks within their own area of functional specialization:

- planning;
- prioritization;
- coordination with other PA institutions, including sectoral and multisectoral approaches;
- consultation and cooperation with nongovernmental service providers and other private actors;
- development and management of resources (especially human);
- implementation of plans and policies;
- performance evaluation and policy review; and
- internal review and auditing.

The emerging institutional culture is reflected in such major factors as mission statements and legal mandates providing clear definition and separation of tasks and responsibilities, rules and regulations governing personnel and financial matters, clear organizational structures and chains of command, and procedures and systems for information exchange.

The rest of this section is divided into two main parts. The first summarizes the contextual and background factors that have affected Palestinian public institution-building since 1994, and identifies its principal patterns. The second addresses in turn the five “clusters” of operational institutions, as defined by their main function. This will situate the establishment and performance of these institutions within their historical and material context; list the principal institutions operating within each cluster; note their

achievements to date; identify the main challenges and problems, including those that will arise in future; and conclude with recommendations for specific improvements and reforms.

CONTEXTUAL AND BACKGROUND FACTORS

When the PA was established in mid-1994, it lacked top- and mid-level personnel. It also lacked expertise in policy formulation and implementation, planning, and public administration. These obstacles were more severe than for most contemporary post-conflict societies. This background had major implications for PA ability to provide efficient and effective service delivery and to promote a legal and regulatory environment that would support a free society and market. It also had serious implications for the rapid emergence of transparency, accountability, and other elements of good governance. For these reasons the international donor community has devoted a substantial part of its financial and technical assistance since 1994 toward the development of Palestinian public administration, personnel, planning, financial management, social legislation, economic regulation, and law enforcement.

The PA has confronted an unusual combination of obstacles in its effort to develop these fields. Not least is that many of the operational institutions and administrative systems required for modern government were nonexistent and had to be built from scratch. This required development of entirely new skills and job descriptions. In some cases there was uncertainty and confusion about the precise roles of the new structures and their relationship to existing institutions and systems. The priorities and policies of the international donor community and Israel have additionally had a major, at times negative, impact on institutional development and planning.

The PA's task has been particularly complicated by two contextual factors. First it lacks control over major economic instruments, due both to Israeli physical control of all points of exit and entry and to the terms of the Oslo framework. This has rendered government revenue and national income especially vulnerable to

Strengthening Palestinian Public Institutions

the fluctuation of political and security relations between the PA and Israel, making them difficult for planners to predict.

The second contextual factor is that the PA must operate in two, nonadjacent territories: the West Bank and Gaza Strip. These two areas are additionally separated from East Jerusalem, which is an important center of Palestinian social, commercial, and cultural activities. Israeli measures restricting travel both between and within the West Bank and Gaza Strip have severely impeded the movement of PA personnel. This has greatly compounded the difficulty of integrating and unifying the two different legal and administrative systems in force in the WBGS since 1948. It has also worked against standardizing institutional procedures and practices within the PA. Severe difficulties in movement from one area to the other compelled most ministries and agencies to establish mirror branches in the WBGS. This has increased the amount of paperwork, duplication, and bureaucratic procedure.

PUBLIC SECTOR MANAGEMENT: PUBLIC ADMINISTRATION, PERSONNEL, AND PLANNING

Context

The management of public administration involves three main elements: *organization*, *people*, and *tasks*. The first of these corresponds to the structure and functional differentiation of the public administration; the second to recruitment and promotion criteria and to human resource development; and the third to the planning and coordination of the former two elements across the PA as a whole. The third element also encompasses sectoral approaches to providing requisite resources and enabling frameworks for physical infrastructure, the economy and finance, and social services.

The PA inherited a divergent and often contradictory institutional legacy from the Israeli-run Civil Administration and the PLO. On the positive side, the PA assumed control of an existing public administration staffed by a large number of locally based and experienced civil servants, allowing it to ensure a rapid and rela-

tively smooth takeover of service delivery in certain sectors, most notably education and health. Also inherited were operational procedures in various fields and internal rules and regulations of public administration. PLO personnel brought with them the political skills and authority needed to weld public institutions into a single system of government and to deal with sovereign donor states and international institutions. They also brought the requisite experience to build the new police force and fulfill law-and-order functions.

On the negative side, inherited organizational structures and institutional practices have tended to impede horizontal communications and information sharing, vertical consultation and feedback, and departmental autonomy, especially in policy formulation and decision-making. Very few former Civil Administration personnel had senior level management skills, because virtually all senior posts had been held by Israeli officers. Local Palestinian personnel had little experience with policy formulation, decision-making, and planning. Indeed, they previously had been excluded entirely from certain areas of public administration. PLO personnel, conversely, had political experience at senior levels but little or no training in public administration. Both tended to operate top-down, authoritarian systems of management, with little scope for public consultation or accountability.

With the institutional legacy, the PA has also absorbed a large number of former Civil Administration and PLO personnel. In the former case this was due to the Israeli demand, incorporated in the Cairo Agreement of 1994, that the PA retain all Civil Administration personnel. In the latter case this was due to the political need to address the expectations of returning PLO personnel, who felt that they were entitled to job security and status after years of hardship and sacrifice. An estimated 85 percent of the 75,000 civil and security personnel on the PA payroll by the end of 1996 were inherited from those two bodies, or roughly 65 percent of more than 100,000 persons in public sector employment two years later. This figure represents 15 percent of the total labor force, or one-quarter of the active labor force, but the addition of local government staff and personnel in donor-funded projects takes

Strengthening Palestinian Public Institutions

the total to 125,000. With the use of public sector hiring as a means of easing unemployment, the overall result is serious job inflation, institutional flabbiness, lower-quality public services, and reduced cost-effectiveness.

Inventory

Management of public administration as defined above involves a large number of operational institutions. Most significant in this context are those with PA-wide functions and impact. These include especially the Ministry of Planning and International Cooperation, the Ministry of Finance, the General Personnel Council, the General Control Institute, the Palestinian Economic Council for Development and Reconstruction, the Palestinian Central Bureau of Statistics, and the Ministry of Local Government. Although not an operational institution, the cabinet office could play a growing and useful role in coordinating public sector reform, as well as in government business generally.

PUBLIC ADMINISTRATION

Achievements

Since its inception in 1994 the PA has succeeded in taking over and operating the Israeli-run Civil Administration. In doing so it has conducted major expansion, diversification, and upgrading of the structure, capabilities, and tasks of the various departments. The same is true of the services it provides, considering that the area under PA civilian jurisdiction has grown in the same period to encompass 95 percent of the Palestinian population of WBGS, excluding East Jerusalem. This has also required considerable institutional innovation, as new bodies have been established to address a far wider range of needs and responsibilities than before. The most prominent of these are listed in the preceding inventory, but other examples are the Palestinian Environmental Authority, the Palestinian Industrial Zones Authority, and region-wide utilities such as the Water and Energy authorities.

Operational Institutions

The PA has at the same time absorbed region-wide NGOs that previously operated outside the Israeli-run Civil Administration, such as the councils of Higher Education, Housing, and Health. Some have been completely absorbed within the structure of the relevant PA ministries, while others have acquired a quasi-NGO status and coordinate closely with their institutional counterparts in the PA and with other NGOs and the international donor community. Moreover, the PA has established an additional number of quasi-NGOs to undertake new tasks in similar collaborative format, such as the Palestine Economic Policy Research Institute, the Higher Academy for Scientific Research, and the Medical Council.

Having started with poor initial definition of organizational structures and tasks, the PA has undertaken certain initiatives to reform and rationalize its public administration. The international donor community has played a major role in this regard, as its Sector Working Group on Institution Building coordinates with the counterpart Core Group for Public Administration within the PA. The CGPA consists of six key PA institutions (MOPIC, MOF, GPC, GCI, cabinet office, and the National Council for Public Administration) and in August 1997 submitted its first sector development strategy to the Palestinian Development Plan (PDP) for 1998–2000.

The momentum has been picked up by the creation of a Public Administration Development Unit attached to the PA cabinet, and by President Arafat's decision in June 1998 to form a Public Sector Reform Committee at the ministerial level. The PADU is suppose to make its annual submission to the Palestinian Development Plan through the PSRC.

Challenges

The establishment almost overnight of a wide-ranging and diverse public administration from distinctly modest beginnings in 1994 has posed numerous problems, many of which are universal to bureaucracies everywhere. Most obvious is the marked duplication of institutions and tasks and resultant fragmentation of public administration as a whole. This is partly because the imme-

Strengthening Palestinian Public Institutions

diate need to construct operational institutions that could maintain or commence service delivery upon inauguration of the PA meant that some of them were built around individuals. This led to functional overlap and redundancy.

Many ministries and agencies have progressed considerably since the PA assumed leadership, but the combination of personal and bureaucratic rivalries has encouraged the creation of work and tasks to justify the continued existence of certain institutions or departments and to attract resources. The establishment of each new institution inevitably generates additional requirements for offices, cars, computers, communications systems, and other equipment, increasing the overall cost at the expense of operating budgets that are often small to begin with.

The PA executive authority in general is unused to management of a public administration. It tends therefore not to recognize the importance of clarity and differentiation, and accordingly of coordination between public institutions. Placing laws on paper does not ensure that government officials and civil servants know them or know how to apply them.

As a result, task definition and division of responsibilities remain unclear in some cases. The relationship between the Ministry of Interior, Ministry of Local Government, and the municipalities offers an instance of continuing overlap and confusion. The Palestinian Economic Council for Development and Reconstruction and the municipalities are responsible for most public infrastructure projects, but a virtually nonfunctioning Ministry of Public Works continues to exist. In addition, the PLO's Department for Refugee Affairs oversees project implementation in the refugee camps on behalf of PECNDAR, yet is not formally answerable to the PA cabinet.

Some international donor countries have inadvertently compounded the problem by bypassing sector development plans and dealing with individual PA institutions bilaterally. This partly reflects the developmental or domestic political agenda of donors, and partly results from competition between them, leading in turn to rival coalitions with counterpart PA institutions. It

also reflects donor desire to get the job done, which means favoring PA institutions with proven track records.

However, preferential access to donor support has occasionally distorted institutional development by favoring institutions headed by politically strong individuals or that are more effective at lobbying. In certain cases it has skewed priorities by drawing resources away from poorly performing institutions that may actually need greater investment. A further unintended consequence has at times been to distort sectoral development, as favored sectors receive a disproportionate share of donor funds and technical assistance while others remain underfunded and undersupported.

In general, the proliferation of institutions indicates the vagueness of Palestinian policy objectives, absence or conflict of development policies, conflict of interpretative judgment, dispute of powers, and lack of planning. This has led to rampant redundancy, reflected in performance of identical tasks by different institutions and in intermingled specialization within single institutions. It has also led to distortion of organizational structure, reflected in imbalance in size and resources between various ministries and agencies and between different administrative levels within them. Some are too large and some too small in relation to their tasks and target beneficiaries.

The highly politicized nature of the social and economic challenges that the PA faces, as well as the teething problems of a nascent public administration, have resulted in a marked concentration of decision-making in the hands of ministers or heads of agencies, not to mention a strong tendency to hierarchical relations. The PA cannot be held strictly to standards of participatory management that many sovereign governments are unable to meet, or that clash directly with local patterns of authority. However, excessively hierarchical relations have weakened internal consultation over priorities and policies.

Hierarchical relations have also underlined inside-outside divisions between “returnee” and local civil servants who have divergent institutional approaches to consultation and access. The general result has been to impede the definition of objectives and targets, reduce information flows within and between oper-

Strengthening Palestinian Public Institutions

ational institutions, and discourage assessment of performance and feedback for review of policy and procedures.

A parallel problem is the tendency of ministers or heads of agencies to circumvent deputies, departmental heads, and other intermediate line managers. Selective intervention may be necessary and even effective where existing organizational charts are inappropriate or under development, or where staff with relevant expertise are in short supply. However, this has disempowered and underutilized mid-level managers, while leaving junior civil servants confused as to their duties.

Additional consequences are an emphasis on personal loyalty, double reporting and circumvention of proper channels, and petty bureaucratic rivalry, leading to distrust and poor morale in some instances. Blurred lines of responsibility and poor delegation of authority have reduced autonomy, while at the same time leading to a negative compartmentalization that exacerbates the duplication of tasks.

A related problem is poor information flows and sharing due to the weakness of horizontal links within and between operational institutions. The inherited management structure impedes horizontal communication and sharing of information, while the difficulty of physical communication between the West Bank and Gaza Strip compounds divergent institutional development and inefficiency.

However, this does not excuse the ignorance of most PA institutions of sector development plans, and in particular of the purpose and activities of the Core Group for Public Administration. Nor does it explain the low level of circulation within the PA of previous studies and reports, including those prepared by the international donor community, most of which are accessible. This is partly due to the tendency to view communications systems in terms of equipment rather than organization and human factors. It is also due at times to the use of information, such as statistical data, as a power resource to be granted or withheld depending on the state of personal or bureaucratic relations between the heads of the institutions concerned.

Operational Institutions

The premium on competitive institution-building and resource acquisition indicates an undue focus on input and insufficient attention to output. The general result is low productivity and thus low efficiency and high cost of services. The complexity and ambiguity of government procedures contributes to this situation, as does the lack of performance indicators. This is further connected to the perception, common to civil servants in many countries, that adoption of performance and productivity indicators will necessarily lead to negative assessment.

In conclusion, the principal challenge facing the PA in this context is to transform its public administration from a collection of separate and at times rival component parts into a single, integrated whole. There appears to be growing recognition within the PA of this need, but in practice many cabinet ministers and senior civil servants accord engagement in the immediate political context a higher priority than long-term institutional development. The knowledge that the international donor community will pay for the development of public administration is a further disincentive for the PA to make a serious political commitment.

Progress is consequently slow, as the public administration plan continues to lack an unambiguous mandate. The creation of the PSRC has gone some way to address this problem, but deals with it only at the macro level, leaving a continuing gap in operational responsibility at the micro level. Furthermore, the Public Administration Development Unit (PADU) that was supposed to be attached to the PA cabinet appears not to be a functioning body, despite statements that it contributes to the Palestinian Development Plan.

Recommendations

1. Until the promulgation of the Basic Law or other constitutional document, Laws of Establishment defining mandates, tasks, and job descriptions should be issued for all ministries and agencies.

Strengthening Palestinian Public Institutions

2. A general review of public administration should be conducted with a view to simplifying its overall structure and reducing the number of ministries and agencies.
3. The raft of reforms recommended by the Palestinian Authority's Core Group on Public Administration should be implemented without delay.
4. The cabinet office, ministerial PSRC, and the attached Palestinian Administrative Development Unit should be empowered to oversee implementation of a formal institutional development plan, with the technical assistance of multisectoral expert groups drawn from the stake-holding ministries and agencies.
5. Internal statutes, rules, and regulations should be fully available to all public personnel, and should be applied without regard to personal association, political affiliation, or commercial consideration.

PERSONNEL

Achievements

The PA has successfully brought all personnel records and related matters under two bodies: the General Personnel Council for civil servants, and the Administration and Organization Directorate of the Public Security and Police Force for police personnel. It has also drafted a new Civil Service Law that has made considerable progress in setting clear and sensible guidelines governing recruitment, promotion, pay, and other terms of service. If properly applied, it should greatly enhance the use of meritocratic criteria and measures of efficiency in hiring practices and in determining the number and occupational distribution of staff within any given PA institution.

The PA has additionally taken steps to improve human resource development within the public administration. The cabinet, Ministry of Planning and International Cooperation, and Ministry of Finance are all working on PA-wide training and institution-

building programs. Most recently the National Center for Public Administration, which was originally formed with international donor support within MOPIC, has been turned into the new Directorate for Human Resource Development and attached to the General Personnel Council. Previous donor-supported efforts have led to the establishment of approaches to human resource development such as the Training Development Units and Focal Points in ministries. These provide an embryonic network for human resources development across the PA.

Challenges

The PA suffers several serious shortcomings related to personnel. These have a demonstrable adverse impact on present institutional capacity and performance and equally significant implications for the future quality and efficiency of outcomes and service delivery.

A foremost problem is the sheer number of public sector employees, which is believed to have exceeded 100,000 in 1998, or 125,000 counting local government staff and donor-funded project personnel. The latter do not appear on the records of the PA's General Personnel Council. Expansion has continued, despite commitments to the contrary from the PA to the international donor community. This is partly due to the obligation to inherit Civil Administration and PLO personnel. However, the PA could have adopted some of the alternative policies mooted by various parties to encourage personnel to take early retirement or accept credit to start self-employment and income-generating projects. High levels of unemployment, greatly exacerbated by Israeli border closures and other measures affecting the Palestinian labor market, are another cause for public sector expansion.

Internal political considerations and bureaucratic inertia are equally responsible for the unchecked and often haphazard increase of PA personnel. The proliferation of ministries and duplication of tasks exert continuous pressure to expand the payroll. Formal guidelines for recruitment and promotion exist but are often not observed, which means practice varies from one ministry or agency to another.

Strengthening Palestinian Public Institutions

Also worrisome is that in violation of the Civil Service Law, recruitment and promotion patterns are often distorted by personal and political considerations and by the privileged connections of certain senior officials. This occurs at the expense of meritocratic criteria or any definition of institutional tasks and needs and budgetary ceilings. The power to hire or appoint has become a widespread political resource and a form of mass patronage. Certain institutions have been used in such cases to “hold” inflated numbers of personnel who are nominally placed on their tables of establishment. Occasionally this is driven by the discrepancy in pay scales between the civil service and police force. Predictably, these practices go hand in hand with weak follow-up and monitoring and absence of accountability.

The absence or nonapplication of clear recruitment criteria and guidelines defining the actual personnel needs of specific operational institutions has left certain ministries and agencies overstaffed and others understaffed in certain areas of skills and at certain levels. Much depends on the political connections and force of character of the individuals heading them, and on the degree of international donor interest in promoting good practice in particular institutions. Potentially more serious is the inflation of senior levels and corresponding shrinkage of middle and junior staff levels, creating a top-heavy public administration. This is partly because the PA has met the expectation among returning PLO personnel for rank and status commensurate with previous position and hardship by granting a disproportionate number of senior appointments. This has occurred regardless of the occupational suitability of the individuals concerned or the actual need and absorptive capacity of the institutions to which they are appointed.

The above-mentioned patterns in recruitment have led to rivalries between functioning civil servants and political appointees at senior levels. This is particularly so between deputy ministers and the large number of directors-general and directors. The common perception that personal and political factors play a significant role in appointments has also fueled resentment over the distribution of posts, resources, and associated privileges among

civil servants originating from the WBGS, and also between “insiders” and “returnees” or “outsiders.” This points to flaws in the Palestinian system of administration and negative trends in the emerging institutional culture.

Distortion is also due to marked discrepancies in pay. Basic salaries are standardized, but occupational allowances add 10 to 235 percent of basic salary, making up to 75 percent of total salary. Award of allowances is often discretionary and does not follow a fixed practice linked to job performance, leading to preferential treatment and bias among personnel. Indeed, many on the PA payroll are engaged in political activity and do not have clear tasks or formal job descriptions.

At the same time, PA pay levels are generally lower than in the private sector, and so even senior posts are not attractive to high-caliber staff of any grade. Civil service pay averages \$500 a month, within a range of \$250 to \$1,500, in an economy where the cost of living requires \$700 a month. Qualified staff therefore tend to be on donor-funded project payrolls and do not commit themselves to public sector careers, depriving the PA of their cumulative skills.

There is growing recognition within the PA of the need for human resource development in order to ensure efficiency and effectiveness of service delivery. Similarly there is increasing attention to the value and impact of training for the role and needs of the civil service. However, the internal capacity to convert such recognition into actual changes in institutional practice and culture is largely missing. Training programs do not appear to be well-targeted, nor do suitable candidates seem to be selected in accordance with clear and appropriate criteria.

For its part the international donor community has made a consistent effort to assist human resource development, but the related Technical Assistance Program has not had a sufficiently strong effect. This is partly because it has been too donor-driven and its means and ends have not been defined in ways that allowed it to be used for a sustainable period. Conversely, there is a distinct need for the PA to plan its own needs more extensively and effectively, as well as to limit and prioritize training within certain sectors.

Strengthening Palestinian Public Institutions

Finally, the unchecked expansion of public employment renders the PA more heavily dependent on international donor assistance, and more vulnerable to the vagaries of relations with Israel, which controls the revenue transfers that account for 40 percent of PA salary costs. The implications are especially serious with respect to the future pensions bill, anticipated at \$2 billion for the current civil service. The eventual incorporation of the U.N. Relief and Works Agency for Palestine Refugees in the Near East will add a large number of staff and a major new financial responsibility. The principal problem remains one of political will on the part of the executive branch and other stakeholders to take early and decisive action.

Recommendations

1. All provisions in the new Civil Service Law, other than those relating to pay, should be put into immediate effect, and a central, unified job structure for the West Bank and Gaza Strip should be put into place.
2. Recruitment to the civil service should be initiated and approved only by the duly authorized officials and institutions, and should be subject to audit by an appropriate central, independent body.
3. Personnel matters in the civil service should be brought under the General Personnel Council.
4. A program should be put into effect to review staffing in key ministries, covering the number and level of posts and the skills and experience required to fill them.
5. The National Center for Public Administration, which is now attached to the General Personnel Council with responsibility for human resource development throughout the public administration, should be revitalized and enabled to plan and prioritize training needs.
6. The civil service payroll should be brought solely under the Ministry of Finance.

Operational Institutions

7. The difference in pay scales between the civil service and police force should be reviewed and reduced.
8. Planning should be put into effect for the integration of salary scales and other personnel matters following the eventual incorporation of UNRWA.

PLANNING

Achievements

Planning has represented both one of the biggest challenges facing the nascent PA and one of its biggest achievements to date. The Israeli-run Civil Administration effectively bequeathed no planning capability, but in September 1993 the PLO Economic Department published the PDP for 1994–2000, the result of a four-year effort. The PDP was subsequently overtaken, but it enabled the PLO to coordinate its assessment of social and economic needs in the interim phase with the World Bank and to secure an increase in pledged assistance from the first international donors conference in 1993 to \$2.4 billion over the following five years.

The assistance program imposed its own needs. The PLO initially set up PECДАР to receive and coordinate international assistance. Since then, the Ministry of Planning and International Cooperation has come to assume overall responsibility for aid coordination and planning in the West Bank and Gaza Strip. It holds either the secretariat or the gavel in all the sectoral working groups formed with the international donor community coordinating mechanisms. PECДАР is the principal PA agency monitoring donor-funded project implementation and has established a good track record for transparency and accountability in this role.

MOPIC and the PA in general have demonstrated an increasing ability to plan and to prioritize needs. The PDP for 1998–2000 was a marked improvement on its predecessors' attempt to identify needs and to plan across the PA. MOPIC asserted Palestinian ownership of the planning process by preparing the PDP for

Strengthening Palestinian Public Institutions

2000–2004 without external assistance. It has also formulated a Palestinian Public Investment Plan (PPIP) to coordinate and direct international assistance and to stimulate local input. This remains primarily donor funded, but the PA budget envisages a modest domestic input to the plan for the first time in 1999.

MOPIC has written a sectoral approach into its own task description, and formed sector units to coordinate needs analysis, planning, and prioritization with relevant ministries and agencies in each case. It has also formed an in-house macro-planning unit. Finally, MOPIC has started to pay greater attention to the structure and needs of public administration.

Furthermore, with the acquisition of greater civilian jurisdiction and territorial control, region-wide PA agencies such as the Water and Energy Authorities have also started to plan for the needs of the WBGS as a whole. All these efforts benefit from the contribution of other PA ministries and agencies, the most significant of which are the Ministry of Finance and the Palestinian Central Bureau of Statistics. The latter has earned a deserved reputation for the quality of the information it compiles, and has filled a significant gap left by the Israeli-run Civil Administration for comprehensive and accessible demographic, social, and economic data.

Challenges

There has been steady progress in Palestinian planning since 1994, but certain key improvements are still necessary. First and foremost is the need for overall vision, whether of national economic and social objectives or of the desired shape and size of public administration. Broad declarations of commitment to free market principles, democracy, and good governance contained in official PA statements or the preamble to the PDP are commendable, but are insufficient in themselves to define intermediate targets or appropriate strategies and mechanisms. However, definition of an overall vision requires political endorsement and leadership, and so the PA cabinet and the PLC must engage in continuous debate with MOPIC and provide oversight and review functions.

Overall vision, moreover, requires development of greater macroeconomic analysis capability, despite some progress at MOPIC in this regard. Sharper focus and greater discipline may therefore increase as the domestic Palestinian input to the PPIP grows, and this should therefore remain a clear aim. The PDP should also be linked to an annually updated, rolling expenditure plan. Indeed the emphasis should be on planning as a capability and process, rather than on the plan itself as a fixed result. This in turn requires development of greater planning capabilities within the individual ministries and agencies.

Prioritization requires a more systematic emphasis on sectoral planning. MOPIC's in-house approach to this concern has progressed considerably. However, working groups must be formed for every sector, comprising the relevant sector units of MOPIC, the Ministry of Finance, and the ministries and agencies directly affected. Roles and responsibilities in the provision of public infrastructure must be defined more clearly, to ensure more effective division of labor between the main ministries and agencies, region-wide authorities, and municipalities.

The PA has formed core groups comprising relevant PA ministries and agencies in some sectors, but these lack mandates so far and do not substitute for multiagency planning and coordination units in every sector. Furthermore, weak coordination between the two separate wings of MOPIC in the West Bank and Gaza Strip may reflect negatively on the integrity of sectoral working groups if not addressed.

An improved sectoral approach in turn requires improvements in the ability to analyze statistical data, a more effective system for the organization of information flows between ministries and agencies, and more effective vertical and horizontal integration of needs and tasks within each sector. As an example, at present MOPIC, the PCBS, the Palestinian Geographic Center, certain regional authorities and public utilities, and some municipalities are developing their own geographic information systems.

International assistance so far remains the principal source of funding for Palestinian infrastructure projects in various sectors. International donors should also apply greater discipline in chan-

neling their project approval and funding procedures through the central coordination mechanisms with MOPIC. The coordination structure continues to play a vital role, but is too complex for present need and should be simplified. For its part, MOPIC's duties spill over into international relations, and it should be prepared eventually to hand off certain functions to a Ministry of Foreign Affairs.

Prioritization by MOPIC is equally important because a growing portion of international assistance is now in the form of loans and guarantees rather than grants, and so the PA must take the implications of debt and future servicing requirements into account. This only underlines the importance of ensuring tighter integration and synchronicity between the planning and budgeting processes by MOPIC and the Ministry of Finance. In addition, the PA should set up a unified system for tracking external capital flows and obligations, which would involve both ministries.

In conclusion, the fact that the PA lacks control over economic instruments and borders is also true for many sovereign states, and does not obviate the need to plan, define institutional roles, and improve efficiency and effectiveness in using available resources. This gains special urgency in light of huge anticipated increases in need by the transport, water, and social sectors (health and education) over the coming ten to fifteen years, and of the eventuality that the PA or its successor will assume responsibilities that are at present borne by UNRWA.

Recommendations

1. There needs to be a single Palestinian planning body, with undisputed authority over the planning process. For the Ministry of Planning and International Cooperation to play its role more fully, it should receive the political support of the cabinet and legislature.
2. The Ministry of Planning and International Cooperation should lead duly formed sectoral working groups representing relevant "clusters" of ministries and agencies.

3. The sectoral working groups should not only prioritize projects, but also formulate realistic sectoral targets and strategies.
4. The Ministry of Planning and International Cooperation should be confirmed as the clearinghouse for all ministries and agencies in their applications for international assistance.
5. The division of responsibilities regarding public expenditure management should be clarified between the Ministry of Planning and International Cooperation and the Ministry of Finance.
6. The Palestinian Development Plan should be implemented as an annually updated, rolling expenditure plan. Each ministry and agency should also develop a five-year rolling plan, identifying needs, priorities, strategies, and costs.
7. Planning should take special account of anticipated increases in demand for public infrastructure and services as a result of population growth, social and economic development, and changing technologies and trade patterns in global markets.
8. Sharing, consultation, and coordination regarding information technology systems and resources should be improved throughout the public administration.
9. The separate branches of the Ministry of Planning and International Cooperation in the West Bank and Gaza Strip should be integrated and consolidated.

PUBLIC FINANCE

Context

The PA assumed responsibility for public finance upon its establishment in 1994. Its main sources of revenue are the taxes and other fees it levies in the WBGS, and the clearance revenues transferred by Israel in accordance with the Protocol of Economic Relations (Paris Protocol) of 1994. The international community additionally disbursed \$2.5 billion of assistance in 1994–98, mostly for

public investment and institution-building. The PA did not receive or handle this aid, with the exception of \$212 million for recurrent budget support and \$35 million for employment generation projects channeled through the Holst Fund.

The latter were emergency measures made necessary by border closures. Even so the PA does not deliver all basic social services, a major part of which is provided by UNRWA and various NGOs, which are largely funded from abroad.

The main structural problems of PA public finance are its heavy reliance on Israeli transfer of clearance revenues and its vulnerability to unfavorable “exogenous” factors. These are principally Israeli border closures, a small domestic market, and a high net population growth rate of 3.5 percent to 4 percent annually. For example, comprehensive and strictly enforced Israeli blockades on the movement of goods and labor slowed 1997 real GNP growth to 2 percent. Leakage of goods imported by Israel into Palestinian markets further reduces the PA’s income from customs duties.

Faced with these challenges the PA has had to undertake a major effort to develop its institutional capacity in public finance. This applies to tax collection, budget preparation, auditing, and drafting regulatory and legal frameworks. The International Monetary Fund (IMF) has been the principal external counterpart, monitoring agency, and source of training and technical assistance in this sphere.

The PA had to build its new Ministry of Finance almost from scratch. In doing so, it inherited a mixed legacy. On the one hand it incorporated the personnel and operating procedures and financial regulations of the Israeli-run Civil Administration, while on the other hand it drew its senior officials and much of its institutional culture from the PLO’s Palestine National Fund and Fateh’s Financial Department. Neither body had real experience preparing a public budget, nor subjecting it to debate and review by public bodies. The Military Government and Civil Administration oversaw a recurrent budget that had not increased between 1967 and 1994, with virtually no capital investment component. Finally, the PA inherited a Palestinian public that was deeply distrust-

ful of the tax system applied under Israeli occupation, and viewed under-reporting of income and tax evasion as a national duty.

Financial practice has evolved in light of the many political pressures, both domestic and external, to which the PA cabinet has been subjected. The process is affected by the fact that the PLC is still learning to debate budgetary and financial matters. The multiplicity of legal sources is an additional complicating factor, although there is sufficient convergence for there to be a properly prepared and approved public budget and for administrative and regulatory procedures to be put into effect throughout the PA.

Inventory

The PA institutions dealing with public finance are the Ministry of Finance, the Palestinian Monetary Authority, and the General Control Institute, which provides external audit. The General Personnel Council is also partly involved, in that it pays the salaries of PA employees in the Gaza Strip and manages the hiring of PA employees generally. Two additional institutions have a de facto effect on public revenue and expenditure. One is the public import monopolies and quasi-monopolies, which generate revenues that do not enter Ministry of Finance accounts and are instead effectively controlled by the president's office. Second, the president's office itself has expended 6 to 12 percent of the general budget in successive years, without audit, in addition to the unseen revenues of which it also disposes.

Achievements

The MOF's greatest achievement since 1994 has been to increase revenue collection. This multiplied threefold, reaching some 25 percent of GDP in 1998, and allowed necessary and predicted expansion in the public payroll as the PA assumed more responsibility for social services in the WBGS. The PA was able to keep recurrent expenditure within the ceiling set by the budget and to contain the recurrent deficit up to 1998, when both registered unexpected increases. Indeed, there was a slight rise in revenue despite the depressed economy in 1997, leading to a surplus in 1998 that

allowed the PA to commit itself to making a modest contribution to the public investment plan in 1999.

- Improvement of tax administration has played a substantial role in this success. This derived from early implementation of a tax arrears settlement program, improved enforcement provisions, hiring of qualified personnel, computerization of processing systems, and more effective taxpayer registration. Through training and a deliberately friendly approach to taxpayers, the MOF has increased compliance to 70 percent. Moreover, the PA has jointly operated a unified invoice system and an effective revenue clearance system with Israel from the outset. More recently the shift from indirect to direct imports via Israel has increased PA revenue from customs and duties on goods destined for Palestinian markets.

At the same time, the MOF has drafted or revised a number of regulatory and legal mechanisms. These include improvement of budget preparation, development of a government financial management and information system that sets out a standardized chart of accounts for agency transactions, introduction of an integrated revenue processing system, and internal audit functions. MOF budgeting and auditing functions have become fully operational, providing a procedural and regulatory framework that is ready for application within all PA operational institutions.

The Organic Budget Law was approved in mid-1998, and in November a new Procurement Law took effect, which formalized provisions and set new standards. The Civil Service Law passed earlier in the year should ensure transfer of control over the payroll to the MOF and introduce greater fiscal responsibility to public hiring. The MOF is also revising the Investment Law, Income Tax Law, Company Law, and other laws necessary for a free market. The Palestinian Monetary Authority Law, passed in 1997, and the new Banking Law are expected to strengthen banking regulation and supervision.

Challenges

Whereas the relevant PA institutions have made remarkable progress in revenue collection, their performance in expenditure

management reveals considerable room for improvement. All bodies continue to need equipment, training, and automation, which enables environments of formal regulations that define their mandates and empower them. This extends to budgeting, accounting and auditing, and has implications for the ability to anticipate and meet future financial burdens.

A foremost need is for comprehensive and integrated budgeting in the medium-term macroeconomic and public expenditure frameworks. The MOF has progressed in developing methodologies for articulated budget allocations and accounting procedures, but they are not yet applied by all ministries and agencies.

In April 1999, the Minister of Finance for the first time presented a general statement to the PLC purportedly containing all revenues, in particular international assistance and income from public monopolies, and all expenditures, including all capital investment. Nonetheless, this remained an annual financial statement rather than a plan, and continued to lack detail and a breakdown of objectives and categories of expenditure. Since then the executive authority has failed to submit a formal budget, originally due in November 1998, to the PLC.

There is an urgent need to consolidate all accounts under the MOF, and for all public revenues to accrue to it. This applies especially to the import monopolies and quasi-monopolies and other ventures run by or on behalf of the PA. The IMF estimated that diverted income in 1997 represented 25 percent of total public revenue. The diversion of such revenue to accounts outside MOF control has put pressure on the ministry's liquidity, compelling it to borrow domestically and to accumulate arrears. In late 1998 domestic debt stood at \$93 million, and arrears at \$79 million.

The situation regarding monopolies highlights the need for transparency, accountability, and legislation to ensure competition. The PA is understandably concerned about the need to secure its revenue base, following past delays and suspension of the transfer of clearance revenues from Israel. It also sees a need to provide venture capital and pave the way for private investment in a market fraught with political uncertainty and low economy of scale. However this should not prevent the PA from implementing its

Strengthening Palestinian Public Institutions

formal commitment in 1996 to form boards of directors for the monopolies and to bring their revenue under MOF control, even if it is reluctant to privatize them.

There is an equally pressing need to implement PA-wide systems and regulations to promote sound financial management. The government financial management and information system has not yet been implemented, and progress has been slow in applying the Organic Budget Law. Similarly, the unification of customs and disbursement policies between the West Bank and Gaza Strip has been approved, but not implemented. Practice regarding competitive tender and procurement varies widely from one ministry or agency to another. The same applies to budgeting and auditing, as practice within the PA is erratic and fragmented.

On a related point, mechanisms to encourage civil servants to disclose abuse of financial privilege do not exist, nor are there mechanisms to protect them in the case of disclosure or of resistance to improper instructions. Pension funds have been redirected for other purposes without proper accounting for their use, and there has been no alternative provision for future need. Additionally, the ministry must set up a formalized system of sanctions and penalties for infractions, rather than the present ad hoc approach of responding after the fact.

Indeed, the need to improve accountability is pervasive. The MOF has no control over the implementation of central regulations and systems by ministries and agencies, and its internal auditing department covers the civil service in the West Bank only. Ministries and agencies generally have some internal auditing capability, but there is no systematic flow of information to the PA's external auditing body, the GCI.

The GCI has too wide a mandate at present, yet at the same time it is not empowered to conduct its audit on a regular basis or to publish its findings. It answers directly to the president, who determines whether and when to conduct an audit. The GCI is not responsible for the audit of the police force, which is inspected only by the internal auditing department of the MOF. The president's office is not audited at all. The GCI should acquire autonomous status and report instead to the PLC.

Operational Institutions

To further improve financial management, control over the public sector payroll should be transferred completely to the MOF. It should also exercise effective recruitment controls. This would help curb the haphazard expansion of public hiring, which poses major problems for future financial stability, especially the provision of adequate pension funds. Excessive staffing depresses average civil service pay packages and thus compounds the shortage of qualified personnel in front-line functions. It also reduces the quality of services and undermines the public perception of the relationship between taxes paid and benefits received.

These problems require urgent attention also because of the anticipated future burdens on PA finances. Growth in the public payroll has so far been offset by the absence of a general increase in wage rates, but this may be untenable. Population growth generates constant pressure on the provision of education and health. The PA may reduce costs by devolving services increasingly to the private sector, but it may have to take over some services funded at present by international donors or delivered by NGOs. It also faces the eventuality of assuming UNRWA's current responsibilities and financial obligations.

The future financial burden is especially problematic because the PA is unlikely to repeat the early gains it made in revenue collection after 1994. Increasingly it will need to limit its expenditure and to prioritize. Even with donor funding, PA capital investment in infrastructure is low in relation to GDP. As the PA turns to borrowing, it will need to set up a debt management unit within the MOF to track flows and obligations.

The PA will also have to shift the distribution of revenue collection and expenditure between central and local government, in order to ease the burden on the central treasury. For example, it should revise the property tax and hand over responsibility for collecting it to municipal authorities.

Recommendations

1. The general budget prepared by the Ministry of Finance should be submitted by the executive branch to the legislature

Strengthening Palestinian Public Institutions

for debate and approval in a timely manner. It should reflect all public revenues and expenditures and contain full detailed breakdowns of both items.

2. All public revenues should be disclosed, and should accrue to a single account under the Ministry of Finance.
3. The Ministry of Finance should be able to monitor and control implementation of the budget.
4. Once approved by the legislature, the Ministry of Finance should have the authority to disburse in accordance with the general budget and its detailed provisions.
5. Preparation of the public payroll should be brought entirely under the Ministry of Finance, in order to secure the separation of financial and administrative control.
6. The Ministry of Finance should assume control and management of public sector pension funds, and generally provide transparent accounting for government liabilities.
7. The regulatory frameworks and implementation mechanisms developed by the Ministry of Finance to ensure proper financial practice throughout the Palestinian Authority should be put into effect without delay.
8. The Palestinian Authority should centralize and unify all government auditing functions under the General Control Institute, which should also be empowered to audit the president's office and the police force.
9. The General Control Institute should have a definitive framework of laws and regulations against which to audit the public sector, and should be made answerable to the legislature. In addition, a formal system of sanctions and penalties for infractions must be put into place.
10. The Palestinian Authority should require all public servants, in all branches of government and in both the civil service and

Operational Institutions

police force, to declare commercial interests that may affect their conduct of public duties.

11. The Palestinian Authority should make formal provision to protect civil servants who report financial impropriety.
12. The Ministry of Finance should propose ways to strengthen the accounting and auditing professions.
13. The Ministry of Finance should computerize and unify all taxes in the West Bank and Gaza Strip.
14. All tax exemptions should be centralized and standardized under the Ministry of Finance.
15. Central government should devolve collection of the property tax to local government, and municipal authorities should charge the real cost of services to users.
16. The Ministry of Finance should consider ways of coping with the financial implications of the eventual incorporation of the UNRWA.

SOCIAL SERVICES

Context

The ministries delivering social services, including health care and education, were among the first public institutions to commence operation after the establishment of the PA in 1994. Although they do not account for the largest share of the general budget, they nonetheless put the PA in direct contact with the largest number of users. Furthermore, they depend heavily on achieving high rates of user approval. At the same time, the large size of the social services sectors tends to mean that the PA operates in parallel with three other major service providers: UNRWA, NGOs, and the private sector.

A major task of the relevant PA ministries is therefore to regulate their respective sectors and to coordinate with the other pro-

Strengthening Palestinian Public Institutions

viders, as well as to deliver quality services in an efficient and cost-effective manner.

The ability of PA social services ministries (SSMs) to commence service delivery quickly was largely due to the smooth takeover of the existing departments of the Israeli-run Civil Administration, with its existing personnel, facilities, and operating procedures. However, this was a mixed legacy. The Israeli military government did little more than maintain the social services infrastructure at roughly the level inherited in June 1967 from the Jordanian administration in the West Bank and the Egyptian administration in the Gaza Strip, while the population doubled in size. The quantity and quality of services, especially in education and health care, also failed to keep pace with progress in neighboring Arab countries during the same period. The relevant departments of the Civil Administration had no authority to formulate sectoral development plans. They lacked experience in planning and budgeting, and were denied free access to demographic statistics. Consequently coordination was poor with local government and with nongovernmental providers. Exclusive Israeli control over zoning and use of public land outside municipal boundaries additionally limited the scope for construction of new facilities.

The limitations of public service delivery are evident in the fact that, by 1993, NGOs provided 60 percent of primary health care in the WBGS and East Jerusalem, 50 percent of hospital care, and 100 percent of disability care. Their continued activity has been vital in maintaining adequate social services under the PA. The existence of PLO-backed national councils that had operated under Israeli occupation also helped the SSMs assume their responsibilities effectively in 1994. For example, the Council for Higher Education provided a coordination and oversight body for the universities that were established in the WBGS in the 1970s independently of the Civil Administration. Similarly, the Health Council's Planning and Research Center completed work on a national health plan shortly before the PA came into being.

The SSMs have also incorporated or otherwise accommodated PLO institutions that deliver similar services to Palestinians both in the WBGS and in the diaspora. Prominent examples

are the PLO's Social Affairs Institution (Welfare of the Families of Martyrs and Prisoners), Palestine Red Crescent Society (PRCS), and Refugee Affairs Department.

The task of the SSMs has been facilitated by the PA's full civilian authority over some 95 percent of the Palestinian population of the WBGS, excluding East Jerusalem. Their remit extends throughout the Gaza Strip and Areas A and B of the West Bank as defined by the Interim Agreement of 1995. The movement of their personnel is impeded only when the Israeli military government imposes local or general border closures.

The near impossibility of travel between the West Bank and Gaza Strip presents a more serious impediment to normal operation. It affects common training, inspection, consultation, unification of performance evaluation, standardization of administrative procedure, and redistribution of human resources. Physical separation has also necessitated a duplication of certain managerial functions and posts. Israeli restrictions on the entry of Palestinians from the WBGS to East Jerusalem have also affected social service delivery. For example, the city contains the only Palestinian tertiary-care hospital and some of the best secondary-care ones.

As a result of these factors, the SSMs have had to expand rapidly and acquire far more complex organizational structures. The Ministry of Education (MOE) offers a telling example of the scale of the challenge: it inherited a total of twelve administrative employees and some 16,000 teachers from the Civil Administration in 1994, but now has more than 26,000 teachers working in about 1,200 schools. Yet it is barely able to cope with the rapidly growing school population, and the number of employees remains well below the level required to meet international educational standards.

However, expansion is constrained by serious cost factors. The devaluation of the new Israeli shekel since 1994 means that basic salaries in the PA civil service have lost about one-third of their value and almost one-half their purchasing power. This has caused unrest in the education and health sectors in particular, and greatly impedes implementation of the revised pay scales indicated by the new Civil Service Law approved in 1998. Cost also limits the PA's ability to construct new classrooms and medical facilities, which

remain in short supply. A final potential challenge to the PA in this area is the expectation that it will eventually assume responsibility for the parallel services currently delivered by UNRWA, which has its own staffing and separate administrative structure.

Inventory

There are four principal PA institutions delivering social services to the Palestinian public in the WBGS: the Ministry of Social Affairs (MSA), Ministry of Health (MOH), Ministry of Education (MOE), and Ministry of Higher Education (MHE). The Ministries of Labor and Housing are also relevant to social policy formulation and service provision, but come under the Economy section of this report.

Achievements

The achievements of the SSMs have been among the most remarkable of any PA institution. The MOE, which is the largest PA ministry in terms of personnel and budget, began operations only two days before the start of the 1994–95 school year. Yet it has managed in many districts to reduce class sizes or reduce the number of school shifts from three to two, although constraints on public investment threaten this achievement.

The SSMs have generally been able to draw up mission statements, define immediate objectives, establish clear and appropriate administrative and management structures, and build working relations with other ministries and agencies, NGOs, private sector providers, and the international donor community. Basic laws establishing the MOH and MHE and defining their mandates have been approved, while the MOE and MSA operate on the basis of provisional regulations pending new legislation. In general, the SSMs have achieved commendable levels of delegation of authority and decentralization. They have also increased their capability to compile and utilize statistical and other data, and to apply guidelines on internal auditing and performance-based evaluation.

The general aim of the SSMs is to promote community development. They seek to do so by strengthening social security; rais-

ing standards of living by providing high-quality services that are affordable and accessible; coordinating and regulating service delivery by the various providers within each sector; and avoiding duplication in order to ensure efficient use of resources. To this end the MOH, MOE, and MHE have drafted detailed and comprehensive five-year development plans, with clearly stated long-term goals, short-term operational objectives, and strategies. These plans include lists of activities, with implementation timetables and cost estimates.

The SSMs, supported by the PA cabinet and PLC, have also submitted new draft legislation, where applicable, to unify the laws and regulations that govern the work of all service providers in their respective sectors. Headway has been made in the clarification of mandates, made necessary by the rapid expansion of the payroll of the SSMs. The MSA has more than doubled its staff since the transfer of authority to the PA in 1994, while the MOH's staff has more than tripled, from some 2,000 employees to the present 7,000. The bulk of these increases have taken place in "frontline" categories of teachers and health personnel, in agreement with international donor institutions.

Despite the rapid and massive expansion in personnel, recruitment to the SSMs has largely been unaffected by political or personal considerations. Furthermore, evaluation procedures for promotion in the SSMs are generally performance-driven, although this varies somewhat. The SSMs have also devoted considerable attention to human resource development. Needs and opportunities vary from one SSM to another, but generally there is encouragement for continuing education for staff, both locally and abroad, as well as in-service training. The MOH is planning a graduate school of public health and has transformed the School of Qualified Nurses into a College of Nursing offering the bachelor's degree, for example.

The SSMs have moreover made considerable strides in automating their operations, and in raising computer literacy among employees. Staff are trained in data processing, fieldwork, and analysis, although capacity for advanced secondary analysis remains limited. Progress in setting up computerized and integrated management

systems for personnel, procurement, and financial matters has expedited payment of benefits by the MSA, for example, and improved auditing in all SSMs.

Computerization has gone hand in hand with efforts to compile and process statistical data and to conduct secondary analysis and policy-oriented research. The MOH, for example, produces a statistical report with all relevant health and demographic indicators, and since 1995 has been working on an ambitious health management information system that collects and distributes data through computerized satellite links. The MOE similarly maintains a computerized database and produces a statistical yearbook on educational institutions and relevant indicators. For its part the MHE has set up the Palestine Academic Network to connect all institutes of higher education, and also publishes a comprehensive statistical yearbook on higher education. These and other data-based activities by the SSMs are conducted in collaboration with the PCBS.

Statistical research is also used to ensure attainment of goals involving quality. The MOH, which generates 33 percent of its operating costs from providing services such as health insurance, conducts systematic measurement and monitoring of the quality of health care and calculates the cost of services it offers. It also has a permanent grievance committee to handle user feedback and complaints. The MHE similarly applies unified procedures to estimate the cost of higher education to taxpayers and international donors. The MOE has set up a specialized unit to measure, monitor, and improve the quality of education, though not its cost.

As the example of collaboration with the PCBS in the area of data collection and dissemination shows, the SSMs engage in extensive cooperation and coordination with other ministries and agencies and with other service providers in their respective sectors. For example, the MHE has collaborated with the MOE and Ministry of Labor on a strategic plan for vocational training. It also works on training programs with the Ministry of Agriculture. Additionally, SSM coordination with UNRWA is especially important, given the number of its beneficiaries among the population in the WBGS.

Cooperation represents a fundamental change from practice prior to the establishment of the PA, when the relationship between the Israeli authorities and local NGOs was one of hostility and distrust. Similarly, NGOs affiliated with different political organizations rarely cooperated with each other, and initially they viewed the PA with some apprehension. Several national committees have now been formed with representatives of governmental and nongovernmental organizations. In certain cases policies and strategies are developed through public debate. The MOE five-year plan and the new curriculum were both developed through public workshops and multiple ministerial teams comprising MOE personnel, nongovernmental providers, and outside experts, involving some 1,700 persons in all.

The Higher Ministerial Committee at the MSA includes the head of the Union of Charitable Societies, the Palestinian NGO Network, the Central Committee for the Disabled, and other bodies involved in public health and development policy. Moreover, the MSA provides leadership in poverty-alleviation programs in cooperation with other PA institutions, NGOs, and UNRWA. A new health council brings together the MOH, representatives of the medical profession unions and other specialists. A new Health Planning Core Group consisting of NGO, private sector, and UNRWA representatives works to define sectoral priorities and to develop qualitative and quantitative measures for the evaluation of performance. Rather than set up its own clinics, the MOH has devolved much of its outreach programs to a consortium of NGOs operating in rural areas. For its part the MHE oversees five external councils with governmental and nongovernmental representation: the Advisory Council for Higher Education, Council of Scientific Research, Council of University Presidents (Rectors' Conference), College Deans' Committee, and Higher Council for Accreditation and Licensing.

Challenges

Despite impressive strides, the SSMs exhibit certain flaws. Implementation of standard systems of administrative procedure in relation to procurement, accounting, evaluation, and personnel mat-

ters still varies from one ministry or department to another. The absence of laws of establishment for the MSA and MOE, at a time when the Basic Law of the PA has not yet been ratified, leads to some unnecessary overlap in functions. This encourages individual decisions that may exceed proper mandates, resulting in costly duplication in certain areas and gaps in others.

The SSMs also continue to suffer from the overlap of the legal and administrative framework within which they must operate in WBGS. The MOE, for example, has inherited two different curricula, with divergent systems of training for teachers and supervisors, and of examinations and certification. Overlap is costly and complicates the functioning of MOE, as well as requiring two deputy ministers. Adoption of the new curriculum and Israeli implementation of the safe passage agreement connecting the WBGS should facilitate operations and enhance efficiency.

The SSMs are severely affected by the tardy and piecemeal manner in which their budgets have been approved and disbursed. To date, the national budget has been approved as late as seven months into the fiscal year, impeding implementation of programs and leading to cumulative delays over successive years. Just as serious, budgets are not automatically made available to the SSMs (as normal financial procedure would indicate) even after approval. One reason is the recurrence of liquidity problems at the Ministry of Finance, but another is the inherited PLO practice whereby individual PA ministers are compelled to renegotiate allocations with the president and to seek his approval for disbursement on an incremental basis.

To some degree, the SSMs tend to be both understaffed and overstaffed. Overstaffing is partly due to political factors, but a principal reason for understaffing is that the SSMs cannot attract qualified professional and technical personnel with their present pay scale. This in turn reduces cumulative skills acquired by the SSMs and impedes the career tracks of higher-level employees.

Staffing problems have further consequences, with implications for the general quality and cost-effectiveness of service delivery. One is the tight centralization of the financial system in the SSMs, as in other PA institutions, with little delegation of bud-

getary responsibility and the consequent restriction of departmental autonomy. The shortage of qualified staff, especially in advanced research and projections, impedes evaluation of the quality of services and assessment of cost-effectiveness. PA civil servants, like staff in bureaucracies everywhere, tend to view the use of indicators to measure performance with suspicion and apprehension because they assume that these can lead only to a negative assessment.

There is also some need for more extensive and systematic cooperation between the SSMs and other service providers, as well as with users. For example, scientific research promoted by the MHE is not yet tied systematically to a national R&D policy or to individual efforts by other providers, whether public or private. The MOE does not consult regularly with NGOs and other civil society organizations, while the MSA does not receive adequate feedback from users. Divisions within the health sector impede the delivery of services to marginal groups such as nomadic communities.

It is important to develop further the legal and regulatory framework enabling nongovernmental and private sector providers to compete directly for service delivery. In this context, the inability of the PLC and the executive branch of the PA to agree on a new law governing the activity of nongovernmental organizations has also left that sector lacking in legal reputation and protection. The requirement that all NGOs be officially registered, coupled with continuing disagreement between the MSA, Ministry of Interior, and Ministry of Justice over responsibility for registering NGOs, is a further impediment to their operation.

These shortcomings undermine the ability of SSMs both to conduct research and to utilize research conducted by others. Research initiatives in the area covered by the MSA, for example, come from the Palestine Economic Policy Research Institute, the Norwegian Confederation of Trade Unions Research Foundation (FAFO), and other institutions rather than the ministry. In general, the SSMs need to ensure the accumulation of statistical data over a number of years, and to train personnel to conduct performance- and policy-related analysis.

An area of particular concern is the division of labor and coordination of service delivery between SSMs and local government. The PA inherited a weak or nonexistent legacy in this regard from the Civil Administration. However, local government could manage and deliver certain services, leaving sectoral planning and regulatory aspects to the SSMs. Such a step would bring about greater decentralization, improved service quality and performance, reduced costs, and better responsiveness to user needs. However, central government has not made even such transfers to local government as are already mandated under existing legislation, and local government is therefore unlikely to take on added responsibilities.

The problems and shortcomings faced by the SSMs are hardly out of the ordinary. However, they gain added importance in light of the major increase in demand for social services anticipated in the WBGS. This is due to net population growth rates of 3.5 to 4 percent, to which may be added the influx of repatriated refugees from the diaspora or population movements between the West Bank and Gaza Strip. Changing economic and technological conditions locally and globally require a labor force with appropriate skills, while urbanization and industrialization alter the functional pattern and geographical distribution of social welfare and health care needs. The eventual transfer of UNRWA's social services to the PA will impose a massive increase in the financial burden.

The provision of accurate and up-to-date population statistics by the PCBS has allowed some SSMs to prepare rough estimates of future needs for services, but projection methodologies and cost calculations are not yet available, especially for the medium and long term. Consequently, planning remains difficult; it is a task that requires greater effort by the SSMs and the PA's central and sectoral planning agencies.

Recommendations

1. Operational budgets of the SSMs should be disbursed punctually once they have been duly ratified, and should not be sub-

ject to renegotiation within the cabinet without legislative approval.

2. Performance indicators and cost calculation systems should be developed and applied in order to improve the efficiency and quality of social services delivery.
3. Procedures and methods of social services delivery should be standardized. This includes unification of educational curricula between the West Bank and Gaza Strip.
4. Appropriate institutional mechanisms should be created, where necessary, to ensure routine and effective consultation and coordination between the line ministries and agencies of the Palestinian Authority and other service providers.
5. The SSMs should further develop the legal and regulatory framework enabling nongovernmental and private sector providers to compete directly for service delivery.
6. The PA should pass a suitably modified NGO law. If NGOs are to be required to register, the PA should determine clearly which ministry is responsible for NGO registration.
7. The SSMs should develop their research and secondary analysis capability and increase their cooperation with academic institutions and other research centers.
8. Changes should be introduced to recruitment and promotion practices in order to allow appropriate pay scales that offer more effective incentives to existing staff and more attractive packages to specialized technical and professional personnel.
9. Laws of Establishment or mission statements should be issued for the MSA and MOE in order to minimize duplication of tasks and functions.
10. Forward planning and projection methodologies should be developed as a matter of urgency, in order to anticipate increased demand for public services as a result of population growth and of social and economic development.

11. The SSMs should plan for the integration of social services currently provided by UNRWA, following its eventual incorporation.

ECONOMY

Context

Economic reconstruction, development, and growth in the WBGS are widely regarded as necessary both to underpin the peace process and to construct a modern, viable, and democratic Palestinian entity. This view is reflected in the major political effort and financial resources directed by the Palestinian Authority and international community toward the local economy.

Yet the Palestinian public institutions that deal with the economic sphere have been obliged to operate under particularly difficult conditions. The Israeli military government transferred responsibility for key economic sectors in the WBGS to the Palestinian Authority only at the end of August 1995, in accordance with the Oslo framework. It also bequeathed the Palestinian Authority laws, regulations, and administrative systems that were inadequate for the management of a modern economy, and that did little to expand free exchange with external markets. Additional problems derive from the legacy of exposure to Israeli policies and market forces over the preceding twenty-seven years of occupation. Israeli government policies continue to have a heavy impact on the Palestinian economy, because it is so closely integrated with that of Israel.

Moreover, the Israeli occupation left behind significant infrastructure deficits. From the 1970s to the early 1990s, the Israeli Military Government and Civil Administration spent only 15 percent of the budget on public infrastructure and services.⁷ This compares to 25 percent in countries with comparable income levels, even though the population of the WBGS doubled during that period. In addition, UNRWA and Palestinian NGOs supplied an unusually large share of infrastructure and services.

⁷UNSCO, "The Economy of the West Bank and Gaza Strip," p. 14.

The result, to give a few examples, was that roads had received little or no maintenance since 1967, the supply of electricity or telephone lines per capita was substantially lower than in neighboring Arab countries, and the WBGS largely depended on Israel for infrastructure.

The Protocol on Economic Relations of April 29, 1994, which was attached as an annex to the Agreement on the Gaza Strip and Jericho Area of May 4, 1994, laid a new basis for ties between the Israeli and Palestinian economies during the Interim Period. However, the Palestinian economy remains dependent on Israel for conduct of all its external trade. All goods exchanged between Palestinian and third-party markets must either pass through Israeli ports or through Israeli-controlled points of entry and exit in the WBGS. A large part of the Palestinian labor force also depends on employment in Israel. Finally, the Palestinian economy continues to be affected severely by conditions within the Israeli economy, including macroeconomic policies, inflation rates, and currency devaluation.

Continued Israeli control over land, water, and other factors of production in the WBGS also restrict the scope and scale of Palestinian economic development and growth, as does the absence of safe passage between the West Bank and the Gaza Strip. Israeli control of land use outside the areas under full Palestinian territorial control in the WBGS has also impeded construction, pushed up prices, and weakened bank lending due to lack of collateral and poor return on capital.

These conditions keep Palestinian markets localized and fragmented. The overall lack of free access for Palestinians to East Jerusalem is also a serious problem: the city houses most Palestinian marketing facilities; much of the West Bank's tourism potential is dependent on the city's religious sites; major north-south transportation links in the West Bank run through the city; the West Bank's only airport, Qalandia, lies within the expanded city limits; and the city is an integral part of the power network in the central region of the West Bank.

Vulnerability to external shocks has clearly created a situation of continuous uncertainty for Palestinian public institutions that

must deal with the economy. The vulnerability has added also to the financial burden by increasing unemployment and social security costs. Since 1993, shocks primarily related to Israeli closure measures and movement restrictions have begun to result in a fundamental shift away from a wage-based economy toward a rapid increase in marginal, low-productivity, and low-income generating informal sector activity.⁸

The full scale of the challenge facing the Palestinian Authority is further underlined by the fact that the local economy must generate another 450,000 jobs in the coming fifteen years if it is to keep pace with natural population growth. This task is made even more difficult in an economy where private investment has dropped from 19 percent of GNP in 1993 to 10 percent in 1997.

An additional economic impediment identified by Palestinian entrepreneurs and investors is an unclear business operating environment within the Palestinian Authority. Property laws, investment laws, and the tax regime still are not sufficiently clear. It is precisely because the local economy is so vulnerable to external shocks and restrictions that it is imperative for the Palestinian Authority to provide an effective enabling regulatory and legal environment as a prerequisite for managing limited economic and financial resources efficiently. Such an environment is also necessary to attract investment from domestic and foreign sources, including expatriated Palestinians. Unless the prevailing political, policy, and institutional frameworks undergo deep transformations, Palestinian policymakers will not be able to foster the ambitious economic vision to which they and the WBGS population aspire.

Inventory

Economic management and administration involves a large number of ministries and agencies. Besides the Ministry of Finance, Ministry of Planning and International Cooperation, Ministry of Justice, and Palestinian Monetary Authority, these include: the Ministry of Economy and Trade, Ministry of Industry, Ministry of

⁸Jon Pederson, "Developing Palestinian Society: Socioeconomic Trends and Their Implications for Development Strategies" (FAFO Report 242, May 1998), p.3; <http://www.fafo.no/PUB/242/Katp3.html>.

Agriculture, National Center for Agricultural Research, Ministry of Housing, Ministry of Labor, Palestinian Economic Council for Development and Reconstruction, Ministry of Public Works, Ministry of Transport, Civil Aviation Authority, Ministry of Telecommunications, Ministry of Supply, Energy Authority, Water Authority, Palestinian Central Bureau of Statistics, Institute of Standards and Measurements, Ministry of Environment, and Palestinian Environmental Authority. The public import monopolies and quasi-monopolies are of special importance, although they are not formally listed as part of the public administration nor are they itemized under the public expenditure plan.

Achievements

The PA's creation of these various institutions of economic administration and management under difficult circumstances is a significant achievement. The PA has progressed considerably toward putting into place the legal, regulatory, and political framework necessary for private sector development, foreign direct investment, and commercial exchange with other economies.

Since assuming its responsibilities, the Ministry of Economy and Trade has negotiated a wide range of preferential and free-trade agreements with a variety of external parties. These include the European Union, the United States, European Free Trade Association member countries, and neighboring Jordan and Egypt. Moreover, the PLO has signed association agreements with the European Union and other bodies, as well as sovereign states, on behalf of the PA. The latter has also set up increasingly effective specialized departments to monitor implementation of the Paris Protocol and other related agreements with Israel, through the Joint Economic Committee.

Equally important, the relevant ministries have made a significant contribution to drafting new laws and revising existing ones to modernize and stimulate the Palestinian economy. Already in effect are the Laws for the Monetary Authority, Encouragement of Investment, and Condominiums. Others in draft form or awaiting promulgation, with the assistance of international institutions and donors, include laws on income tax, company registration, banking, insur-

ance, investment, offshore companies, securities, secured lending and leasing, arbitration, industrial zones, commercial agency, accounting and auditing, pensions, labor, and intellectual property. Many of these are in advanced stages of preparation, and some are ready for promulgation.

Progress has been reflected, among other things, in the registration of a large number of new companies since 1994, despite the lack of investment. The financial sector has expanded rapidly from a negligible starting base, in terms of the number of banks and in total deposits. The construction sector, especially for housing, witnessed a boom, albeit one that proved short-lived due to border closures and dependence on cement and steel imports from Israel. The Ministry of Tourism has made appreciable progress in licensing new hotels and restaurants, facilitating the work of tour operators, and participating in international exhibitions, despite being hindered by external and internal challenges.

Several regional authorities for public infrastructure and utilities have similarly made strides in preparing planning and policy frameworks for the reorganization of their sectors, despite incomplete Palestinian control over land and resources. Cooperation between the Ministries of Labor, Higher Education, and Education over vocational training is an additional instance of effective collaboration across the public administration.

Challenges

The special political and territorial circumstances under which the PA assumed responsibility for the economy of the WBGS go far toward explaining many of the organizational, procedural, and functional shortcomings of its relevant institutions. The short time in which it was required to take effective control and stimulate economic activity limited the opportunity to plan and coordinate a suitable and streamlined institutional framework.

Yet the PA's shortcomings are also the product of inherited organizational structures, political and personal rivalries, and work practices. These factors have continued to influence capacity-building and performance in the public institutions dealing with the econ-

omy even beyond the initial startup period. The PA should address them directly.

The formulation of the multiyear Palestinian Development Plan indicates that the process of consensus-building among the relevant ministries and agencies has been actively encouraged. However, considerable overlap of specialization and duplication of functions persists, reflecting inadequate delineation of responsibilities. This impedes policy formulation, planning and prioritization, implementation, and evaluation.

Industrial and foreign investment, export promotion, and employment policies are fragmented among various ministries, to mention a few examples. The problem is compounded by the absence of effective, formal mechanisms for consultation, coordination, and collaboration. Similarly, sectoral working groups or strategies are also either absent or inadequate, and clustering of ministries and agencies is urgently needed.

Duplication, fragmentation, and inadequate coordination also lead to unproductive competition, conflict, and waste of resources. This is additionally worrisome in light of the shortage of qualified personnel in certain categories, leading to a mismatch of staff and jobs in some cases and to overstaffing and understaffing in others.

To exemplify the extent of duplication, at present the Ministry of Economy and Trade and the Ministry of Supply both regulate internal markets, while the Ministry of Economy and Trade and the Ministry of Justice both register companies. There is also considerable overlap between the Ministry of Economy and Trade and the Ministry of Planning and International Cooperation with respect to planning. For its part PECDAR, which has supervised disbursement of significant donor funds and set up an effective works program, almost completely supplants the Ministry of Public Works in practice. The various agencies and regional authorities dealing with public infrastructure and utilities lack an umbrella framework, despite the overlap with both the Ministry of Planning and International Cooperation and PECDAR with respect to planning and implementation. This situation requires streamlining.

The lack of definition and delineation of responsibilities and resultant duplication are paralleled in some ministries and agencies by flaws in internal management, procedure, and performance. Chains of command are not always clear or are regularly circumvented. This undermines departmental autonomy, especially given the absence of well-defined operational tasks. Initiative and improved performance are also impeded by weak delegation of authority. In certain cases authority is overcentralized by the head of the ministry or agency. Internal statutes and obligations to users have at times been disregarded if they did not accord with the minister's or head's priorities or temperament, and access to information has been determined on the basis of personal and political considerations.

These problems demonstrate that internal factors, as well as external ones, are important causes of Palestinian institutional shortcomings. By the same token they are within the power of the Palestinian Authority to remedy. Indeed, certain problems may be remedied as part of a general review and restructuring of the public administration as a whole.

Consultation and coordination with local government is inadequate. Where aims have been defined this has often been due to donor input, yet that has not guaranteed implementation. It has also been difficult to attract qualified personnel from donor-funded projects onto the permanent public payroll. Overcentralization of authority internally has been an added disincentive to recruitment.

Additional needs include increased consultation and cooperation with users, academic institutions, and NGOs. This is especially relevant for the development of information systems and for horizontal communication, but also for policy formulation, planning, and analysis. There is similar need to make policy reports, technical studies, and statistical data more accessible to users, researchers, and the general public. The Palestinian Central Bureau of Statistics and the revisions to the Income Tax Law have achieved high levels of consultation with nongovernmental actors and increased access to information. However, this is far from even-

ly spread and there is a clear tendency to manipulate access to studies and data.

Consultation and cooperation with local government are especially important, while the role of academic councils and institutions of higher education in R&D needs to be increased considerably. Furthermore, some of the more effective public institutions in this sphere are donor funded, which means local sources of funding must be cultivated. This would encourage the PA to eliminate duplication of projects and utilize resources more efficiently.

The PA needs to develop its revenue base in order to assume a greater share of the Palestinian Public Investment Plan, and this requires improved economic management and administration. Much of the economic growth registered in the WBGS since 1994 has been due to public sector expansion, with public investment, representing one-quarter of total public expenditure, coming almost entirely from international assistance. Even so, in 1994–97 public investment was less than half the average for comparable developing countries.

New legislation is critical if the Palestinian private sector is to play a significant role in economic reconstruction and growth in the WBGS, and if the local economy is to attract foreign investment. The PA should finish drafting new laws governing various economic activities and bring those already finished into force. This applies, for example, to the new Labor Law, which has been unified and revised but not passed, and to the Income Tax Law. In other cases laws have been passed but not fully implemented. For example, the new Investment Law of 1995 made provision for a Higher Agency for the Encouragement of Investment, but this has not yet been established.

Looking ahead, the PA should prepare a trade team to negotiate entry to the World Trade Organization, and to prepare for the practical implications for tariffs of entry. In the meantime it also needs to clarify the definition and application of the exact roles of the public and private sectors. It needs institutions and regulations to allow and monitor the private delivery of infrastructure services and utilities, such as telecommunications, stock exchanges, and power.

In general, a clear priority of the PA should be to establish an efficient, effective, and transparent institutional and administrative framework to implement new legislation and to enable the private sector to make a healthy contribution. This would also counter the perception that public office allows special commercial privilege. For this reason, too, the PA should address the market-distorting effects of the public import monopolies and quasi-monopolies it has formed since 1994. It should also prepare legislation preventing monopolistic practices and requiring disclosure of all concessions, incomes, and expenditures.

Similarly, the PA should reform the system through which it requests and distributes Israeli permits for the entry of Palestinians to Israeli territory for business or travel or other purposes. This will make the application process more transparent and less vulnerable to manipulation or special privilege, and stimulate private sector confidence and activity. Intervention by senior officials in economic decisions, such as the daily setting of prices for basic foodstuffs by governors appointed by the Ministry of Interior, should also be ended.

The PA should in particular strengthen the Ministries of Finance and Justice so that they can provide such a regulatory and legal framework. It should also increase the autonomy and powers of regulatory bodies such as the Palestinian Monetary Authority, which should play an increased role in supervising the banking sector, and the Institute of Standards and Measurements, which has a major potential role to play in the internal and external trade of the WBGS.

Recommendations

1. Existing ministries and agencies dealing with the economy should be reviewed with the aim of reducing the overall number, merging or subdividing them as necessary in order to eliminate overlapping specialization and duplication of functions.
2. Sectoral working groups, development strategies, and other formal mechanisms should be established for consultation, coor-

dination, and collaboration between the ministries and agencies dealing with the economy.

3. The draft laws governing taxation, investment, company registration, competition, and other economic activities should be completed and promulgated as soon as possible.
4. The powers of regulatory bodies should be increased, and they should be made genuinely autonomous. The Palestinian Monetary Authority should play an increased role in supervising the banking sector.
5. The privatization of public import monopolies and quasi-monopolies established by the Palestinian Authority should proceed as promised, and all commercial concessions should be disclosed.
6. All public servants, both civil and police, and elected officials should be required to disclose, and if necessary divest, private commercial interests.
7. Legislation such as the Labor Law, which has already been drafted, should be promulgated without further delay. Provisions in laws that have already been passed, such as the establishment of a Higher Agency for the Encouragement of Investment, should be implemented.
8. Consultation and cooperation with local government on economic matters should be increased.
9. Rules of procedure should be prepared defining the formal obligation of public servants and institutions to provide access to various kinds of policy documents, technical studies, and statistical data.
10. Consultation and cooperation with academic councils and institutions of higher education should be increased.
11. Local sources of funding should be developed for specialized public institutions that are currently donor funded.

POLICE FORCE

Context

The provision of security has been a cornerstone of the Oslo framework, and for that purpose it envisaged the establishment of a “strong” Palestinian Police Force (PF). Its duties as defined most recently in Article IV, Annex I, of the Interim Agreement of 1995 are:

- Maintaining internal security and public order;
- Protecting the public and their property and acting to provide a feeling of security, safety, and stability;
- Adopting all measures necessary for preventing crime;
- Protecting public installations and infrastructure;
- Preventing acts of harassment and retribution;
- Combating terrorism and violence and preventing incitement to violence;
- Performing any other normal police function.

The PA undertook these tasks against a background of protracted past conflict with Israel and highly charged domestic political opposition to the Oslo framework. It faced major impediments, not least of which was a near-total lack of experience in civilian police functions and peacetime law-and-order operations. This was partly because the Palestinian police force under Israeli occupation never exceeded 1,000 for the whole of the WBGS, nor was it trained or authorized by the Israeli military government to operate in certain spheres. The mass resignation of police personnel during the intifada in 1988 left the WBGS largely without policing until the establishment of the PA in 1994, resulting in instances of vigilante violence and a general decline in the rule of law and public order.

The nascent police force in 1994 also lacked experience initially because the bulk of its personnel, especially at officer rank, were drawn from Palestinian National Liberation Army (PNLA) units

based in Arab countries. These personnel had a wide range of conventional and guerrilla military skills, but none in policing. The “returnees” also faced problems of integration with newly recruited local personnel, who tended to occupy the lower ranks in light of their inexperience and short period of service. The PA had to contend with the widespread expectation among former intifada activists that they were entitled to membership and rank in the police force in recognition of their contribution to the national struggle. This was especially true of local members of the principal PLO guerrilla group, Fateh, which was the backbone of support for the Oslo framework, and of activists who had served Israeli prison sentences.

Last, but not least, the physical separation of the West Bank and Gaza Strip has severely complicated the structure and functioning of the PF. The PF has had to form parallel commands and branches in each area, and to operate within the bifurcated legal, justice, and administrative systems inherited by the PA in the two areas. The division of the West Bank into Areas A, B, and C in accordance with the Interim Agreement of 1995 and the continued presence of Israeli settlement blocs in the Gaza Strip have further fragmented the territorial continuity that is necessary for the mobility and functioning of the PF.

Inventory

According to the Palestinian Israeli Interim Agreement of September 1995, the PF forms a single, integral unit under the control of the PA. It is composed of six operational branches: Civilian Police (including traffic police, Criminal Investigations Department, anti-drug unit, and riot police), Public Security Force (known in Arabic as the National Security Force), Preventative Security, Presidential Security (formerly Force 17), General Intelligence, and Civil Defense (Emergency Services and Rescue). The Public Security Force comprises six additional units: Intelligence (commonly known as Military Intelligence), Coastal Police (commonly known as Naval Police), Aviation Police, Border Police, Customs Police, and Disciplinary Police (commonly known as Military Police).

Strengthening Palestinian Public Institutions

All members of the six Palestinian Police Force branches are supposed to be subordinate to one central command in each district. The PF answers directly to President Arafat, but not in his capacity as minister of interior. Instead he has formed the Higher Council for National Security, composed of the heads and their deputies of all PF branches, to provide consultation and direction in operational matters. Arafat is also commander-in-chief of PLO forces outside the WBGS, a position that will not necessarily be held by any PA successor. The PF provides the members of the state security court in Gaza, which is convened by presidential order.

Achievements

The PF has made significant and impressive strides in achieving its main objectives since 1994. Above all, it has provided public law and order for Palestinians living under full PA jurisdiction in the WBGS, while working to fulfill PA security commitments toward Israel. The PF has shown itself capable of close and effective coordination with its Israeli counterparts in a variety of areas, subject only to the state of relations between their respective political leaderships. The PF has recently established new sections to deal with specialized civilian matters, such as the Legislative Council police and customs police. U.S. agencies have directly monitored PF implementation of security commitments toward Israel since the Wye River Memorandum was signed in October 1998, in response to Israeli security concerns. On several occasions since then the U.S. administration has confirmed PA adherence to the terms of the accord and authorized the release of pledged assistance.

Progress has required a considerable training and retraining effort for new recruits and ex-PNLA personnel, much of it in close coordination with the international donor community. The latter, in collaboration with local NGOs, has also provided training in human rights and the rule of law, especially for the civilian police. Institutional capacity and operational performance have varied from one branch to another and from one district to another, but the PF has clear internal statutes and organizational structures and is

in the process of ratifying its mission statements and rules of engagement.

Certain police branches are credited in particular with achieving commendable levels of performance and of internal discipline, in part thanks to their access to specialized training from the international donor community and to the lead taken by their commanders. For example, the Civilian Police have undertaken a conscious effort to develop community policing and has an active public relations program.

In the process, the PF has improved on certain shortcomings in its initial performance, albeit without eliminating them. Human rights violations continue, but the rate appears to be declining, partly as a result of domestic protest and external pressure. The aforementioned training in human rights has also helped reduce the incidence of violations. The same may be said of alleged corruption, extortion, and involvement by PF officials in undeclared commercial activities, although the reality and extent of such abuse or of its decline cannot be determined. The initial overlap and confusion of functions between the various PF branches have been reduced considerably, leading in turn to greater observance of proper rules of legal procedure, including the use of warrants.

The Higher Council for National Security has been instrumental in this regard, clarifying the division of labor between the various PF branches concerning powers of detention and interrogation in security and civilian cases. In particular, it has assigned all civilian matters to the Civilian Police branch, except where additional assistance is needed. In 1998 the Higher Council also drafted standardized mission statements and rules of engagement, although these have yet to be ratified by President Arafat.

Moreover, the PF has undertaken sensitive liaison and cooperation missions with outside parties. It is nominally responsible for and staffs the Palestinian side in the Joint Security Committee, subsidiary District Liaison Committees, and joint patrols with Israel Defense Force counterparts. It similarly seconds senior personnel to the EU-Palestinian permanent security committee and the trilateral U.S.-Israeli-Palestinian and bilateral U.S.-Palestinian security committees.

Challenges

Despite the existence of an organizational chart, there is a continuing need to clarify and rationalize the structure and legal basis of the PF. There is a pressing need for a Law of Establishment for the PF. The Oslo framework authorizes the establishment of the PF but provides no guide to its rights or to the limits to its power. This leaves the door open for intrabranh rivalry, human rights abuses, and poor procedural practice.

The fact that the various PF branches and even their subordinate branches and departments report directly, and separately, to the PA president has given rise to the widely held perception among the Palestinian public and international community that there is an uncontrolled and ad hoc proliferation of security agencies in the WBGS. This is reinforced by the fact that the president appears to make all senior appointments, including the heads of all branches and subordinate branches and departments.

The division of labor between PF branches has improved, but remains unclear and appears to depend on the president's choice in given circumstances rather than on formal and preexisting task descriptions. This complicates operational coordination and encourages rivalry, with the added consequence that certain PF branches are viewed by their commanders as power bases. Looking to the future, this could lead to potentially violent competition between certain branches and to their implicit intervention in civilian rule should a succession crisis occur in the presidency. This risk underlines the lack of political oversight by the cabinet, PLC, and judiciary.

The Oslo framework imposes a somewhat arbitrary and politically motivated unity of organizational structure on the PF. This compels the PA to group diverse police and security functions under a single command. These include border and coastal guards in Gaza, antiterrorist units, internal and external security, civilian policing, and public law and order functions.

The establishment of the Higher Council for National Security in 1994 thus becomes understandable. However, the fact that its own rules of procedure and area of functional responsibility remain informal undermines its ability to act as a balanced and effective

command structure. This is compounded by the fact that thirty to forty persons may attend any given meeting, making the council unwieldy and relatively inefficient while marginalizing the director general of the PF. The central administrative departments of the PF are similarly impeded in prioritizing and standardizing services such as training, which limits the potential benefits of international technical assistance.

Furthermore, the Higher Council for National Security's lack of clearly defined routine or functional autonomy is reflected in its inability to meet other than in the presence of the PA president. This could prove dangerous should a serious security threat arise in his absence. The council's subordination to civilian authority needs to be clearly acknowledged in the formal definition of its remit and rules of procedure. The lack of authority of the Ministry of Interior over any branch of the PF is worrisome in this respect.

Another problem is that the physical separation of the WBGS and difficulty of movement between West Bank cities have complicated local security operations and law enforcement. Still, the PA could do more to clarify and normalize the division of responsibilities and chain of command. Security committees comprising representatives of the various PF branches already provide a coordination mechanism among them and with local government in some West Bank cities, but not in all. Their relationship to municipal councils is not formally codified, and there is a risk that the PF may exercise excessive influence in municipal affairs. Further duplication and confusion of roles occur with the governors appointed by the president in the West Bank, who are officials of the Ministry of Interior and nominally responsible for internal security matters in their provinces.

The jurisdiction of the PF would be further clarified by the unification of the legal framework and justice system in effect in the WBGS. A problem of particular urgency is to enhance PF ability to enforce court decisions, possibly by the creation of a capable judicial police. It is equally important to empower the attorney general and assert the authority and autonomy of that office, especially in relation to the PF and the PA president. The recent

Strengthening Palestinian Public Institutions

extension of the power of state security courts to act in cases of smuggling by civilians, VAT evasion, and other “economic crimes,” further undermines the authority of civilian courts. It also confirms the need for clear separation of duties and jurisdiction. These steps are important to improve effectiveness and professionalism in the PF and to place its relations with the public on a healthy basis.

For the same reason, codification and ratification of PF mission statements and rules of engagement should be completed. The Higher Council for National Security drafted these documents in late 1998 and attempts to observe them in practice, but they have yet to be ratified by President Arafat. It is also apparent that PF personnel at all levels are often frankly ignorant of the existence or pertinence of formal rules of engagement. This indicates that standard rules and regulations are not consciously applied, even if and when they do exist. The situation may be better in the Civilian Police branch in particular, but there is a general lack of information and transparency on these matters, whether within the PF itself or among the general public and lawyers and human rights groups. Further improvement remains dependent on implementation of the long-standing project to establish a national police academy, providing training on the basis of a unified curriculum, with the assistance of the international donor community.

The PF has inherited internal statutes from the Palestinian National Liberation Army governing internal disciplinary and personnel matters, but their application appears to be subject to the president’s will. Of still greater concern is the need for a clear code of conduct governing the involvement of PF personnel in commercial activities of any type. Although most PF officers appear to behave properly, there is clear scope for abuse of position and privileged control over access to areas under PA security control. There have been reported instances of unauthorized action by certain PF branches in tax collection. PF facilities have also on occasion been constructed with donations from local merchants. This may reflect public support for the PF and the PA’s limited financial means, but it could equally lead to corrupt practices and a culture in which members of the public come to expect preferential treatment and services in return for material favors.

Questions of effectiveness and propriety arise in part because of the excessive number of PF personnel. Security and law enforcement are the single largest item in PA recurrent expenditure, accounting for some 30 percent of the general budget. There are understandable political reasons for overemployment in the public sector generally, but this has left basic pay in the PF one-third lower than in the civil service and below the income level required to avoid poverty.

Low pay also means lower-quality recruits, and a potential loss of better-trained and better-qualified personnel under the pressure of economic inflation or as conditions in the civilian economy improve. The added costs of training and equipping personnel prevent the PF from being cost-effective. Moreover, lack of transparency regarding personnel figures and expenses impedes political and financial accountability to the PLC.

Lower performance also means lower levels of approval and confidence, among both the Palestinian public and the PA's external counterparts in Israel and the international community. An excessively large PF is therefore counterproductive politically as well. A further political problem is the close identification of the PF in general, and of specific branches, with the dominant PLO faction, Fateh. Training based on a standardized national curriculum should emphasize professionalism and the rule of law, at the expense of partisan affiliation.

Recommendations

1. The Police Force should be brought under clear civilian authority, and should be made subject to political oversight by the legislative branch and to external audit by a body that reports to the legislature.
2. The chain of command within the PF as a whole and within its separate branches should be clarified and observed in practice.
3. The mission statements and rules of procedure drafted by the Higher Council for National Security for the various PF branches

Strengthening Palestinian Public Institutions

es should be ratified, implemented, and made available for public scrutiny.

4. Cost-effectiveness in the PF needs to be improved, in part by reducing personnel numbers substantially.
5. If it is to be retained as an organizational structure, the Higher Council for National Security should acquire clearly defined tasks and rules of procedure.
6. Unification of the legal framework and justice system in the WBGS would clarify PF jurisdiction. Its ability to enforce court decisions can be enhanced by the creation of a capable judicial police.
7. The long-standing decision to establish a police academy should be implemented, and a standard curriculum should be drafted.
8. The PF should prohibit its various branches from engaging in any form of revenue collection or commercial activity not authorized by their law of establishment.
9. The relationship between the PF on the one hand and local government on the other should be clarified.

ADDITIONAL VIEW

On the Importance of Establishing a Trend Line

This report is an impressive document. Its authors are to be commended for the work they did, and the Council on Foreign Relations should be commended for pushing the large project along and keeping it on a rigorous timetable.

I would like to make three general comments about the report. First, the detailed recommendations in this report go to the heart of governance. They apply, not just to the Palestinian Authority, but to many governments around the world. Yet, the Palestinian Authority exists in a complex environment over which it is not in complete control. It is not the government of a country. I view this report as a helpful road map for the Palestinian Authority. I hope it does not overwhelm the authority.

Second, the report should acknowledge that the implementation of its comprehensive recommendations, almost all of which are desirable, will take many years, perhaps decades, to achieve. Quick results should not be expected. The key is the trend line and the exhibited willingness of the PA to try to grapple with the myriad of proposals made.

Third, there is a message in this report for the United States and other donors. The report should have included some of the essential next steps of implementation that the Palestinians' international friends and regional colleagues can help facilitate. The value of the report will be greatly enhanced if the international community is able to find the basis for a coherent and coordinated plan to help the Palestinians help themselves.

Lee Hamilton

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(IN ALPHABETICAL ORDER BY AUTHOR)

Samir Abdullah	Ministry of Finance (<i>paper 1</i>)
Wassim Abdullah	Lobbying Institutions
Yara Abdul-Hamid	Monopolies
Yara Abdul-Hamid	Ministry of Labor
Yara Abdul-Hamid	Ministry of Trade and Economy
Omar Abdul-Razeq	Palestinian Central Bureau of Statistics
Rex Brynen	International Donor Community
Layth Dajani	Palestinian Economic Council for Development and Reconstruction
Ibrahim Deak	Ministry of Agriculture
Mohammad Hamdan	Palestinian Environmental Authority
Abdul-Rahman Hasan	Ministry of Energy
Ishaq Qutob	Ministry of Housing
Taleb al-Sarie	Palestinian Monetary Authority
Abdul-Rahman Tamimi	Palestinian Water Authority
Yousef Zummor	Ministry of Finance (<i>paper 2</i>)
Author not identified	Ministry of Tourism

GLOSSARY OF PALESTINIAN-ISRAELI ACCORDS

- * Declaration of Principles on Interim Self-Government Arrangements (Oslo Accord), September 13, 1993.
- * Protocol on Economic Relations (Paris Protocol, incorporated as Annex IV of the Cairo Agreement and as Annex V of the Interim Agreement), April 29, 1994.
- * Agreement on the Gaza Strip and Jericho Area (Cairo Agreement, Gaza-Jericho Agreement), May 4, 1994.
- * Agreement on Preparatory Transfer of Powers and Responsibilities (Early Empowerment Agreement), August 29, 1994.
- * Protocol on Further Transfer of Powers and Responsibilities, August 27, 1995.
- * Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip (Interim Agreement, Oslo II Agreement, Taba Agreement), September 28, 1995.
- * Protocol Concerning the Redeployment in Hebron (Hebron Protocol), January 17, 1997.
- * Wye River Memorandum, October 23, 1998.

ABOUT THE AUTHORS

YEZID SAYIGH is Assistant Director of Studies at the Centre for International Studies at the University of Cambridge and Consulting Senior Fellow for the Middle East at the International Institute for Strategic Studies (London). He was an adviser to the Palestinian delegation to the bilateral peace talks with Israel in Washington, D.C., in 1991–93 and a member of the Palestinian delegation that negotiated the Agreement on the Gaza Strip and Jericho Area (Cairo Agreement) of May 4, 1994. His publications include: *The Third World Beyond the Cold War: Continuity and Change* (co-edited with Louise Fawcett, Oxford University Press, 1999); *Armed Struggle and the Search for State: The Palestinian National Movement, 1949–1993* (Clarendon Press, 1997); and *The Middle East and the Cold War* (co-edited with Avi Shlaim, Clarendon Press, 1997).

KHALIL SHIKAKI is Associate Professor of Political Science at An-Najah National University (Nablus) and Director of Projects at the Center for Palestine Research and Studies (Nablus). He received his Ph.D. from Columbia University in 1985. His survey research work includes, since 1993, more than forty public opinion surveys on Palestinian domestic politics, democracy, governance, political affiliation, the peace process, security and violence, and many other issues. His publications include *Transition to Democracy in Palestine: The Peace Process, National Reconstruction, and Elections* (CPRS, 1996); and *The Gaza Strip and the West Bank: Future Political and Administrative Links* (Palestinian Academic Society for the Study of International Affairs, 1994).

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STRENGTHENING PALESTINIAN PUBLIC INSTITUTIONS

REPORT OF AN INDEPENDENT TASK FORCE
SPONSORED BY THE COUNCIL ON FOREIGN RELATIONS

Unlike most Independent Task Force Reports sponsored by the Council on Foreign Relations, this one on Strengthening Palestinian Public Institutions is not focused on U.S. policy. It does not take positions on the Middle East peace process, nor does it address the issue of Palestinian statehood. Its goal, instead, is a practical one: to assist the Palestinian Authority and organs of the international community—the World Bank, the International Monetary Fund, the United Nations, the European Union, and the donor community working with the Palestinian Authority—in improving the efficiency and credibility of the newly emerging Palestinian self-governing institutions. The distinguishing characteristics of this Task Force Report are its practical and detailed guidelines for the development of sound institutions and good governance.

The report performs diagnostic and prescriptive functions with respect to the public institutions of the Palestinian Authority. Its objectives are to determine the actual condition and effectiveness of those institutions, identify the difficulties they have encountered and the impediments to their effective functioning, and propose practical measures to improve their effectiveness and credibility in the medium to long term.

The Task Force finds that despite its significant achievements, the Palestinian Authority must make extensive changes to ensure good governance—including a participatory political system, a pluralist civil society, sustainable development, and a free market economy—during transition to a permanent settlement and beyond. Among other measures, the report urges that the Palestinian Authority adopt a constitution, establish accountability for the executive branch to the legislature, centralize all public revenues and expenditures in the Ministry of Finance, encourage devolution of programs and projects not related directly to the conduct of the presidency to appropriate ministries and municipalities, and ensure the independence of the judiciary.

THE COUNCIL ON FOREIGN RELATIONS ACKNOWLEDGES WITH GRATITUDE THE GENEROUS FINANCIAL SUPPORT GIVEN TO THIS PROJECT BY THE EUROPEAN COMMISSION AND BY THE GOVERNMENT OF NORWAY.



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