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The Palestinian Legislative Council

The tenth term – first round. The first session / 13th meeting.
Held in the city of Gaza. Tuesday, Wednesday and Thursday 19-21, 2005

The Legal Committee

A draft law amending the Basic Law – 2003

Number of article	Original article	Proposed amendment
	The amending basic law	The term "amending" shall be cancelled to become the "Basic Law"
(5)	The governing system in Palestine shall be a democratic parliamentary system based on political and party pluralism. The President of the National Authority shall be directly elected by people. The Government shall be responsible to the President and to the Palestinian Legislative Council.	1- The governing system in Palestine shall be democratic parliamentary based on the parliamentary and presidential systems and is based on political and party pluralism. 2- the President of the PNA and the Vice President shall be freely and directly elected by the people. 3- the Government shall be responsible to the President and the Palestinian legislative Council.
(11)	1. Personal freedom is a natural right, and shall be guaranteed and protected. 2. It is unlawful to arrest, search, imprison, restrict the freedom, or prevent the movement of, any person, except by judicial order in accordance with the provisions of law. The law shall specify the period pre-arrest detention. Imprisonment or detention shall only be permitted in places that are subject to laws related to the organization of prisons.	1- the paragraph remains as is. 2- unless the person is found red-handed "Flagratne delicto", it is unlawful to arrest, search, imprison, restrict the freedom, or prevent the movement of, any person, except by judicial order in accordance with the provisions of law. The law shall specify the period of pre-arrest detention. Imprisonment or detention shall only be permitted in places that are subject to laws related to the organization of prisons.

(13)	<p>1. No person shall be subject to any duress or torture. All persons deprived of their freedom shall receive proper treatment.</p> <p>2. All statements or confessions obtained through violation of paragraph one of this article shall be considered null and void.</p>	<p>1- remains as is.</p> <p>2- remains as is.</p> <p>3- crimes of torture do not have a statute of limitations</p>
(19)	<p>Every person shall have the right to freedom of thought, conscience and expression, and shall have the right to publish his opinion orally, in writing, or in any form of art, or through any other form of expression, provided that it does not contradict with the provisions of law.</p>	<p>Freedom of thought is granted and every person shall have the right to publish his opinion orally, in writing, or in any form of art, or through any other form of expression, and in order to do so, every person has the right to access public information that interests him and that concerns the society, provided that it does not contradict with the provisions of law.</p>
(21)	<p>1. The economic system in Palestine shall be based on the principle of free market economy. The Executive Authority may establish public companies which shall be organized in accordance with law.</p> <p>2. The freedom of economic activity is guaranteed. The law shall organize its supervising rules and limitations.</p> <p>3. Private property shall be protected and, shall not be expropriated except in the public interest, and for a fair compensation in accordance with the law, or pursuant to a judicial order.</p> <p>4. Confiscation shall be in accordance with a judicial order.</p>	<p>1- to be canceled.</p> <p>2- remains as is.</p> <p>3- remains as is.</p> <p>4- remains as is.</p>

(51)	The President of the Executive Authority shall be elected in a general and direct elections by the Palestinian People in accordance with the Palestinian Election Law.	The President of the PNA and the Vice President shall be elected in a general and direct elections by the Palestinian people in accordance with the Palestinian Election Law.
(52)	Before assuming office, the President shall take the following oath before the Legislative Council, and in the presence of the Chief of the Palestinian National Council, the Chief of Supreme Court "I swear to Allah Almighty to be faithful to the Homeland and to its sacred places, and to the people and its national heritage, and to respect the Constitutional system and the law, and to safeguard the interests of the Palestinian people completely, as Allah is my witness".	<p>1- Before assuming office, the President and the Vice President shall take the following oath: "I swear to Allah Almighty to be faithful to the Homeland and to its sacred places, and to the people and its national heritage, and to respect the Constitutional system and the law, and to safeguard the interests of the Palestinian people completely, as Allah is my witness".</p> <p>2- The President and Vice President shall take the oath in the presence of the Chief of the National Council and Chief of Supreme Court.</p>
(53)	The term of the Presidency shall be the Transitional Phase, after which the President shall be elected in accordance with law.	The term of the Presidency shall be four years; the President has the right to nominate himself for a second term on condition that the President does not serve in this post more than two consecutive terms.

<p>(54)</p>	<p>1. The office of the President shall be considered vacant in any of the following cases:</p> <p>1st. Death</p> <p>2nd. Resignation submitted to the Palestinian Legislative Council if accepted by two thirds of its Members.</p> <p>3rd. Considered legally incompetent, as per a ruling issued by the Supreme Constitutional Court, and subsequently approved by two thirds of the Palestinian Legislative Council.</p> <p>2. If the office of the President of the National Authority becomes vacant due to any of the above cases, the Speaker of the Palestinian Legislative Council shall assume the powers and duties of the Presidency of the National Authority, temporarily for a period not exceeding (60) sixty days, during which free and direct elections to choose a new president shall take place in accordance with the Palestinian Elections Law.</p>	<p>1- Remains as is.</p> <p>2- To be cancelled.</p>
<p>(55)</p>	<p>The President is the Commander-in-Chief of the Palestinian Forces.</p>	<p>The President is the head of the PNA and the Commander-in-Chief of the Palestinian Forces. He establishes and awards ranks and titles and civil and military medals and other honorary titles.</p>
<p>New article</p>		<p>1- Upon a decision from the President of the PNA, a National Security Council shall be established with the task of deciding on security policies and strategies with its works to be organized and defined by a law.</p> <p>2- The President is the head of the National Security Council while the Prime Minister shall assume the post of Deputy Head of the National Security Council.</p>

(56)	The President of the National Authority shall appoint and terminate the services of the National Authority's representatives at foreign countries, international organizations and foreign agencies. Further, the President shall accept the credentials of foreign representatives at the Palestinian National Authority.	The President of the National Authority shall appoint and terminate the services of the National Authority's heads of representatives' missions at foreign countries, international organizations and foreign agencies. Further, the President shall accept the credentials of heads of foreign representatives' missions at the Palestinian National Authority.
New article		The Vice President shall assist the President in his duties; the President has the right to allow the Vice President to act on his behalf. Further, the President may delegate some of his jurisdictions to the Vice President.
New article		<p>1- If the office of the President becomes vacant due to any of the cases mentioned in article (54), the Vice President shall assume the authorities of the President of the National Authority for the remaining period of the President until holding general elections on the set legal and constitutional dates.</p> <p>2- if the offices of the President and the Vice President become vacant due to any of the cases mentioned in article (54), the Speaker of the Palestinian Legislative Council shall assume on a temporary basis the authorities of the President of the National Authority for a period of 90 days on condition that general elections are held within 60 days of the date when the offices of the President and Vice President became vacant.</p>

<p>New article Interim</p>		<p>1- The period that follows the effectiveness of the provisions of this law and until the next presidential elections are held according to the amended general elections law no. () of year shall be considered interim.</p> <p>2- the President of the National Authority shall have the right to appoint a Vice President in the above mentioned interim period on condition that the Palestinian Legislative Council ratifies this appointment by the absolute majority of the members of the Council.</p>
<p>New article</p>		<p>The Presidential Elections shall be held at the set legal and constitutional dates and the President and the Vice President shall be elected in free and direct elections.</p>
<p>(63)</p>	<p>The President shall perform his duties and exercise his powers in the manner explained in this Law.</p>	<p>The President shall perform his duties and exercise his powers in the manner explained in this Law. The President has the right to issue decrees and administrative and organizational decisions as deemed necessary for the public interest in accordance with the provisions of the law.</p>

<p>New article</p>		<p>1- the President of the National Authority has the right to call for general referendum regarding any of the following cases:</p> <p>a- signing agreements or treaties.</p> <p>b- regarding issues that concern the higher interests of the homeland.</p> <p>2- the referendum shall be conducted through a law to be ratified by the Palestinian Legislative Council and the results of the referendum shall be binding and effective if they get the relative majority of the votes of people participating in the referendum; the President of the National Authority has to publish the results within two weeks as of the date of declaring the final results</p>
<p>(59)</p>	<p>The President of the National Authority has the right to pardon or commute sentences. General amnesty, however, shall not be granted except through a law.</p>	<p>1- remains as is.</p> <p>2- the death sentence shall not be executed until the President ratifies the sentence.</p>
<p>(34)</p>	<p>1. The Palestinian Legislative Council is the elected legislative authority.</p> <p>2. Without prejudice to the provision of this law, the Legislative Council shall assume its legislative and oversight duties, as prescribed in its Standing Orders.</p> <p>3. The term of this Council shall be the interim period.</p>	<p>1- remains as is.</p> <p>2- without prejudice to the provision of this law, the Legislative Council shall assume its legislative and oversight duties over the executive authority and shall contribute in drawing up the general policies of the state and shall ratify these policies.</p> <p>3- the term of this Council shall be four years as of the date of electing the Council and elections for this Council shall be held once every four years on a regular basis.</p> <p>4- the term of the current Legislative Council shall end upon holding the first legislative elections after the effectiveness of the provisions of this law.</p>

(35)	<p>1. The Legislative Council shall be composed of 88 Members elected in accordance with law.</p> <p>2. If the position of one Member or more became vacant due to death, resignation, or loss of legibility, elections shall be conducted in the concerned constituency to elect a successor in accordance with law.</p>	<p>1- the members of the Legislative Council shall be elected in free and direct elections according to the provisions of the Palestinian Elections Law which will determine the number of members and constituencies and electoral system.</p> <p>2- remains as is.</p>
(43)	<p>Each Member of the Council shall have the right to:</p> <p>1. Submit to the Executive Authority all necessary and legitimate requests, which will enable him exercise his parliamentary duties.</p> <p>2- Propose laws. Rejected proposals shall not be resubmitted within the same term of the period of the year.</p> <p>3. Address inquiries and interrogatories to the Government or to any Minister, or alike. Interrogatories shall be discussed only seven days after submission, unless the addressee agrees to reply promptly or within a shorter notice. However, this period can be curtailed to three days in case of urgency as per the approval of the President of the National Authority.</p>	<p>1- remains as is.</p> <p>2- remains as is.</p> <p>3- Address inquiries and interrogatories to the Government or to any Minister, or alike. Interrogatories shall be discussed only seven days after submission, unless the addressee agrees to reply promptly or within a shorter notice. However, this period can be curtailed to three days in case of urgency as per the approval of the Prime Minister.</p>

(81)	<p>The beginning and the end of the fiscal year, and the general budget shall be regulated by law. If the general budget was not approved by the beginning of the new fiscal year, expenditure shall continue on the basis of monthly allocation of 1/12 of the fiscal year's budget.</p>	<p>1- The beginning and the end of the fiscal year, and the general budget shall be regulated by law. If the general budget was not approved by the beginning of the new fiscal year, expenditure shall continue on the basis of monthly allocation of 1/12 of the fiscal year's budget for a maximum period of three months.</p> <p>2- if the government does not submit to the Legislative Council the general budget within the first three months of the fiscal year, or if it submitted it and it was rejected by the Legislative Council, the government shall lose its term. The President of the National Authority, in accordance with the provisions of the law, shall commission whoever he deems appropriate to form a new government within a period not exceeding two weeks as of that date.</p> <p>3- the relevant legal provisions apply to the measures of forming and ratifying the government.</p>
(84)	<p>1) The law shall regulate the special rules related to the monetary authority, banks, financial papers market, foreign exchange and insurance companies, and all financial and credit institutions.</p> <p>2) The Governor of the Monetary Authority shall be appointed per a resolution issued by the President of the National Authority, and endorsed by the Palestinian Legislative Council.</p>	<p>1- remains as is.</p> <p>2- upon nomination from the Council of Ministers, the Governor of the Monetary Authority shall be appointed per a resolution issued by the President of the National Authority, and endorsed by the Palestinian Legislative Council.</p>

<p>(94)</p>	<p>1) A High Constitutional Court shall be established by law to ensure:</p> <p>One) The constitutionality of laws, regulations, rules, and others.</p> <p>Two) Interpretation of Basic Laws and legislative texts</p> <p>Three) Settle jurisdiction disputes which arise between judicial entities and administrative entities that have judicial jurisdiction.</p> <p>2) The law shall determine the way the High Constitutional Court is structured and composed, operating procedures to be followed, and the impact resultant from its rulings.</p>	<p>1- remains as is.</p> <p>One) the constitutionality of laws, regulations, rules and decisions.</p> <p>Two) remains as is.</p> <p>Three) remains as is.</p> <p>Four) to decide on disputes of jurisdictions between the three authorities and between the President of the National Authority and the Prime Minister.</p> <p>2) remains as is.</p>
<p>(95)</p>	<p>The Supreme Court shall assume temporarily all duties assigned to the administrative court and to the High Constitutional Court, unless they are within the jurisdiction of other judicial entities in accordance with applicable laws</p>	<p>Taking into consideration paragraph 2 of Article 94, the Supreme Court shall assume temporarily all duties assigned to the administrative court and to the High Constitutional Court according to the special laws for those courts and measures and standards of trials as stipulated in those laws, unless they are within the jurisdiction of other judicial entities in accordance with applicable laws.</p>

(98)	<p>1. The Attorney General shall be appointed through a decision issued by the President of the National Authority, based on a recommendation submitted by the Supreme Judicial Council.</p> <p>2. The Attorney General shall handle and assume public cases in the name of the Palestinian Arab People. The jurisdiction, functions and duties of the Attorney General shall be determined by law.</p>	<p>1- The Attorney General shall be appointed through a decision issued by the President of the National Authority, based on a recommendation submitted by the Justice Minister and endorsement of the Legislative Council by the absolute majority of the members.</p> <p>2. remains as is.</p>
(101)	<p>1) The President of the National Authority may declare a state of emergency by a decree when there is a threat to national security caused by war, invasion, armed insurrection, or at a time of natural disaster for a period not to exceed thirty (30) days.</p> <p>2) The emergency state may be extended for another period of thirty (30) days by securing the approval of two thirds of the Legislative Council.</p> <p>3) The decree declaring a state of emergency shall state its purpose, the territory to which it applies, and its duration.</p> <p>4) The Legislative Council shall have the right to review all or some of the procedures which have been implemented during the emergency state at the first session to be convened after the announcement of the state of emergency, or in the extension session whichever comes earlier, and to conduct the necessary questioning in this regard.</p>	<p>1) The President of the National Authority may declare a state of emergency by a decree when there is a threat to national security caused by war, invasion, armed insurrection, or at a time of natural disaster for a period not to exceed thirty (30) days in consultation with the Speaker of the Palestinian Legislative Council and the Council of Ministers.</p> <p>2) remains as is.</p> <p>3) remains as is.</p> <p>4) remains as is.</p>

(109)	Law, regulations and decisions in force in Palestine before the implementation of this law, shall remain in force to the extent that they do not conflict with the provisions of this amended Basic Law, until they are amended or repealed in accordance with law.	Law, regulations and decisions in force in Palestine before the implementation of this law, shall remain in force to the extent that they do not conflict with the provisions of this Basic Law, until they are amended or repealed in accordance with law.
New article		<p>The ministerial crisis:</p> <p>1- if none of those commissioned to form a government succeed in forming the government within the legal period in accordance with the provisions of the law, the President of the National Authority shall read a statement before the Palestinian Legislative Council to declare the expiry of the date for forming the government and that the parties or parliamentary blocs represented in the Council failed to form a government that can gain the vote of confidence of the Legislative Council, and thus, the President of the National Authority shall request from the Legislative Council to ratify a law that allows holding early elections within 90 days of that date.</p> <p>2- the Palestinian Legislative Council has the right, within one week of the declaration of the President, and with the absolute majority of the Council members (more than half of the Council members), to request from the President to repeat the attempt to form the government, proposing to the President a specific candidate to be commissioned to form the government. In that case, the President shall commission the candidate of the Palestinian Legislative Council who must present his government before the council for the vote of confidence within a period not exceeding three weeks, and if this candidate fails to do so within that period, early elections shall take place on the set date which is 90 days from the date of the President's declaration.</p>

<p>New article</p>		<p>Resignation of the Council: The Legislative Council has to take a decision with the absolute majority of its members (more than half of the members) to ratify a draft law in the three readings to hold early elections on condition that the elections shall be held within 90 days of the date of sending the draft law to the President for ratification and for publishing according to standard procedures within a maximum period...</p>
<p>New article</p>		<p>Absence of quorum: Upon a request from more than two thirds of the members of the Palestinian Legislative Council and after failing to get a quorum in the meetings of the Palestinian Legislative Council or due to vacant seats in the PLC because of death or resignation, the President of the National Authority shall have the right to issue a decision to hold early elections. In that case, elections will be held within 60 days of the date of issuing the Presidential Decree on holding early elections.</p>
<p>New article</p>		<p>Extending the term of the PLC: In case of emergency conditions where elections cannot be held on the set date, the Palestinian Legislative Council can take a decision with the majority of two thirds of its members to extend the term of the Council until the end of the emergency conditions at which point the elections will be held immediately. In that case, the decision shall be issued in the form of draft law to be discussed and ratified in three readings and will become effective as soon as the President ratifies it and as soon as it is published in the official gazette.</p>

New article		<p>Term of the Council:</p> <p>1- The term of the Palestinian Legislative Council shall continue until the day when the new PLC convenes and its members are sworn in in accordance with the provisions of the law.</p> <p>2- In all cases, any decree on holding elections must include the date of holding the elections and this date shall be binding.</p>
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