

The *Amended Basic Law of 2003* stipulates: ‘*The security forces and the police shall be regulated by law.*’¹ This clause was already present in the very early drafts of the Palestinian ‘quasi-constitution’. Yet, after more than ten years of Palestinian self-rule, there is little legislation regulating the work of the security organisations of the Palestinian National Authority (PNA). In fact, they still operate in a partial legal vacuum.

As the Israeli-Palestinian agreements provided the basis for the establishing of the security organisations, the PNA felt little need to endow them with a sound legal basis. It was only after the outbreak of the second *Intifada* in 2000 that the absence of a legal framework for the PNA security sector became a problem. The deteriorating security situation and the rise of armed groups called for efficient security organisations. But in order to build stronger security organisations, their mandates and accountability mechanisms needed to be defined by law. Rather reluctantly, the late PNA President Yasser Arafat in August 2004 called upon the Palestinian Legislative Council (PLC) ‘*to elaborate the necessary laws to ensure an efficient and controlled working of the security forces.*’²

SSR in the Palestinian Context

The *Oslo* period, during which a negotiated solution of the Israeli-Palestinian conflict was to be reached, ended in 2000 without any permanent agreement. However, during the following years the Palestinians continued to prepare for statehood, with the PNA acting as if it had full sovereignty over the West Bank and Gaza. This gave the PNA a quasi-state character, despite its very limited and fragmented territorial jurisdiction.

At the same time, Palestinians started to call for more democracy and began to look towards elections as the way for putting their house in order. Accelerated by the inauguration of a new President, municipal elections were held in 2004 and 2005 and legislative elections in January 2006.

Palestinian public and leadership attitudes towards the PNA security organisations also changed. Rather than simply an instrument for implementing the security obligations of the *Oslo Agreements*, the PNA security organisations came to be seen as the embryonic security and defence apparatus of a future Palestinian state.

These state-building efforts contrasted sharply with political realities on the ground, where Israeli policies created facts, which made the establishment of a viable Palestinian state increasingly less likely.

The 'Constitutional' Framework and its Ambiguities

The *Oslo II Agreement (1995)* provided for the adoption of a *Basic Law* by the PLC. However, the scope of the *Basic Law* was to be limited to issues dealt with in *Oslo II*.³ In other words, the *Basic Law* is not the constitution of a sovereign state but a transitional document which is to be replaced by a Palestinian constitution once statehood is attained.⁴ This is despite the fact that the PNA and the PLC managed to increase their popular legitimacy through elections.

In this context, the creation of a legal framework for the PNA security sector, as called for in the *Amended Basic Law (2003)*, was difficult for three reasons. Firstly, almost all issues relating to security governance were already regulated in the *Oslo Agreements*. Secondly, *Oslo II* restricted new legislation. It explicitly stated that any legislation exceeding the jurisdiction of the PLC 'shall have no effect and shall be void ab initio'.⁵ This left little room for the PLC. It also banned the PNA President from promulgating any Palestinian legislation which contradicted the Agreements.⁶ Thirdly, Arafat, from a very early stage on, monopolised all security decisions. He could invoke the *Oslo Agreements* which invested the PNA President with large powers, such as vast administrative authority and a veto to block PLC legislation.⁷ The PLC was thus unable to issue legislation in any field that the President considered his prerogative.

The Beginning of the Palestinian SSR Process

Pressured by Palestinian reformers and the international community during the *Intifada*, the late Arafat reluctantly acquiesced in institutional and security reforms. In 2002, he created the post of Minister of the Interior and gave the PNA Cabinet responsibility for ensuring 'public order and internal security'⁸; this was a significant step towards parliamentary oversight because the *Basic Law* enabled the PLC to censure ministers through motions of confidence.⁹ Arafat also ordered three internal security organisations – *Civil Police*, *Preventive Security* and *Civil Defence* – to be placed under the control of the Ministry of the Interior.

The following year, Arafat approved the creation of the post of the PNA Prime Minister which was envisaged to take over responsibility for domestic governance. In 2004, he issued a decree calling for the unification of all PNA security organisations into three branches: 1. *National Security Forces (NSF)*,

2. *Internal Security Forces (ISF)*, including *Civil Police*, *Preventive Security* and *Civil Defence*, and 3. *General Intelligence (GI)*.

However, the practical impact of these reforms was rather limited. Until his last day Arafat continued to exercise direct control over the Palestinian security sector. Although a legal justification for this could be found in the *Basic Law – Article 39* states that the PNA President is the Commander-in-Chief of all Palestinian security organisations –, Arafat's dominating role in security and security sector governance was primarily a function of power and customary practice; since he had become the lynchpin of Palestinian politics in the 1970s, Arafat considered the PLO and later the PNA security sector crucial pillars of his rule, and he was very reluctant to yield any control over them. This virtually precluded any efforts at institutionalisation and reform.¹⁰

The Legal Framework for Security Sector Governance

The legal framework of the PNA security sector currently includes security laws enacted prior to the establishment of the PNA and security laws enacted by the PNA. The first group of laws stems mainly from British, Egyptian and Jordanian legislation.¹¹ Some of these laws still remain in force, whereas others have been totally or partially replaced by PLC legislation or PNA presidential decrees.¹² The second group includes laws which directly regulate the structure and authority of the various security organisations and their relations to the Executive, Legislature and Judiciary. It further includes laws which regulate the security organisations indirectly, because they also apply to other sectors of the PNA. These include the *Law of the Organisation of the General Budget and Public Finance No. 7 of 1998*, the *Public Meetings Law No. 12 of 1998*, the *Law of the Judicial Authority No. 1 of 2002*, the *Penal Procedure Law No. 3 of 2001*, the *Law of the Formation of Regular Courts No. 5 of 2001*, and the *Law of Illegal Gains No. 1 of 2005*.

Legal Development Efforts since 2004

Following Arafat's replacement, the PLC made increased efforts to amend and complete the legal framework for the security sector. In 2004 and 2005, the PNA enacted four laws that regulated human-resources management in the security sector for the first time. In an effort to institutionalise its security branches, the PNA also began to draft laws for the individual organisations, one of which was approved in 2005 (see Table 1).

Table 1: The Current Legal Framework for the PNA Security Sector

Law	Subject	Adopted in PLC	Referred to President	Ratified on	Ratified by President	Date of Publication in Official Gazette
No. 2 (1998)	Firearms and Ammunition	02.04.1998 (2 nd reading)	20.04.1998	20.05.1998		08.06.1998 (No. 23)
No. 3 (1998)	Civil Defence	31.09.1998 (2 nd reading)	20.04.1998	28.05.1998	ARAFAT	01.07.1998 (No. 24)
No. 6 (1998)	Correction and Rehabilitation Centres ('Prisons')	28.04.1998 (2 nd reading)	02.05.1998	28.05.1998		01.07.1998 (No. 24)
No. 12 (1998)	Public Meetings	25.11.1998 (2 nd reading)	19.12.1998	28.12.1998		13.03.1998 (No. 28)
No. 16 (2004)	Insurance and Pensions of the Palestinian Security Forces	22.12.2004 (3 rd reading)	07.10.2004	28.12.2004	FATTOUH	28.02.2005 (No. 53)
No. 3 (2005)	Amending Parts of Law No. 6 (1998)	08.12.2004 (2 nd reading)	11.01.2005	11.01.2005		23.04.2005 (No. 54)
No. 7 (2005)	Public Retirement	07.04.2005	11.04.2005	26.04.2005		27.06.2005 (No. 55)
No. 8 (2005)	Service in the Palestinian Security Forces	11.05.2005	14.05.2005	04.06.2005	ABBAS	28.06.2005 (No. 56)
No. 16 (2005)	Amending Parts of Law No. 16 (2004)	21.09.2005		23.10.2005		09.11.2005 (No. 60)
No. 17 (2005)	General Intelligence	21.09.2005		26.10.2005		09.11.2005 (No. 60)

Despite these efforts, by the end of 2005, only two security organisations – the *General Intelligence* and the *Civil Defence* – had their own laws. Draft laws for other security organisations were circulating in various stages of advancement; the *National Security Forces Draft Law* and the *Civil Police Draft Law* had been submitted to the PLC together with the *General Intelligence Draft Law* in February 2005, and the *Preventive Security Draft Law* was submitted to the PLC for general discussion in January 2006. As of May 2007, these draft laws were still awaiting approval.

The Council of Ministers (Cabinet) approved and transferred to the PLC the draft of a *Basic Security Law* in October 2005. This so-called ‘umbrella law’ is set to regulate the general structure of the security sector, including the responsibilities of the various agencies and civilian control. The draft presents several weaknesses. In its current state, some provisions of the draft conflict with existing security legislation, especially the *Law of Service in the Palestinian Security Forces No. 8 of 2005*. The draft of the *Basic Security Law* also contains controversial provisions in relation to the tasks and remits of the security organisations and the delineation of responsibilities between the President and the Minister of the Interior. According to the draft text, future amendments of the law would require a two-thirds majority. This would limit how major a role the PLC could play in the security domain. Moreover, although making reference to the National Security Council (NSC), the *Basic Security Draft Law* neither regulates its structure and mission, nor refers to the existing *National Security Council Draft Law* or the *Presidential Decree Concerning Reforming the National Security Council of 2005*. For these reasons and because the *Basic Security Draft Law* is likely to undergo significant changes in the PLC, it is not included in the comparative analysis below.

Functions of the PNA Security Organisations

A key rationale for the legislation efforts that began in 2004 was to define the responsibilities of the security organisations in the light of the rather generic provisions in the *Basic Law*, which addresses security sector governance only cursorily in *Article 84*:

‘The security forces and the police are regular armed forces, created as a service to the people, for the protection of the homeland and society, and for the maintenance of security and public order. They shall perform their duties, within the limits provided by law, with full respect to rights and freedoms.’

The current legal framework defines the responsibilities of the security organisations as follows:

- The *Civil Police* has the task of protecting public order and preventing crime. In the absence of PNA police legislation, Jordanian and Egyptian laws serve as the legal basis: in the West Bank, this is the *Jordanian Temporary Law No. 38 of 1965 Regarding Public Security*, in Gaza it is the *Egyptian Law No. 6 of 1963*. Both laws apply separately to Gaza and the West Bank.
- The responsibilities of the *General Intelligence*, as defined in *Article 9 General Intelligence Law No. 17 of 2005*, include: preventing ‘any acts that may place the security and safety of Palestine in danger’; ‘combating external threats to Palestinian national security such as espionage and sabotage’; and ‘cooperation with similar agencies of friendly states.’
- The mission of the *Preventive Security*, according to its draft law, includes: upholding internal security and combating internal threats against the PNA, including those aimed at international agreements; fighting regular crime; fighting economic crime and combating corruption; and counter-espionage.
- The *Civil Defence* is responsible for civil protection and emergency services. According to *Article 3 of the Civil Defence Law No. 3 of 1998* this includes the safety of communications and the protection of public and private infrastructure from ‘air raids, natural catastrophes, and fire.’

The existing legislation is incomplete and reflects more the status quo than a comprehensive vision of security. The mission of the *National Security Forces* is not yet defined by law and the *National Security Forces Draft Law* still awaits parliamentary approval. The stated responsibilities of the *Preventive Security* largely overlap with the missions of the *General Intelligence* and the *Civil Police*. Some agencies, as for instance the *General Intelligence*, had their prerogatives written into law. On the positive side, however, the current legal framework reflects sincere efforts to depoliticise the security organisations. For example, the *Law of Service in the Palestinian Security Forces No. 8 of 2005* bans security officers from political activities¹³; similar provisions are included in *Article 25 (5) of the General Intelligence Law No. 17 of 2005*. This is an important step, given that some security agencies resemble in fact political militias.¹⁴

Structure of the PNA Security Organisations

Up to now, Palestinian legislation has not provided a comprehensive framework for security sector governance. Only the *Law of Service in the Palestinian*

Security Forces No. 8 of 2005 regulates the security sector. Read in conjunction with the remaining legislation, the *Law of Service in the Palestinian Security Forces* organises the security sector as follows (see Table 2):

- The PNA security organisations consist of three branches: *Internal Security Forces (ISF)*, *National Security Forces (NSF)*, and *General Intelligence (GI)* (*Article 3*). The article also states that ‘any other existing or future force or forces will be integrated into one of these three forces.’ However, the article defines neither the mission of these forces, nor their mutual relations.
- The legal distinction between ‘military forces’ (NSF) and ‘security forces’ (ISF) indicates a willingness to differentiate between internal and external security functions, assigning them to the Ministries of the Interior and National Security respectively. This provision is in contradiction with *Article 1* of the *National Security Forces Draft Law*, which stipulates that the *National Security Forces* report directly to the President.
- The *General Intelligence* remains independent. The head of the organisation reports directly to the President. He enjoys broad discretionary powers. *Article 3* of the *General Intelligence Law No. 17 of 2005* confers on the head of the *General Intelligence* a ministerial rank.
- The President has the prerogative to appoint the heads of the security organisations. His appointments are not subject to an approval procedure. According to *Article 69 (7)* of the *Amended Basic Law (2003)*, the Cabinet only has the right to propose a candidate for the position of the Director-General of Internal Security (DGIS).¹⁵
- The law limits the term of office for top security commanders to three years, extendable for one year only. The commanders keep direct control over the internal organisation of their agencies.

However, the *Law of Service in the Palestinian Security Forces* is essentially a technical text. Functional differentiations between all components of the security sector would need to be laid down in a *Basic Security Law*. It is therefore no wonder that the current legal framework has many inconsistencies. For example, the relations between the Director-General of Internal Security (DGIS) and the heads of the three internal security organisations are not clear from the law. The *Law of Service in the Palestinian Security Forces* puts the DGIS in direct command of all three internal agencies; however, the *Civil*

Defence Law No. 6 of 1998 puts the *Civil Defence* directly under the Minister of the Interior (*Article 3*), and the *Civil Police* and *Preventive Security Draft Laws* do not mention the DGIS at all.

Table 2: Structure of the Security Sector according to the Law of Service in the Palestinian Security Forces

	National Security Forces	Internal Security Forces	General Intelligence
Articles	7 & 8	10 & 11	13 & 14
Definition	'A regular military organisation'	'A regular security organisation'	'A regular independent security organisation reporting to the President'
Political control (<i>ri'asa</i>)	Minister of National Security	Minister of Interior	Head of General Intelligence (with ministerial rank, but not member of the Cabinet)
Command (<i>qiyada</i>)	Commander-in-Chief	Director-General of Internal Security (position vacant until April 2006)	Head of General Intelligence
Appointment of commander	By presidential decree	By presidential decree on nomination (<i>tanseeb</i>) of the Council of Ministers	By presidential decree
Term of duty for commander	Three years; one-year extension possible	Three years; one-year extension possible	Three years; one-year extension possible
Authority of commander	'(...) shall issue forth the decisions necessary for the administration of its work and regulation of all of its affairs, in accordance with the provisions of the Law and regulations issued therewith.'	'(...) shall issue forth the decisions necessary for the administration of its work and regulation of all of its affairs.'	'(...) shall also issue forth the decisions necessary for the administration of its work and regulation of all of its affairs.'

The National Security Council (NSC)

In an effort to deflect domestic criticism of his autocratic rule over the security sector, Arafat established in 2003 the National Security Council. He did this by reactivating and reorganising the dormant 'Higher Council of National

Security¹⁶ established in 1994. Members of the NSC included Arafat as its Chairman, the Prime Minister, Ministers of the Cabinet and the top security commanders. In legal terms, the status of the NSC was problematic; established by presidential decree, it sought to replace the ‘constitutional’ responsibility of the Cabinet for upholding ‘public order and internal security’ (*Article 69 (7), Amended Basic Law 2003*); but was itself an un-constitutional body without any legal basis. In practice, legal considerations were irrelevant, as Arafat continued to control the security branches directly.

In November 2004, Interim President Rawhi Fattouh transferred the chairmanship of the NSC to the Prime Minister. However, President Mahmoud Abbas issued in September 2005 a presidential decree by which he transferred the chairmanship back.¹⁷ In his decree, he defined the functions of the NSC as follows:

- Formulation of security policies and plans;
- Threat identification and assessment;
- Coordination between political authorities and security commanders;
- Supervision of security cooperation with external actors;
- Security budget approval.¹⁸

Ironically, the PNA prepared at the same time a *NSC Draft Law* which adopted large parts of the mission statement from Abbas’ decree, but placed the NSC again under the chairmanship of the Prime Minister.

For political reasons, the NSC has remained inactive since 2005. The NSC’s structural relations with the security organisations have still not been defined. Yet, the NSC could prove important for Palestinian security decision-making in the future. Well-placed to coordinate the various actors, the NSC could become a sponsor and driver for SSR. Several preparatory steps are required to activate the NSC:

- The *Basic Law* needs to be amended to give the NSC a sound constitutional basis and to define its relationship with the Cabinet.
- For reasons of accountability, it is preferable that the Prime Minister head the NSC. In virtue of *Articles 74-79 of the Amended Basic Law (2003)*, he would then become accountable to the PLC.¹⁹
- Following the amendment of the *Basic Law*, a specific NSC Law should be adopted for regulating the relations between the NSC and the

security organisations. Alternatively, this could be done also through an amendment of the *Basic Security Draft Law*.

Addressing the Implementation Gap

If Palestinian SSR is to succeed, a comprehensive approach to security sector reform must be taken. Creating a legal framework for security sector governance is a crucial step but by itself not sufficient. A mere focus on the legal-technical aspects of SSR increases the risk of legislation becoming the target of reform rather than its tool.²⁰

A comprehensive approach to SSR first of all means that the PNA Executive must live up to its legal responsibilities and not to the interests of certain political actors or influential individuals. The government must ensure the practical application of security legislation through all administrative channels and in particular through the security organisations. The Minister of the Interior should assume the main responsibility for security and coordinate the implementation of reforms with all other stakeholders. The PNA President's role should be limited to facilitating and ensuring the harmonious cooperation between all Palestinian institutions and factions in SSR. Such a division of labour would also bring the Palestinian political system closer to the model of parliamentary democracy, which is the best guarantee for strong civil-democratic oversight.

A positive and supportive attitude of the PNA security commanders is crucial for the success of SSR; they have the power to spoil or facilitate reform. It is therefore vital that security commanders be committed to reform and help translate political decisions into practice. The security organisations need to overcome factional loyalties and develop a real national and professional ethos. Internal accountability mechanisms in the PNA security organisations must be strengthened.

At the same time, the legitimate interest of security personnel needs to be taken into account. This means that the political authorities cannot simply impose reform measures; rather, security officers need to be actively involved in SSR through information and consultation. In this, special attention must be given to remuneration issues, training needs and the physical safety of security personnel and their families. However, it should be kept in mind that real SSR also carries costs; many of those who benefit from the current system will lose their privileges.

The PLC and the Judiciary need to be overhauled, before a functioning oversight system can be put in place. The PLC should quickly amend and adopt the remaining security laws in order to create a strong legal framework. The Council should also draft and adopt legislation for the PNA Military Courts, which have so far escaped reform.²¹ Furthermore, the PNA President should officially abolish the State Security Courts which have long been operating beyond any procedural safeguards.²² In addition to that, the PLC should make effective use of the oversight instruments at its disposal. Regular updates of the Council by the government and increased hearings and debates on security sector activities are long overdue. The enforcement of the rule of law through an efficient justice system remains another priority. Courts must protect the rights of citizens and rulings must be implemented.

Finally, responsibility for addressing the implementation gap also falls on society itself. Legal reform often requires a change of cultural patterns. Much remains to be done for Palestinians in this area, as is evident from the ambiguous attitude to the issue of corruption; the Palestinian public considers fighting corruption a top priority, but practices of illegal rent-seeking are hardly challenged socially.

Conclusion

The PNA has undertaken some important steps over the past two years towards the creation of a legal framework for the security sector, which deserve to be commended. Despite many shortcomings, the current legal framework provides guidance to security practitioners. However, for strengthening oversight it is important to strengthen the institutions and this requires improvements in the legal framework.

Notes

¹ *Amended Basic Law (2003), Article 84 (2)*.

² Al-Tannini, M., 'Changes in the Palestinian Security Forces {Arabic}', *Majallat Markez al-Takhtet al-Filastini*, 2005, p. 18. Available at: <http://www.oppc.pna.net/mag/mag18/p3-18.htm> (Accessed 14 January 2005).

³ *The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995), Article 3 (7)*. The *Agreement* is referred to as *Oslo II* in the following.

⁴ The drafting of the *Basic Law* started with the declaration of Palestinian statehood by the PLO in Algiers in 1988 and continued in the context of *Oslo II*. Between 2001 and 2003, the PNA then prepared and published three drafts of a Palestinian constitution.

⁵ *Oslo II, Article 18(4)*.

⁶ *Ibid.*

- ⁷ The ‘presidential veto’ could take two forms: the President refusing to sign a law, or the President signing a law but refusing to ‘issue’ it officially in the Palestinian Gazette.
- ⁸ *Amended Basic Law (2003), Article 69 (7).*
- ⁹ See *Amended Basic Law (2003), Articles 77-79.*
- ¹⁰ See PICCR, *The Status of the Palestinian Citizens’ Rights during 2004. The Tenth Annual Report*, Ramallah 2005, p. 101.
- ¹¹ Israeli military orders, issued between 1967 and 1994, were abrogated by presidential decree after the establishment of the PNA.
- ¹² PNA laws replaced the following pieces of legislation over the last few years: *Law of Arms No. 20 of 1922* including its Gaza amendments; *Law of Arms and Munitions No. 34 of 1952* including its West Bank amendments; *Salary and Insurance Order Law No. 8 of 1964*; *PLO Executive Committee Chairman Order No. 6 of 1974*, including the *Pension Law for Palestine Liberation Army (PLA) Officers*; *PLO Executive Committee Chairman Order No. 7 of 1974 Regarding the Pension Law for PLA Officers and Soldiers.*
- ¹³ *Article 90*: ‘During military service, the officer shall be prohibited from:
1. Expressing political opinions and working in politics or affiliated with parties, entities, associations or organisations with political objectives.
 2. Participating in any demonstration or disturbances.
 3. Taking part in the organising of partisan meetings or electoral campaigns.’
- ¹⁴ The *Preventive Security*, for instance, has been described as the ‘practical expression of Fatah.’ Kelly, T., *Law, Coercion and Dispute Resolution: The Fragmentation of the Palestinian Legal System from the Oslo Peace Process to the Intifada*, Development Studies Institute, London School of Economics, 2003, p. 8.
Available at: <http://www.crisisstates.com/download/seminars/kelly.pdf> (Accessed 14 January 2005).
- ¹⁵ However, here there are inconsistencies between the *Law of Service in the Palestinian Security Forces* and the *Civil Police and Preventive Security Draft Laws*. According to the *Preventive Security Draft Law*, the President nominates the Director-General of Preventive Security (DGPS) upon the recommendation of the Minister of the Interior, while the Minister himself appoints the DGPS’s deputy (*Articles 13-14*). The *Civil Police Draft Law* states that the Cabinet appoints the Chief of Police upon the recommendation of the Minister of the Interior (*Article 5*). However, the *Law of Service in the Palestinian Security Forces* gives the right of appointment for both positions to the Minister of the Interior upon the recommendation of the Director-General of Internal Security (*Article 12*).
- ¹⁶ The Higher Council for National Security, established in 1994, was supposed to coordinate the work of the nascent PNA security branches and included the heads and deputy heads of all security organisations.
- ¹⁷ *Presidential Decree Concerning Reforming the National Security Council (2005)*. According to the decree, the exact tasks of the NSC are as follows:
- ‘To formulate security policies and plans based on the decisions of the President and supervise their implementation.
 - To identify the security responsibilities of the PNA on the basis of the political, economic and social threat environment.
 - To coordinate the work on the political and the security level and to ensure cohesion between both levels.
 - To approve the restructuring of forces and the transferral and promotion of personnel.
 - To approve the security budgets and supervise security expenditure.
 - To directly supervise security coordination with local, regional and international authorities.’

See also: Brown, N. J., 2005, *Evaluating Palestinian Reform*, Carnegie Paper No. 59 (June 2005), p. 16. Available at:

<http://www.carnegieendowment.org/files/CP59.brown.FINAL.pdf> (Accessed 14 January 2005).

- ¹⁸ The NSC comprises the President, the Prime Minister, the Ministers of the Interior, Foreign Affairs, Civil Affairs and Finance, the National Security Adviser, and the Head of the PLO Negotiations Department. The commanders of the security organisations can be summoned to attend sessions.
- ¹⁹ See also Shikaki, K., *National Security Council: an ineffective and unconstitutional Institution that should be dissolved* {Arabic}, PCPSR (Palestinian Center for Public Survey and Research, Paper No. 13 (June 2004). Available at: <http://www.pcpsr.org/arabic/strategic/papers/2004/no13.pdf> (Accessed 14 January 2005).
- ²⁰ Bahaa-Eddin, Z., 'Legal and Institutional Constraints Affecting Economic Reform', Newsletter of the Economic Research Forum for the Arab Countries, Iran and Turkey, Vol. 11 No. 2 (2005), pp. 16-19, p. 16. Available at: http://www.erf.org.eg/nletter/Newsletter_Sum04/NewForumNewsSum04-P16.pdf (Accessed 14 January 2005).
- ²¹ Military Courts are provided for in *Article 101 (2) Amended Basic Law (2003)* which gives the PLC the right to establish military judiciary institutions. The *Law of Service in the Palestinian Security Forces No. 8 of 2005* mentions Military Courts in *Article 95*. Military Courts have jurisdiction over crimes perpetrated by PNA security personnel and disciplinary matters; they operate on the basis of the *PLO Revolutionary Penal Code of 1979* and the *PLO Revolutionary Criminal Procedures Law of 1979*.
- ²² The State Security Courts were formed in 1995 by Arafat and deal with cases relating to regime security. The High State Security Court is based on *Order No. 55 of 1964 of the Egyptian Governor-General of the Gaza Strip* which itself refers to British Emergency Laws from the mandate period. In the West Bank, the State Security Courts apply the *Jordanian Penal Code of 1960* and the *Jordanian Criminal Procedures Act of 1961*. In Gaza, the courts apply the *Mandate Penal Code of 1936* and the *PLO Revolutionary Penal Code of 1979*. The status of the State Security Courts is unclear. In 2003, the Ministry of Justice abrogated them by decree and transferred all pending cases to regular courts. However, there has been no presidential cancellation of the 1995 decree. Also, the PNA does not fully implement the decision of the Ministry of Justice: Regular courts only reviewed a part of the sentences made by the High State Security Court in Gaza, and in June 2005 President Abbas approved the execution of four individuals one of whom was convicted by the State Security Court in Gaza in 2000. *PICCR, Status of Citizens' Rights*, p. 84.