

Public Administration in the West Bank & Gaza: Obstacles and Opportunities

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Outline

Section One: Introduction and Context

Introduction

Public Administration: A Palestinian experience

Section Two: Civil Services

The legal basis

Employment

Section Three: Human Resources and Leadership in Public Administration

Introduction

The National Institute for Administration

The National Institute for Information Technology

Section Four: E-Government

Introduction

Public institutions

Private institutions

Non-governmental contribution

Section Five: Decentralization of Local Government and Decision Making

Introduction

The Administration system

The President of the PNA

The Prime Minister

The Ministerial Cabinet

Local government

Enhancing Community participation

Section Six: An Environment Conducive to Private Sector Investment

Introduction

The Legal framework

Future actions

References & Websites

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Section One: Introduction & Context

Introduction

The current status of Palestinian society is the product of successive wars, continued Israeli occupation, and uprisings. The 1948 and 1967 wars were two primary turning points that led to fragmentation and fragility. Palestinians became dispersed over several social formations and communities. About 58% of the Palestinians live outside of historical Palestine. The rest (42%) still live inside. The population of the West Bank and Gaza (WBG) comprises about 30% of the total population. Two out of five persons in the WBG are refugees. In Gaza, about 70% of the population is registered refugees with UNRWA. In general, three out of five persons live in urban localities. In Gaza, four out of five live in urban areas, compared with two out of five in the West Bank¹.

In a broader perspective, the continued occupation of the WBG and the deprivation of its population from basic human rights, such as the right to self-determination and the right to development, placed serious constraints on their ability to initiate and implement plans and strategies needed for the construction of basic institutional infrastructures and the achievement of any form of sustainable development.

At present, and with the establishment of the Palestinian National Authority (PNA) in 1994, Palestinian society continues to face constraints as the WBG is practically under a full-fledged military occupation. Much of the West Bank land is being used for settlement activities and for building roads that lead to these settlements. The construction of the Israeli Wall around and inside the West Bank is leading to the practical annexation of the land, and the fragmentation of the rest of it. Gaza is divided into three zones by settlements that sit on about 30% of the land. Natural resources, including water, are controlled by Israel. During the last four years, Israel continued to impose a closure around the WBG and an internal closure that prevents the movement of people, resources, and goods from city to another. Over 140 roadblocks were erected. The West Bank is practically divided into 220 isolated, closely-guarded segments².

Public Administration: A Palestinian Experience

The Palestinian experience in the field of public administration has passed through two primary stages:

Stage One: that covers the period from the establishment of the Palestinian Liberation Organization (PLO) in 1964 up until the signing of the Oslo Accord (1993). During the 1967-1994 period, the Israeli Military (Civilian Administration) took charge of what might be viewed as a public administration sector.

¹ M. Heiberg & G. Ovensen, *Palestinian Society in Gaza, West Bank and Arab Jerusalem*, FAFO, 1993, pp.21-28.

² Development Studies Programme, *Human Development Report*, 2002, pp. 13-16.

Stage Two: Started with the establishment of the PNA and its resumption of its public administration duties in the WBG.

Stage One: A Distant PLO, an Intrusive Military Administration (1967-1994)

The nature of the current public sector is highly influenced by the historical conflict between the PLO and the Israeli occupation concerning the control of the WBG. The PLO was established in 1964 as the representative of the Palestinian People in historical Palestine and the Diaspora. The PLO was comprised of a large number of institutions including:

- Political institutions such as the Palestinian National Council – PNC (parliament), the Executive Committee (ministerial cabinet), the Central Council, the Political Department, and PLO diplomatic missions.
- Financial institutions such as the Palestinian National Fund, which is responsible for managing financial resources and dispersing payments to all PLO institutions. The Fund was accountable to the PLO executive Committee; its head was elected by the PNC.
- Public employment sector which was represented through Samed - an institution that was responsible for securing jobs for Palestinians through productive activities.
- The Palestinian Liberation Army which was established and approved by Arab regimes in 1964.
- The Palestine Radio (Voice of Palestine) which was established in 1965 in Cairo.
- The PLO Research Center which was established to provide the PLO leadership with needed information and analysis.
- Unions and popular syndicates such the unions of Palestinian students, women, and workers.
- Specialized institutions such as the Department of Refugees and the Department of Culture³.

The PLO experience in institution – building and management left significant marks on the current public administration system, as most of the leadership of the PLO took charge of PNA institutions. It was the PLO that provided legitimacy to the establishment of the PNA. The relationship between the two bodies continues, as most PLO political organs are still active in determining public policy and strategies. The dominant (administrative and management) practices under the PLO continued to play a paramount role in the PNA. For example, much of the leading positions in the PNA institutions were filled on the basis of political sharing and quota practiced for decades among PLO factions. This situation leads to institutional entanglement and conflict. The vague relationship between PNA and PLO institutions hindered the establishment of a proper governance system that is characterized by transparency, separation of powers, and rule of law. The formal structures of the PNA were sometimes hostage to the informal (structures) of the PLO decision-making mechanisms⁴.

³ A. AbdulRohman, Palestinian Liberation Organization, Cyprus: PLO Research Center, 1987, pp.80-85.

⁴ Y. Sayegh & K. Shikaki (ed.), Strengthening Palestinian Institutions, Council of Foreign Affairs, 1999.

Another major factor that influences the current status of public administration in the WBG is the institutional heritage that the Israeli military administration left behind. During the years 1967-1994, it was the Israeli military administration that took charge of all institutions in the WBG, including education, health, agriculture, and other public services. The Military administration enacted more than 1264 military orders to ensure its full control of Palestinians. The policies of this administration were hostile to the local population, and therefore resisted, as they aimed at control and expropriation of land and resources⁵.

Under such circumstances, Palestinians residing in the WBG played a major role in resisting occupation and in securing some level of human development. Their experience must be viewed as an important entry point to the understanding of the development experience in the WBG. The formulation of development thought and institutions was primarily in reaction to the imperatives of the occupation. Most institutions were viewed in terms of (resistance, steadfastness, and liberation). Unions, political parties, NGOs, and other civil society organizations played a key role in preserving Palestinian society and its ability to persevere. With the establishment of the PNA, this vibrant and strong civil society proved to be an important factor in the process of institution-building. It played a key role in legislation, advocacy, lobbying, monitoring, and awareness-raising⁶.

Stage Two: A Disempowered PNA

The various political agreements among Palestinians and Israelis led to the establishment of the PNA in May, 1994. In 1996, a general election for the president of the PNA and the Palestinian Legislative Council (PLC) took place. An 88 – member council was elected at a 75% participation rate. In 1998, the regional and administrative authority of the PNA extended to about 70% of the Gaza Strip and 29% of the West Bank. These areas include about 78% of the population⁷.

The main components of the newly – established authority were the following: The President's Office, the PLC, the ministerial cabinet with its 24 ministries and other agencies, and the judicial authority. The legitimacy of the PNA was mainly derived from the political agreements signed with Israel, and the subsequent decisions made by PLO relevant institutions. These agreements and PLO decisions were not presented to the Palestinian population for a referendum, leading some in the opposition to believe that they were illegitimate⁸. However, the participation of 75% of the registered population in the 1996 election was anecdotal to the extent of support. In addition, public opinion polls showed a majority support of the agreements and the PNA (1993-1997)⁹. This support had been falling ever since, adding to the de-legitimization of the PNA among Palestinians. This situation was accompanied with additional challenges during the

⁵ R. Shehadeh and J. Kuttab, *Occupiers Law*, Geneva: International Commission of Jurists, 1988.

⁶ Development Studies Programme (DSP), *Human Development Profile, 1996-1997*, pp. 14-15.

⁷ This takes into consideration the Jerusalem Palestinian population which is estimated at 250,000.

⁸ Jibril Mohammed, *Introduction to the Concept of Good Governance in Palestine*, Ramallah Center for the Study of Human Rights, 2003, pp. 55-56.

⁹ An opinion poll, conducted by the Center for Palestine Research and Studies in 1993, had shown a 65% support for the Oslo Accord.

Intifada (Uprising) that started in September 2000. The years 2001-2004 have seen drastic decline in all human development indicators. Over 3000 Palestinians were killed, and 41,000 injured. The number of settlers is increasing at an annual rate of 4.4%; while thousand of dunums were confiscated, bulldozed, or burned. Thousands of homes and businesses were destroyed¹⁰. Israel continued to systematically destroy PNA institutions leaving them with almost no ability to provide any meaningful security or civil services. At the same time, political agreements that provided legitimacy to the current political and administrative structures were considered invalid by most Palestinians. The conflict, the Israeli practices, the continued occupation, the economic crises, and the growing social problems led to further weakening of public institutions and the growth of informal structures including alternative political groups (mostly of Islamic nature).

Box 1: Deterioration in Living Conditions

A survey of Palestinians had shown that 42% have no working breadwinner; 15% of the households have no income. The monthly income of 25% of the households is less than \$160. Over 79 of the households have a monthly income that is less than \$380 (\$1.9 per family member per month). Over 61% feel insecure, and 32% are pessimistic¹¹. In addition, 82% expressed that they have seen a decline in their living conditions since September 2000¹². The per capita income (in 2003) had fallen to 55% of its original value in 1999. Poverty rates have increased to 60%¹³ and unemployment is at 32%. The most important factor in preserving living conditions from complete deterioration is external funding which amounts to about \$80 million per month¹⁴.

In addition, international donor countries and political powers play a vital role in Palestinian public administration. Recently, international pressure on the PNA led to serious step sin the fields of administrative and financial reform. The Quartet (comprised on the UN, the United States, the EU, and Russia) is currently playing an influential role in facilitating the reform efforts in institution building. The reform process is a complex one and receives varied evaluations form all parties concerned¹⁵.

Section Two: Civil Services

The Legal Basis

The legal basis for PNA institutions are derived from a number of sources. The 1994 Cairo Agreement transferred the (power of authority) from the Israeli military, and specified the structure, responsibilities, and jurisdiction of the various PNA institutions. A 1995 Israeli a Palestinian Agreement elaborated on the (constitutional) aspects of the PNA. It was decided that a (Self – Rule Council) would be elected and

¹⁰ The Palestine Monitor Website: www.palestinemonitor.org.

¹¹ DSP, Opinion Poll # 12, May 2003.

¹² DSP, Opinion Poll # 11, March, 2003.

¹³ The latest World Bank data show that poverty rates have increased to 75% and unemployment rate is at 53% (2003).

¹⁴ Prime Minister’s Speech before the PLC, December 3, 2003.

¹⁵ A detailed paper on the reform issue is being drafted by Dr. Samir Abdallah for the UNPA project to be presented at Naples, Italy 17-20 May, 2004.

that this Council will have legislative powers. The elected Council (later became the PLC) was entrusted in the preparation of the legal basis needed for the functioning of the PNA. It was also responsible for spelling out the relationship between the executive, legislative, and judicial authorities. The most important legal document prepared by the PLC was the (Basic Law), which served as a transitional constitution. This document was approved by the PLC in 1997, but never signed by the President until March 2003. Still, it served as a legal reference (de facto) utilized to clarify the vague relationship between the authorities. By the end of 2002, the PLC had enacted 35 laws; among the most relevant are the following:

- Local Council's Election
- Local Council's Law
- Monetary Authority
- Investment Promotion
- Civil Service Law
- Public Budget & Financial Affairs
- Public Procurement
- Higher Education Law
- Industrial Cities and Zones
- Natural Resources
- Civil Affairs
- Lawyers Affairs
- Environment Law
- NGOs Law
- Commercial Agents
- Labor Law

In addition, the PLC made over 430 decrees by the end of 2000. These decrees are related to the following issues: political, economic, financial, social, human rights, public freedoms, separation of powers, and monitoring of the executive¹⁶.

All of these laws and decrees attempt to bring about some unification and clarification of the dominant – multiple legal frameworks. A mix of legal frameworks exist in Gaza, including the Anglo-Saxon tradition (from the British Mandate before 1948), the military and civilian law as under Egypt (between 1948-1967), and the Israeli Military Laws. In the West Bank, a Napoleonic tradition was dominant, which was further refined and elaborated under the Jordanian authority (between 1948-1967). The Israeli Military introduced new laws during the period of 1967-1993¹⁷.

Upon its resumption of authority, the PNA resorted to the British Emergency Laws that were first implemented in the 1930s and 40s. The PNA created (Government Security Courts). These laws were not accepted by the PLC. Furthermore, the Interim

¹⁶ PLC, Laws and Decrees 1996-2000, Ramallah: PLC Publications. For more on the legislation process, see also: Hussein Abu Hanoud, A Report on Legislations and Processes within the PNA, Ramallah, The Palestinian Independent Commission for Citizens' Rights, 1998.

¹⁷ R. Shehadeh and J. Kuttab, cited earlier. 1988.

Agreement with Israel prohibits the PNA from canceling any military orders in anyway that might conflict with the political agreements.

Employment

The Basic Law articulated the functions and authorities of public administration. Article (86) of the Law specifies that “all public appointment at all government ranks must conform to the legal requirements.” Another article (87) states that “The law organizes all aspects of civil services. The Public Employment Office, in coordination with all relevant governmental institutions, must seek to develop and promote public administration. The Public Employment Office must be consulted regarding the laws and bylaws concerning public administration in the PNA.”

The PNA public sector grew rapidly during the period of 1995-1998. The various data reveal that over 142,000 Palestinians were employed by the PNA (2002). In 1997, 20% of the labor force was employed in the public sector (about 28% in Gaza and 15% in the West Bank). Over 40% were employed in security – related institutions. The average increase in the number of PNA employees was 30% per annum between 1994-1997 (43% in the security sector and 57% in the civil sector). In part, the dramatic increase in employment in the public sector came as a result of higher unemployment rates resulting from the continuous closure of the Israeli market, and the deterioration of economic conditions. The PNA sought to reduce unemployment and poverty rates through public sector employment. The increase is also due to the duplication and overlap in the work of governmental institutions¹⁸.

Table 1: Number of PNA employees and their distribution between civil and security sectors

End of year	Civil	Security	Total
1994	25,500	14,000	39,500
1995	34,800	24,000	58,800
1996	41,020	34,020	70,040
1997	48,400	38,400	86,800
1998	----	-----	92,000*
2002			142,000

Source: *for the years 1994-1998, from World Bank Mission to the Palestinian Territories, 1999. The 2002 figure is from Mr. Salam Fayyad, Minister of Finance, Budget Speech before the PLC, 2003.*

* *Some estimates show the number at over 100,000.*

In terms of quality, the PNA has drawn on three distinct labor pools: PLO institutions, public employees who served under the Egyptian, Jordanian, and Israeli governments, and those working for civil society organizations and private sector in the WBG. About 44% of all general directors in PNA ministries spent most of their working life outside of Palestine, while 46% did so in Palestine. The majority describe themselves

¹⁸ DSP, Human Development Report, 2002. For more on labor force, see also: Palestinian Bureau of Statistics, Labor Force Survey (2002), Ramallah, 2003.

as Fateh supporters, while the rest were independents, leftists, or affiliate with religious groups¹⁹.

Management of Employment in the Public Sector

The expansion of public sector employment led to an increase in expenditures on current costs at the expense of investment, which in turn increased PNA budget deficit, currently covered by grants, donations, and loans. The political nature of state-building and employment practices led to an organizational structure that, in many cases, might be described as (inverted pyramid) where a large number of senior and mid-level management posts were created. The dominant employment patterns had also led to difficulty in devising job descriptions based on a sound management rational²⁰.

The employment process was highly centralized and non-competitive. In a survey of general directors, 52% felt that employment takes place through a centralized non-competitive manner. Only 19% felt that the employment process expressed free competition. In addition, 29% felt that combination of competitive and non-competitive mechanisms are used in recruiting new employees²¹.

The centralization of the employment process is manifested in the creation of the (General Personnel Council– Diwan). The Diwan was responsible for all civil sector employment. Employment in the security sector was managed by the (Directorate of Organization and Management). Generally, employment in the public sector was not done on the basis transparent and professional criteria²².

Demands for a law that organizes the relationship between government and staff had been intense for a long time. Discussions went on for many years. In 1998, the Civil Service Law was signed by the President of the PNA. In 2004, its implementation is still at its early stages.

Box 2: Civil Service Law

The Law emphasized the following aspects:

Article (4): Each government agency must work to specify its mission, objectives, tasks, and make sure that they are understood by the general public. It must also device its organizational structure, with job descriptions for each post.

Article (5): Each government agency must establish a personnel section that works on creating an environment conducive to more productivity. The section must utilize modern

¹⁹ A survey of (general directors) conducted by the DSP at Birzeit University, 1998. Fateh is the largest PLO faction led by Mr. Yasser Arafat, the President of the PNA. For more on employment practices, see: Aziz Kayed, Public Sector Employment Practices within the PNA, Ramallah, The Palestinian Independent Commission for Citizens' Rights, 2003. For more on public sector employees, see also: Majed Sbeih & Mamoun AbuAlia, Characteristics of the Employees in Public and Private Sectors, Ramallah, Palestinian Bureau of Statistics, 2002.

²⁰ DSP, Human Development Report 1998-1999, pp.70-76.

²¹ The same survey mentioned previously.

²² Sayegh & Shikaki, *ibid*.

styles of management in dealing with human resource.

Article (7): The General Personnel Office is entrusted in monitoring the proper implementation of the Law; preparing criteria for selection and promotion of staff; and putting together a comprehensive register of all government staff.

The rest of the articles provided details on employment rules and practices, promotion, compensation, evaluation, incentives, proper conduct, penalties, vacations, and retirement.

Proponents of the Law feel that it is one of the most progressive in the region. It provides a great deal of equity between the ranks. It also provides organizational and substantial clarifications concerning the functioning of public institutions. The Law ended the existing conflicts between the various laws, and unified the legal frameworks in Gaza and the West Bank. Opponents claim that the articles of the Law are vague especially those relating to the payroll. The Law is based on the ability of all government institutions to develop and reform their organizational structures. This is something that most were unable to do yet. The responsibilities of the Ministry of Finance and the General Personnel Office are entangled and cause confusion. Most important is that critics had doubts about the financial abilities of the PNA to implement the Law. This was later evident in the failure to actually implement parts of the law in the last few years²³.

Section Three: Human Resources and Leadership in Public Institutions

Introduction

As mentioned above, the human resources available are diverse in terms of views on development, governance, and community participation. They are also diverse in terms of their educational background and level of skills. The nature of their experiences is also different; some came from a PLO experience (with its revolutionary nature). Others came from Israeli – based institutions through their work with the Israeli civil administrations. The rest came from civil society organizations and NGOs with grassroots directions. This diversity led to some strife in terms of reaching a level of consensus on what the PNA institutions are all about and what must they serve. Their work styles were different; some tended to be more authoritarian, while others were more casual. The ability of all of these human resources to serve was limited by the weak nature of institution building. Their ability was also negatively affected by the political nature of the leadership. Most appointments were based on political favoritism rather than competence and professional needs.

All of these factors have meant a great need for capacity – building, training, and unification of work practices. They also meant a diversity of training and capacity building needs and priorities. It must be stated that all relevant parties were interested

²³ Palestinian Center for Human Rights (PCHR), Public Service Law between Theory and Reality, Gaza: PCHR, 1999, pp. 10-20.

in capacity – building and training programs. Most of the training was conducted in conjunction with specific projects; these projects were not connected into a national development plan. Individual institutions, in coordination with their funding sources would create their own training programs. This led to fragmentation, duplication and waste of resources. It was also impossible to assess the value of these segmented programs in building the capacity of individuals and institutions. Complaints were also made in relation to the high expenses of international consultants and trainers. The value of their contribution was not felt enough as it did not feed into sustainable structures and processes. Palestinian NGOs played a significant role in providing training for government employees.

Recently a number of attempts were made to unite efforts and place training attempts into a wider plan of action. The focus was on two overriding priorities: public administration and information technology. To meet these priorities, two national training centers were established:

The National Institute for Administration²⁴:

This is a governmental institute that was established through a presidential decree early 2004, to help develop the capabilities of public institutions and local councils. The institute became under the management and administration of Palestinian Economic Council for Development and Reconstruction (PECDAR). The work of the institute is coordinated with all ministries and public institutions; they all have a training focal point that communicates needs and coordinate with the institute. The training needs of public administration employees, as assessed before the establishment of the institute, were within the following 10 areas:

- 1- Public administration: organizational management, comparative public administration, empowering women leaders, time management, decision making skills, evaluation of performance, better services to the public, better management of human resources, democratic management, use of technology in management, leadership skills, information management, data analysis, organizational skills, executive secretary, ethics in public administration, and crisis management.
- 2- Financial management and accounting: financial strategy, financial planning, financial management, government accounting, management of financial resources, and procurement and contracting.
- 3- Local councils: much of the previous fields, in addition to participatory approaches, budgeting and project planning, management and implementation.
- 4- Reform: transparency and accountability, reinforcing the rule of law, innovation and creativity, decentralization, and means to combat corruption
- 5- Law: legal reform, preparation of legal documents, legal aid, training of lawyers and judges.
- 6- Commercial attaché: diplomatic work, technical and administrative aspects, legal aspects, economic aspects.
- 7- Public relations and media

²⁴ see PECDAR's Activity Report, 2001.

- 8- Writing and analysis skills
- 9- Human and social skills: communication, negotiation, conflict resolution, social problems.

The recent nature of the institute does not allow for proper evaluation. The expectations from such and institute are high.

The National Institute for Information Technology:

The Institute was established to meet the increasing demand for competent information technology specialists. The institute provides vocational training related to information technology.

International donor institutions play an instrumental role in providing training and capacity – building for PNA institutions. UN agencies, the World Bank, international governmental aid agencies, and NGOs provide funding for training and capacity – building. For example, the UNDP provides training and capacity – building through a number of programs including its TOKTEN program that brought hundreds of expatriates to provide expertise and work closely with Palestinian institutions.

Section Four: E-Government

Introduction

There is a growing realization among policy makers and community leaders of the vital role, which information technology plays in economic and social development. This is especially true in the case of the Palestinians. The continuing closure, restrictions over movement and fragmentation of society require innovative means to communicate and access various information sources and services provided by government. The inability of central government to provide field services might require innovation in the utilization of electronic means to reach local communities. Electronic government could be the best means to unify and manage governmental institutions forcefully scattered all over a divided country. The use of modern communications means (mobiles and electronic mail) is becoming prevalent in Palestine especially among younger people. Literacy of modern communication means is also high among children and youth. The Ministry of Education had introduced computer literacy courses the curricula starting with grade five. Computer labs are becoming part of the school system. Of course, the distribution of these facilities is uneven. On average every one hundred students have access to one computer in government schools in year 2000. This represents a major improvement from the year 1997-1998, where the average was 188 students per computer in all schools. In the UNRWA schools the rate was over 2000, compared with 205 in government schools, and 33 in private schools. Technology is also going into Palestinian homes; over 50% of the households are connected with a phone line; another 50% are connected through mobile phones. The number of subscribers to regular phone services went from 83,331 (in 1996) to 301,579 in 2002. Over 94% of households own a TV set, and about 45% have access to satellite stations. Over 13% of the households have their own computer, with about 8% having access to internet from home (which makes the WBG number 6 in the Arab

world). Over 300 Internet café's exist in most towns and villages. Against all odds, the size of the information technology sector went up by 50% during the last 3 years. That is partly due to the tight closure that the Israeli military is imposing on the Palestinians²⁵.

The Palestinian technology market is wide open to Israeli companies that have almost full control. In contrast, Israeli technology is not transferred to the Palestinians through the current arrangements, ensuring dependence on Israeli providers.

The PNA involvement in the electronic services is recent given the direct challenges that it faces. The limited resources were directed at tackling immediate economic and institutional damage caused by the Israeli occupation. The absence of a convincing development vision and long term planning contributed to the lag. The challenges were accompanied with some modest, but significant, attempts. These attempts came from public, private, and civil society institutions.

Public institutions:

The efforts by public institutions could be summarized in the following:

- 1) Every ministry and government agency had put together an electronic site.
- 2) The Government Computer Center was established in 1994 within the Ministry of Planning. It was faced with the challenge of sorting through the inherited system that was previously by the Israeli civil administration. It was also entrusted in putting together a national computerized network for information. The Center had also trained a government cadre in the field of Computer skills and information technology, assisted other ministries in building their data systems, and provided all government institutions with specifications that must be met when purchasing new technology.
- 3) A Ministry of Communication and Information Technology was established in 2003. The ministry started regulating the communication and technology sectors through new legislations and monitoring mechanisms. The Government Computer Center is now under the auspices of this Ministry. The strategy of the Ministry calls for the introduction and institutionalization of an (electronic government) and adopts the goal of transiting all government institution to the information age.
- 4) The National Institute for Information Technology (listed above) which provides training n the field of information technology ad communication.
- 5) The Ministry of Labor also provides training courses to craftspersons and other unskilled workers in the field of information technology.

Private institutions:

The efforts of private sector institutions complement the work of public institutions. Among the most important actors in this field are the following:

²⁵ Palestinian Central Bureau of Statistics, 1999, 2000, 2001; World Summit on the Information Society, Contribution from Palestine, Geneva: 2003 (website: www.wsis-03/GENEVA/CONTR/007-A).

- 1) Palestinian Tele-Communication Company: is the only provider of regular telephone services in the WBG. Its monopoly over this service was approved by the PNA and will continue until 2007.
- 2) Jawal: the only Palestinian provider of mobile services; its work is instrumental in promoting the use of technology in all aspects of life including banking, payment of bills, and other daily services. Israeli companies compete with Jawal for local market.
- 3) Private computer and software companies: a large number of private companies provide services that are imported from 15 international companies. Other companies produce their own soft wares that serve the needs of universities, public libraries, and businesses. One of the most important internet providers is Palestine-on-line.
- 4) Private training centers: a large number of training centers work in the WBG. They provide training in various computer and communication.

Non-governmental contribution:

The non-governmental sector had been supportive of the use of new technology and information systems in Palestinian society. The various contributions focused on the promoting the role of technology in development.

- 1) Universities have played a major role in introducing information technology to the work of various institutions. Their role was encouraged through the signing of agreements with interested international companies. In addition, expatriates played a role in promoting an information technology culture in way of promoting communication among Palestinians within historical Palestine and in the Diaspora. An IT Center of Excellence was established in Al-Quds University; others are planned for Hebron and Al-Najah Universities. Electronic educational programs are increasingly utilized, in addition to educational gateways, vocational and continuing education, and training of government employees in the field of information technology. The utilization of electronic services is increasing in terms of its quality services. For example, Birzeit University provides on-line access to a huge data bank on legislations in Palestine through the last two centuries. Birzeit also uses an educational computerized program to teach courses in case of closure. The same program is used for registration and for accessing the various libraries of the University.
- 2) Palestinian IT Companies Association (PITA) which has 75 members. It provides networking and lobbying services. It also provides member companies with training and capacity building. Furthermore, it works to promote the marketing capabilities of its members of neighboring countries.
- 3) The Palestinian National Internet Naming Agency (PNINA) which is a new agency that manages the whole issue of addresses especially the

Palestinian address (.PS). It represents government, private, and non-government institutions.

- 4) Internet Society (ISOC-PS): which serves to promote the culture of information technology, protect the rights of consumers, and advocate for proper legislations.
- 5) The Welfare Association which provides training to Palestinian individuals and institutions. It works with international agencies such as Future Children, Microsoft, and Intel. The services of the association are provided through a large number of training institutions especially in marginal areas.
- 6) Palestinian Trade Center (Paltrade): its involvement in information technology is in two directions: IT diffusion, and marketing of Palestinian IT in regional and international exhibits.

Other local and international actors play an important role. UNDP was the first to assist in putting together and internet service for Palestinian universities. USAID provides funding for various organizations. EUMEDIS, the World Bank, the International Telecommunication Union (ITU), Ford Foundation, GTZ, Islamic Bank, EU, and British Council are among the international actors.

The interest of the PNA in promoting the concept of an electronic government was confirmed during the meeting of the Ministerial Cabinet of February 7, 2004. The following decisions were made:

- 1) Establish a governmental communication network; the Ministry of Communication and Technology was asked to prepare a feasibility study.
- 2) Form the Supreme Committee for the National Strategy on Information Technology.
- 3) Support the budget allocation requested by the Ministry of Communication, and provide the Ministry with qualified staff.
- 4) Build a headquarter for the National Computer Center²⁶.

Section Five: Decentralization of Local Government and Decision Making

Introduction

Article (85) of the Basic Law states that “The country is organized around local administrative units that have legal status, for each unit there will be an elected local council. The law must specify the rights and duties of these units, their financial resources, and relationship with the central government, role in planning and implementation, and monitoring mechanisms.” The various laws and documents provide elaborate explanations of the vision of the PNA on decentralization. This vision is far from implemented in reality.

²⁶ Refer to the Prime Minister’s Council website: www.pna.gov.ps.

Palestinian governance system suffers from the entanglement of roles, responsibilities, and decision making powers. This is especially evident between what constitutes the (central government represented by various ministries) and the local government represented by local councils. The appointment of (governors) for each district adds to the complexity of the situation. A number of PNA institutions that have vital roles (Oil Council, Housing Council, PEC DAR, Palestinian Energy Agency, and Palestinian Central Bureau of Statistics) are independent from relevant line ministries and difficult to monitor.

The Administration System

The March 2003 amendment to the Basic Law brought about more clarity to the public administration system. Article (69) stated that: the Ministerial Cabinet has the right to establish or eliminate agencies, institutions, authorities and any other administrative units within the executive branch.” While this amendment was criticized for abandoning the role of the legislature and providing further power to the executive, it was primary in the re-organization of government structure, which is comprised of the following primary elements:

1) The President of the PNA

The authorities of the president were explained through article (34) which states that: the president must be directly elected by the general public according the Election Law. The same article states that: the President is the higher commander of the security forces. In the Palestinian case it is restricted to internal security and police forces, as there is no army. The role of the president is somewhat conflicting with the role of the Minister of Interior who has direct control of security forces. The Basic Law provides the president with further authorities including: the appointment of foreign delegations and the acceptance of foreign diplomatic missions to the PNA, sign all legislations, and grant special pardon.

The president is exempt from being accountable to the PLC; in fact, he has equal and parallel powers. The PLC has no authority to remove the president. In contrast, the ministerial cabinet is obliged to report to the president and every minister is to provide periodic financial report to him. In this sense, the president does not only hold executive power, but also legislative. This combination provides him with the right to veto all decisions made by the PLC. The president continuously utilizes a Fatah majority in the PLC to pressure its members to make concessions and, in some ways, to impose his will on the legislature.

Furthermore, the relationship between the president and the ministers is one of almost full control; they are unable to make any significant decisions without referring back to the president. This control extends to most new appointments in the executive branch. He is also in charge of appointments in the judicial branch. He appoints the general attorney, district attorneys, and the judges in all courts. In many ways, the judicial system became an organ of the executive.

This concentration of power is added to the fact that the current President is the head of the PLO and the head of the PNA. The PLO is the source of legitimacy for the current PNA²⁷.

Box 3: Monitoring Bodies and Accountability Systems in the WBG

The work of the public sector is monitored through a number of governmental and non-governmental mechanisms. Much of the focus is on reform, fighting corruption, and building professional institutions. The transitional period creates additional challenges to these mechanisms, as relevant setups must take into consideration the political instability and its real impact on the existing public administration system. The existing monitoring mechanisms might be divided into four categories:

- Internal monitoring through the Directorate of Monitoring and Auditing which is responsible for financial related issues; and financial monitoring units in each Ministry.
- External monitoring through the General Control Agency, the General Personnel Office (both are governmental mechanisms). In addition there is the Independent Palestinian Commission for Citizens Rights (quasi governmental).
- The PLC which produces a periodic report evaluating the performance of all public institutions and takes a critical stand on corruption and mismanagement.
- Judicial mechanisms through the General Attorney and the Justice Supreme Court.

In terms of accountability, most are internal mechanisms that are integrated into the organizational structure of public institutions. However, there are times when official investigation committees are established either by a decree from within the Ministry or the President.

This elaborate monitoring system is not accompanied with sufficient or proper legal system that organizes the work of these various outfits. Some of them still use pre-1967 laws; the General Personnel Office did not use the new Civil Service Law (of 1998) until this point of time. Many of these outfits lack skilled technical and administrative staff. A culture of (corruption) prevents these institutions from delivering results, which lead them to lose credibility²⁸.

2) The Prime Minister

The position of the prime minister in the PNA authority was introduced recently in 2003. This introduction, while representing widespread sentiments within Palestinian society, it came as a direct result of international pressure on Palestinian leadership. This new position was introduced mainly for political reasons in an attempt to reduce

²⁷ For more details, see the following references: Aman Coalition for Integrity and Accountability, *The Amended Basic Law of the PNA*, Jerusalem, Aman, 2003; Adnan Amro, *Principles of Administrative Law in Palestine*, Jerusalem, Arab Modern Printers, 2003; Jibril Mohammed, *Introduction to the Concept of Good Governance in Palestine*, 2003.

²⁸ Aman Coalition for Integrity and Accountability & MIFTAH, *Monitoring Agencies and Accountability Mechanisms in Palestinian Public Institutions*, Ramallah: Aman & MIFTAH, 2003.

the authorities and powers of the current president. However, the fact that a prime minister was appointed had an impact over the administration of the PNA. The prime minister according to the Basic Law (amended in 2003) has the following tasks:

- Form a ministerial cabinet, add, or accept the resignation of its members.
- Call for and reside over the weakly cabinet meetings.
- Supervise the work of the ministers and heads of government institutions.
- Introduce regulations within his capacity and according to the law.
- Appoint a deputy in case of his absence. (Article 68)

The appointment of the prime minister did not create any power shift in Palestinian political structure. It also led to limited changes in executive and legislative powers. The president is still the focal point in Palestinian decision making.

3) The Ministerial Cabinet

The cabinet is considered the executive branch of the government; it works within the parameters of the legislations created by the PLC (Article 69). Among its tasks are the following:

- Develop public policies in line with government general policy directions approved by the PLC.
- Prepare the public budget for PLC approval.
- Put together an administrative cadre, structure, and hierarchy and provide the staff with the needed resources to implement policies.
- Supervise the work of all ministries and government institutions and oversee their performance.
- Establish new institutions and cancel existing ones according to the needs of the community.

The clarification of duties and structures did not resolve the problems related to performance. The various ministries still work as separate units without real coordination. Their work is highly scattered and misguided by personal conflicts and interpretations. The weakly meeting of the cabinet still spends much of its time on political issues relating to the negotiations with Israel and external relations.

4) Local Government

The PNA continued to establish a local governance system ever since its establishment. Data show that the number of local authorities is 521 in the WBG (107 municipalities, 11 local councils, 374 village councils or project committees, and 29 refugee camp directors). The number of council members was 3,779²⁹.

The current political and security situation had mixed impact over the powers of the local councils. In many ways the deteriorating power of the central government and

²⁹ Palestinian Bureau of Statistics, Survey of Local Communities (2003): Basic Results. Ramallah, 2003, p.27.

its loss of control and resources led to chaotic relations between the local governments and the central authority. The relationship between them became one of confusion and lack of harmony. Strong local councils became somewhat stronger and weak ones became even weaker. The weak performance of the three branches of government led to the weakening of local councils. In contrast, the weak presence of the PNA in some communities encouraged local participation and initiative. This implied the establishment of various community – based organizations. Local councils played a major role in this process. This phenomenon was limited to some communities that originally had access to resources and were not reliant on work in Israel or on government funding as a primary source.³⁰

Among Palestinian policy makers, a consensus seems to exist on the vital role of decentralization. Those are reflected in the literature of the Ministry of Local Government and the various laws including the Basic Law and the Local Councils Law. In reality, local councils remain subordinate to central government bodies. Community participation is restricted to the reception of services and executing decisions made by central government. All heads and members of local councils were appointed by central government through the Ministry of Local Government. A number of these councils had to resign as they were unable to function given their illegal status as viewed by community members and because of lack of support from central government³¹. Opinion polling had shown continuous support for local council elections; over 75% expressed their interest in participation in such elections³². Some decision makers feel that these elections are not feasible given the political and security reality imposed by the occupation. Others feel that elections will lead to the improvement of political and development conditions in the WBG. Some feel that elections must take place gradually in areas where they are possible.

In addition, articles 8 and 11 of the financial system of local councils (March 1999) states that councils have no right to amend budget without the approval of the Minister of Local Government. Local councils also do not receive their share (90%) of local property taxes and licensing fees collected by the Ministry of Finance. The financial crisis is further amplified by the fact that the majority of residents are unable to pay their dues, mainly as a result of the economic crises and increasing poverty rates. The latest budget presented to the PLC reflected greater attention to these limitations, and increased the share of local councils in the budget from 1% to 3% (2003)³³.

Central PNA institutions find themselves unable to work harmoniously with local communities and councils. This is a result of the closure and restrictions over movement, but also because of increasing bureaucracy. The residents of local communities find themselves confused about institutional jurisdiction, concentration of decision making in few individuals and within the areas of Ramallah and Gaza. Rural

³⁰ See Sarah Jessup, Community Action and Resource Mobilization, DSP, in print.

³¹ Most notable are the municipalities of Nablus and Gaza which are the largest and most funded two councils.

³² DSP Public Opinion Poll # 15, February 2004.

³³ Ministry of Finance, General Budget, 2003.

areas suffer from the highest rates of poverty. This is accompanied by the fact that 25% of the West Bank population has no local representation (municipality, village council, or local committee). This rate varies from one area to another. It is highly correlated with poverty and small size communities. The rate is 44% in the Hebron District, 25% in Jenin, and only 6% in Ramallah. It is also worth noting that most refugee camps have no (local councils), instead they have a director of camp appointed and employed by UNRWA³⁴. Each refugee camps has a (popular committee), composed of local representatives, that serves as a local council.

Donor funding plays an important role in shaping the nature and extent of local participation. Donor institutions are the most important source of funding for local councils. The donors did not allow local residents to play a primary role in assessing needs and priorities, and in relation to sustaining projects. They did not adequately support the process of building the capabilities of local councils and institutions. The work of donor institutions directed at poverty alleviation is not coordinated or unified to serve one strategy. The focus of most donors was on showing tangible results leading to funding of short term projects that are not sustainable or infrastructure. The absence of a unified legal framework and standards that govern the work of the international agencies complicated the situation even further.

Enhancing Community Participation

In general the ability to practice a decentralized governance style is very much affected by the general political environment that has influence on all aspects of Palestinian lives. The ability of any local council to function is contingent on the living standards in the area and the level of experience that it accumulated through time. The scope of public participation is generally limited, influenced by the absence of a participatory development vision, and the prevalence of overly centralized, ineffective work methods. Participation levels are also linked to the general political and economic situation, higher poverty rates lead many people to stay away from participating in public life. Social and cultural constraints play a primary role when it comes to the participation of women, children, and youth. Only 1.5% of local council members are women³⁵. A child – based local governance is not practiced³⁶. Occasionally, a few councils take the views of children and youth into account.

Enhancing active community participation in local government will require concerted efforts on all sides including the central government, local councils, civil society organization, and donor institutions. Some elements that might play a positive role are the following:

- Holding free and regular elections for the legislature and local councils.

³⁴ DSP, Human Development Report, 2002, pp. 75-85.

³⁵ For more on the participation of women in local councils, see Nader Said, Women, Election, and Local Government, Women Affairs Technical Committees, 19996.

³⁶ For more on children and local councils, see Nader Said, Child – Based Budgets in Local Councils, Secretariat for Palestinian Children, 1999.

- Strengthening and reforming PNA institutions in away that they would be able to empower local communities and delegate authority.
- Encouraging civil society institutions to take an active role in organizing local citizens and raising awareness about the duties and rights to citizens.
- Institutionalizing participatory mechanisms through legislations and regulations to ensure the inclusion of all groups.
- Forming lobbying groups to monitor the functioning of local and central government.³⁷

Section Six: An Environment Conducive to Private Sector Investment

Introduction

The Palestinian economy underwent drastic transformations after the establishment of the PNA in 1994. New opportunities and challenges were present. In an opinion poll conducted a few days before the signing of the Oslo Accord, over 65% of the respondents believed that the peace process will bring about economic benefits. The overall performance of the Palestinian economy in the few years to follow did not conform to these expectations: the real GNP decreased by 18%, and per capita GNP decreased by 35% between 1992 and 1996. The data also show that the contribution of the private sector in the GDP fell from 87.6% in 1994 to 75.1% in 1996. However, it must be noted that even with this decrease, the private sector continued to play the main role in productive activities. The peace process led a great deal of optimism among investors; about 75% of private investments were jointly made between local and expatriate Palestinian capital³⁸. In 2003, about \$500 million were invested by the private sector³⁹.

In terms of distribution of investment among the various sectors, it was evident that most of it went into construction (64%) and equipment and tools (30%). The size of licensed construction went from 1.76 million square meter in 1996 to 2.36 million square meter in 1999, and started falling in 2000 (1.8 million). It must be noted that 81% of the construction goes to private housing.

The Ministry of Economy had established an (Investment Promotion Agency) that was responsible to encourage local and international investment and to supervise the implementation of the relevant laws. The number of registered companies had reached 6481 during the period of 1994-2001. This tendency to register was further fostered by the signing of the Private Investment Law (1995), where local and international investors were provided with various incentives. By February 2002, 324

³⁷ Human Development Report, 2002; Consultation Group for Rural Development (ARD) Decentralization in Local Government in Palestine, February 2000; The World Bank, West Bank and Gaza- Social Analysis of the Rural Sector within the CDF (unpublished study), 1999; The World Bank, Aid effectiveness in the West Bank and Gaza, 2000.

³⁸ Human Development Report, 1998-1999.

³⁹ From Mr. Salam Fayyad, Minister of Finance, Budget Speech before the PLC, 2003.

projects were eligible for benefits according to the Law, of which 67% are local and 33% were joint or international. The total capital of projects that benefited from the Law was \$200 million between 1998-February 2002, the majority of which were in the industrial sector.

Private economic investment was accompanied by an increase in public investment, from 16% in 1995 to 20% in 1998. The mentioned percentage is relatively high compared with an international average of 10%. This is partly due to an increase in spending on infrastructure projects; the PNA increased its spending on infrastructure from \$190 million in 1995 to \$508 million in 2001. In addition to public monopolies owned and run by the PNA (such as the cement industry and petroleum), the share of the PNA in private companies reaches up to \$344.6 million. The returns from these investments comprise 9% of the Palestinian budget (at \$160 million in 1999)⁴⁰. Government investments in private businesses are supervised by the (Palestinian Company for Commercial Services⁴¹). The Economic Committee of the PLC had declared that the economic activities of the PNA might be divided into formal, visible monopolies (that are illegal), and hidden informal monopolies that are not monitored⁴². When the auditing process of all PNA investments was completed, over \$600 million were retrieved and taken under the control of Ministry of Finance⁴³.

The last two years have witnessed extensive activity to bring about financial and administrative reform. Internal and external pressure led to some significant changes especially in employment and financial practices. The pressure also led to the privatization of a number of public monopolies. The communication industry is monopolized by one company. This monopoly is not supervised by any binding legal terms, nor monitored through a specialized agency. An agreement with the company was reached without following bidding procedures. It must also be mentioned that political favoritism plays a major role in the privatization process. The most important industries in the country (e.g., building material, cigarettes) are now owned by well-known political figures.

The legal Framework

The most important piece of legislation related to investment is that of the (Promotion of Investment Law) enacted in 1995 and amended in 1998. The Law was primarily enacted to balance the risks created by the Israeli actions and the political instability. It was also enacted to encourage private investors from within Palestine and outside. It provides tariff and tax incentives, guarantees concerning expropriation and control by government, freedom to move capital and profits, and means to resolve disputes without discrimination among investors.

⁴⁰ For more details, see the PNA official website: www.pna.org.

⁴¹ Replaced in 2000 by the Palestinian Investment Fund, which became functional only in 2003.

⁴² Basem Makhoul, Investment and investment environment in the WBG, Institute of Economic Policy Research, 2002. For more on the role of the public sector in the economy, refer to: Nidal Sabri, The Public Sector and the Palestinian Economy, Ramallah: Muwatin, 2003.

⁴³ Statement by Mr. Salam Fayyad, the Minister of Finance, 2003 (see: www.pna.ps/Arabic/details.asp).

The following critical comments were made in relation to the Law:

- The minimum capital required is relatively high (\$100 thousand). The 1999 data show that the average capital for an industrial institution is about \$33 thousand⁴⁴.
- The law did not specify a number of employees, which could lead to attempts to minimize employment in private sector companies that benefit from the Law.
- The Law treats all projects equally in terms of their (added value). In addition, it does not take into account the use of local raw materials as an additional incentive.
- The grace period for exemptions could reach up to 26 years; it was recommended that this period not exceed 15 years.

In general, the Palestinian Law is more progressive in terms of its incentives to the private sector compared with neighboring countries. And in addition to the Law, the PNA had reached a large number of agreements that provide preferential treatment to Palestinian producers. These agreements include Arab countries, the United States, Canada, and the European Union.

It must be stated that work towards reaching a better investment environment was confronted by the continuation of occupation, the closure imposed on the Occupied Territories, and political instability. The near destruction, or annulment, of PNA institutions contributed to a drastic decline in the potential for attracting investment.

A strategy for the current stage must include a number of survival policies⁴⁵:

- Reconstruction and compensation for the damage caused by Israeli practices.
- Responding to the basic needs of the Palestinian people by supporting more productive sectors.
- Enhance labor absorptive capacity of the Palestinian economy.
- Avert the collapse of Palestinian public institutions.
- Improve public sector performance⁴⁶.

Future Actions

Keeping these real challenges in mind, a number of actions need to be taken to improve development possibilities, public administration services, and investment environment:

- The PNA must work towards a clear economic and development vision; its adoption of (free market and free trade) policies needs further clarification and

⁴⁴ Palestinian Bureau of Statistics, Industrial Survey, Ramallah, 1999.

⁴⁵ Mohammad Nasr, Enhancing the Capacity of Palestinian Economy, Palestine Economic Policy Research Institute, 2003, pp. 7-12.

⁴⁶ See also: David Seoul, Governance and the Environment for Private Sector Work in the WBG, Economic and Social Development Group, 2001.

elaboration. Such a vision must keep in mind long term implications of economic policies and its relationship with the needs for sustainable human development. Within this context, economic policy makers must set forward specific goals that reflect immediate priorities especially in the areas of job creation and poverty reduction.

- Specific mechanisms must be devised to promote the role of the (Higher Development Council) and the (Investment Fund).
- Major improvements must be introduced to the administrative structures and practices of the various ministries and government institutions. The strengthening of central institutions must be accompanied by the empowerment of local government and civil society organizations.
- The legal environment must be further improved; additional legislations and means to implement these legislations must be introduced. These legislation must take into account the need for transparency, individual and business rights, protection of private property, respect for contracts, and the rule of law.
- The Conduct of a comprehensive review of the situation of infrastructure in the WBG, and the allocation of roper budgets to rehabilitate and build proper infrastructure.
- Continue to develop the capabilities of human resources in PNA institutions in the areas of management and administration, information technology, better service delivery⁴⁷.
- The adoption of a financial policy that is conducive to development. Such policy must balance current spending with investment spending. It also requires drastic reform in PNA institutions through the introduction of work and financial standards, uniform and simple management mechanisms, and better tax practices.
- Reform has been taking place as a result of internal and external pressure; while slow, some significant steps took place. A recent study had shown that financial reform took priority and achievements were made. For example, the general budget of 2003 was presented to the PLC within the legal requirements. The Palestinian Investment Fund (established in 2000) became functional in 2003. Most notable is the ability of the Ministry of Finance to unify the exiting budgets in one general budget, the proceeds of government investments are now part of the general budget⁴⁸.

⁴⁷ The section on investment benefited from: Basem Makhoul, Investment and investment environment in the WBG, Institute of Economic Policy Research, 2002; and Fadel AlNaqeeb, The Palestinian Economy in the WBG, Beirut: Institute of Palestine Studies, 1997; Samir Abdallah, The Cairo Agreement and other Economic Agreements, Majalat AlSiyasa AlFalastineya, 1994, pp. 42-51.

⁴⁸ Mohamed AbuSharkh, Financial Reform in PNA institutions, Center for Media and Information, 2004.

Box 4: Reform Priorities as Viewed by the Public

The following percentages of Palestinian respondents feel that these steps must be taken to achieve meaningful reform in the WBG:

- Ending Israeli Occupation (96%)
- Reforming public institutions (94%)
- Reforming local councils (89%)
- Reforming NGOs (87%)
- Reforming political parties (83%)
- Reforming international funding organizations (83%)
- Reforming the work of UNRWA (80%)⁴⁹

The PNA had officially adopted a number of mechanisms to promote the role of public administration and strengthen the role of public institutions. In its June, 2002 meeting, the President had declared that the PNA will be taking the following steps to achieve reform:

- 1) Reinforce the principle of separation of authorities-powers, where an empowered PLC and an independent judiciary will be promoted.
- 2) Restructure PNA ministries and agencies to provide better civil services, and to use the most efficient management mechanisms in running their work.
- 3) Prepare to carry out general elections, and work on internal elections within the various unions and civil society organizations.
- 4) Put into action the laws passed by the PLC.
- 5) Rebuild the infrastructure destroyed by the occupation.
- 6) Restructure the Ministry of Interior and modernize its organs.
- 7) Promote security and the rule of law.
- 8) Device mechanism for better financial performance.
- 9) Put all financial resources within the jurisdiction of the Ministry of Finance.

These are some of the actions needed to promote the role of civil service in the WBG. A great deal of work on the side of all parties must take place before they are transformed into reality. The ending of the occupation and the achievement of independence and peace are basic requirements.

⁴⁹ DSP, Opinion Poll # 11, March, 2003

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