

Palestinian Basic Law (2003, 2005) – The Temporary Palestinian Constitution

[Website of the Palestinian Central Elections Commission, established in 2005]

THE AMENDED BASIC LAW (Promulgated March 18, 2003)^{*[1]}

In the Name of God, the Merciful and the Compassionate.

Introduction

The continuous attachment of the Arab Palestinian people to the land of their fathers and forefathers, on which this people has historically lived, is a fact that has been expressed in the Declaration of Independence, issued by the Palestine National Council. The strength of this attachment is confirmed by its consistency over time and place, by keeping faith with and holding onto national identity, and in the realization of wondrous accomplishments of struggle. The organic relationship between the Palestinian people, their history and their land has confirmed itself in their unceasing effort to prompt the world to recognize the rights of the Arab Palestinian people and their national entity, on equal footing with other nations.

The birth of the Palestinian National Authority in the national homeland of Palestine, the land of their forefathers, comes within the context of continuous and vigorous struggle, during which the Palestinian people witnessed thousands of their precious children sacrificed as martyrs, injured persons and prisoners of war, all in order to achieve their people's clear national rights, the foremost of which are the right of return, the right to self-determination and the right to establish an independent Palestinian state, with Jerusalem as a capital, under the leadership of the Palestine Liberation Organization, the sole, legitimate representative of the Arab Palestinian people wherever they exist.

Within the framework of the interim period, resulting in the Declaration of Principles Agreement, the establishment of the Palestinian National Authority with its three pillars – the legislative, executive and judicial branches – became among the most urgent of national missions. The establishment of the Palestinian Legislative Council, through free and direct general elections, made the adoption of a Basic Law suitable for the interim period a necessary foundation upon which to organize the mutual relationship between the government and the people. It is a first step on the way to determining the distinguishing characteristics of a civil society capable of achieving its independence. At the same time, it is a basic foundation upon which to enact unifying legislation and law for the Palestinian national homeland.

This Basic Law has established a firm foundation, representing the collective conscience of our people, including its spiritual components, its national faith and its nationalist loyalty. The titles of the Basic Law include a group of modern constitutional rules and principles that address public and personal rights and liberties in a manner that achieves justice and equality for all, without discrimination. Further, they ensure the rule of law, strike a balance between the executive, legislative and judicial branches, and draw lines

* Translation into English for the *Yearbook*.

^[1] Published in the *Palestine Official Gazette*, Special Issue No. 2, March 19, 2003. The original Basic Law was published in the *Palestine Official Gazette*, Special Issue, July 7, 2002.

between their respective jurisdictions in a manner that ensures independence to each of them while coordinating their roles to achieve a high national interest that will serve as a guide to all.

The enactment of this temporary Basic Law for a transitional and interim period constitutes a fundamental step towards the realization of the firm national and historical rights of the Arab Palestinian people. It shall not in any way whatsoever abrogate or cancel their right to continue to strive to achieve their rights of return and self-determination, including the establishment of a Palestinian state with Jerusalem (*al-Quds al-Sharif*) as its capital, which is the first shrine and the third mosque, to which the Prophet Muhammad, *may peace be upon him*, traveled by night, in the land of the nativity of Jesus, *may peace be upon him*.

The provisional character of the Basic Law shall not abrogate the right of any Palestinian, wherever residing, to exercise equal rights with his/her fellow citizens on the soil of the homeland.

This temporary Basic Law draws its strength from the will of the Palestinian people, their firm rights, their continuous struggle and the exercise of their democratic right – as represented in the election of the President of the Palestinian National Authority and the members of the Palestinian Legislative Council – to commence the organization and establishment of a sound, democratic and legislative life in Palestine. At the same time, the enactment and ratification of this law by the Legislative Council does spring from the fact that the Palestine Liberation Organization is the sole and legitimate representative of the Arab Palestinian people.

Explanatory Memorandum for the Amended Basic Law

Article 111^{2[2]} of the Basic Law provides the Legislative Council with the authority to amend the Basic Law by securing a majority vote of two-thirds of its members. The Council believes that it is necessary to amend the Basic Law to allow for the creation of the position of a Prime Minister in the Palestinian National Authority and to determine his powers and the legal and political controls that will regulate his work, as well as to define and clarify the form of the relationship between him and the President of the Palestinian National Authority and the legislative branch.

This amendment requires rearrangement of some provisions of the original law. Accordingly, the title that deals with the powers of the President of the National Authority is now Title Three in the amended law. On the other hand, the title that deals with the legislative branch has been moved to a subsequent title, which is Title Four.

^{2[2]} Editor's note: Article 111 refers to the original text of the Basic Law as published in July 2002. In the Amended Basic Law, it becomes Article 120. The reason for this apparent discrepancy is that the Palestinian Legislator has chosen to integrate the March 2003 amendments into a consolidated text. This has involved numbering anew a substantial part of the original articles.

As for Title Five, dealing with the Council of Ministers, it covers the formation of the government by the Prime Minister, the procedure for obtaining the confidence of the [Legislative] Council, the powers of the Council of Ministers and its head, and the relationship between the Prime Minister and the President of the National Authority.

The Council decided during the review of the amended law that it would not be necessary to add provisions dealing with the Prime Minister's presentation of all matters related to the formation, resignation or dissolution of the cabinet to the President of the National Authority, on the grounds that this is a political tradition that does not require being put into a separate article in the text of the law.

Ahmed Qurei' (Abu Ala')
Speaker
The Palestinian Legislative Council

TITLE ONE

Article 1

Palestine is part of the larger Arab world, and the Palestinian people are part of the Arab nation. Arab unity is an objective that the Palestinian people shall work to achieve.

Article 2

The people are the source of power, which shall be exercised through the legislative, executive and judicial authorities, based upon the principle of separation of powers and in the manner set forth in this Basic Law.

Article 3

Jerusalem is the capital of Palestine.

Article 4

1. Islam is the official religion in Palestine. Respect for the sanctity of all other divine religions shall be maintained.
2. The principles of Islamic *Shari'a* shall be a principal source of legislation.
3. Arabic shall be the official language.

Article 5

The governing system in Palestine shall be a democratic parliamentary system, based upon political and party pluralism. The President of the National Authority shall be

directly elected by the people. The government shall be accountable to the President and to the Palestinian Legislative Council.

Article 6

The principle of the rule of law shall be the basis of government in Palestine. All governmental powers, agencies, institutions and individuals shall be subject to the law.

Article 7

Palestinian citizenship shall be regulated by law.

Article 8

The flag of Palestine shall be of four colors and in accordance with the dimensions and measurements approved by the Palestine Liberation Organization. It shall be the official flag of the country.

TITLE TWO: PUBLIC RIGHTS AND LIBERTIES

Article 9

Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, color, religion, political views or disability.

Article 10

1. Basic human rights and liberties shall be protected and respected.
2. The Palestinian National Authority shall work without delay to become a party to regional and international declarations and covenants that protect human rights.

Article 11

1. Personal freedom is a natural right, shall be guaranteed and may not be violated.
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 the law. The law shall specify the period of prearrest detention. Imprisonment or detention shall only be permitted in places that are subject to laws related to the organization of prisons.

Article 12

Every arrested or detained person shall be informed of the reason for their arrest or detention. They shall be promptly informed, in a language they understand, of the nature

of the charges brought against them. They shall have the right to contact a lawyer and to be tried before a court without delay.

Article 13

1. No person shall be subject to any duress or torture. Indictees and all persons deprived of their freedom shall receive proper treatment.
2. All statements or confessions obtained through violation of the provisions contained in paragraph 1 of this article shall be considered null and void.

Article 14

An accused person is considered innocent until proven guilty in a court of law that guarantees the accused the right to a defense. Any person accused in a criminal case shall be represented by a lawyer.

Article 15

Punishment shall be personal. Collective punishment is prohibited. Crime and punishment shall only be determined by the law. Punishment shall be imposed only by judicial order and shall apply only to actions committed after the entry into force of the law.

Article 16

It is unlawful to conduct any medical or scientific experiment on any person without prior legal consent. No person shall be subject to medical examination, treatment or surgery, except in accordance with the law.

Transplantation of human organs and new scientific developments shall be regulated by the law in order to serve legitimate humanitarian purposes.

Article 17

Homes shall be inviolable; they may not be subject to surveillance, broken into or searched, except in accordance with a valid judicial order and in accordance with the provisions of the law.

Any consequences resulting from violations of this article shall be considered invalid. Individuals who suffer from such violation shall be entitled to a fair remedy, guaranteed by the Palestinian National Authority.

Article 18

Freedom of belief, worship and the performance of religious functions are guaranteed, provided public order or public morals are not violated.

Article 19

Freedom of opinion may not be prejudiced. Every person shall have the right to express his opinion and to circulate it orally, in writing or in any form of expression or art, with due consideration to the provisions of the law.

Article 20

Freedom of residence and movement shall be guaranteed within the limits of the law.

Article 21

1. The economic system in Palestine shall be based on the principles of a free market economy. The executive branch may establish public companies that shall be regulated by a law.
2. Freedom of economic activity is guaranteed. The law shall define the rules governing its supervision and their limits.
3. Private property, both real estate and movable assets, shall be protected and may not be expropriated except in the public interest and for fair compensation in accordance with the law or pursuant to a judicial ruling.
4. Confiscation shall be in accordance with a judicial ruling.

Article 22

1. Social, health, disability and retirement insurance shall be regulated by law.
2. Maintaining the welfare of families of martyrs, prisoners of war, the injured and the disabled is a duty that shall be regulated by law. The National Authority shall guarantee these persons education, health and social insurance.

Article 23

Every citizen shall have the right to proper housing. The Palestinian National Authority shall secure housing for those who are without shelter.

Article 24

1. Every citizen shall have the right to education. It shall be compulsory until at least the end of the basic level. Education shall be free in public schools and institutions.
2. The National Authority shall supervise all levels of education and its institutions, and shall strive to upgrade the educational system.
3. The law shall guarantee the independence of universities, institutes of higher education, and scientific research centers in a manner that guarantees the freedom of scientific research as well as literary, artistic and cultural creativity. The National Authority shall encourage and support such creativity.

4. Private schools and educational institutions shall comply with the curriculum approved by the National Authority and shall be subject to its supervision.

Article 25

1. Every citizen shall have the right to work, which is a duty and honor. The Palestinian National Authority shall strive to provide work for any individual capable of performing it.
2. Work relations shall be organized in a manner that guarantees justice to all and provides workers with welfare, security, and health and social benefits.
3. Organization of unions is a right that shall be regulated by the law.
4. The right to conduct a strike shall be exercised within the limits of the law.

Article 26

Palestinians shall have the right to participate in political life, both individually and in groups. They shall have the following rights in particular:

1. To form, establish and join political parties in accordance with the law.
2. To form and establish unions, associations, societies, clubs and popular institutions in accordance with the law.
3. To vote, to nominate candidates and to run as candidates for election, in order to have representatives elected through universal suffrage in accordance with the law.
4. To hold public office and positions, in accordance with the principle of equal opportunities.
5. To conduct private meetings without the presence of police members, and to conduct public meetings, gatherings and processions, within the limits of the law.

Article 27

1. Establishment of newspapers and all media means is a right for all, guaranteed by this Basic Law. Their financing resources shall be subject to the scrutiny of the law.
2. Freedom of audio, visual, and written media, as well as freedom to print, publish, distribute and transmit, together with the freedom of individuals working in this field, shall be guaranteed by this Basic Law and other related laws.
3. Censorship of the media shall be prohibited. No warning, suspension, confiscation, cancellation or restriction shall be imposed upon the media except by law, and pursuant to a judicial ruling.

Article 28

No Palestinian may be deported from the homeland, prevented or prohibited from returning to or leaving it, deprived of his citizenship, or handed over to any foreign entity.

Article 29

Maternal and childhood welfare are national duties. Children shall have the right to:

1. Comprehensive protection and welfare.
2. Not to be exploited for any purpose whatsoever, and not to be permitted to perform work that might damage their safety, health or education.
3. Protection from harmful and cruel treatment.
4. Not to be subjected to beating or cruel treatment by their relatives.
5. To be segregated – in cases where they are sentenced to a penalty that deprives them of their freedom – from adults, and be treated in a manner that is appropriate to their age and aims at their rehabilitation.

Article 30

1. Submitting a case to court is a protected and guaranteed right for all people. Each Palestinian shall have the right to seek redress in the judicial system. Litigation procedures shall be organized by law to guarantee prompt settlement of cases.
2. Laws may not contain any provisions that provide immunity to any administrative decision or action or against judicial review.
3. Judicial error shall result in a remedy by the National Authority. Conditions and methods of such remedy shall be regulated by law.

Article 31

An independent commission for human rights shall be established pursuant to a law that will specify its formation, duties and jurisdiction. The commission shall submit its reports to the President of the National Authority and to the Palestinian Legislative Council.

Article 32

Any violation of any personal freedom, of the sanctity of the private life of human beings, or of any of the rights or liberties that have been guaranteed by law or by this Basic Law shall be considered a crime. Criminal and civil cases resulting from such violations may not be subject to any statute of limitations. The National Authority shall guarantee a fair remedy to those who suffer from such damage.

Article 33

The enjoyment of a balanced and clean environment is a human right. The preservation and protection of the Palestinian environment from pollution for the sake of present and future generations is a national duty.

TITLE THREE: THE PRESIDENT OF THE PALESTINIAN NATIONAL AUTHORITY

Article 34

The President of the Palestinian National Authority shall be elected in a general and direct election by the Palestinian people, in accordance with the Palestinian Election Law.

Article 35

Before assuming office, the President shall take the following oath before the Legislative Council and in the presence of the Speaker of the Palestinian National Council and the President of the High Court:

“I swear by God, the Almighty, to be faithful to the homeland and to its sacred places, to the people and its national heritage, to respect the constitutional system and the law, and to safeguard the interests of the Palestinian people completely, as God is my witness.”

Article 36

The term of the presidency of the National Authority shall be the interim phase, after which the President shall be elected in accordance with the law.

Article 37

1. The office of the President shall be considered vacant in any of the following cases:
 - a. Death;
 - b. Resignation submitted to the Palestinian Legislative Council, if accepted by two-thirds of its members;
 - c. Loss of legal capacity, as per a ruling issued by the High Constitutional Court and subsequently approved by a majority of two-thirds of the members of the Legislative Council.
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 temporarily assume the powers and duties of the Presidency of the National Authority for a period not to exceed sixty (60) days, during which free and direct elections to elect a new President shall take place in accordance with the Palestinian Election Law.

Article 38

The President of the National Authority shall exercise his executive duties as specified in this law.

Article 39

The President of the National Authority is the Commander-in-Chief of the Palestinian Forces.

Article 40

The President of the National Authority shall appoint and terminate the services of the National Authority's delegates to foreign countries, international organizations and foreign agencies. The President shall accept the credentials of foreign delegates to the Palestinian National Authority.

Article 41

1. The President of the National Authority shall promulgate the laws voted by the Palestinian Legislative Council within thirty (30) days of their transmittal to him. The President may refer a law back to the Legislative Council with his observations and the reasons of his objection within the same period. Otherwise, the law will be deemed promulgated and will be published in the *Official Gazette*.
2. If the President of the National Authority returns the proposed law to the Legislative Council in conformity with the time limit and conditions specified in the previous paragraph, the Council shall debate the law again. If the Council passes the law a second time by a majority of two-thirds of its members, the proposed law shall be considered approved and shall be immediately published in the *Official Gazette*.

Article 42

The President of the National Authority has the right to grant special pardons or to commute sentences. However, general amnesties or amnesties for crimes may not be granted except by law.

Article 43

The President of the National Authority shall have the right, in cases of necessity that cannot be delayed, and when the Legislative Council is not in session, to issue decrees that have the power of law. These decrees shall be presented to the Legislative Council in the first session convened after their issuance; otherwise they will cease to have the power of law. If these decrees are presented to the Legislative Council, as mentioned above, but are not approved by the latter, then they shall cease to have the power of law.

Article 44

The President's salary, allowances and remuneration shall be determined by law.

Article 45

The President of the National Authority shall appoint the Prime Minister and authorize the latter to constitute his government. The President shall have the right to dismiss the

Prime Minister or to accept his resignation and to request him to convene the Council of Ministers.

Article 46

The Council of Ministers shall assist the President in the performance of the President's duties and exercise of powers, in the manner stipulated in this Basic Law.

TITLE FOUR:
THE LEGISLATIVE AUTHORITY

Article 47

1. The Palestinian Legislative Council is the elected legislative authority.
2. The Legislative Council shall assume its legislative and oversight duties as prescribed in its Standing Orders, insofar as they do not contradict the provisions of this law.
3. The term of this Council shall be the interim period.

Article 48

1. The Legislative Council shall be composed of eighty-eight (88) Members elected in accordance with the law.
2. If the position of one or more Members becomes vacant due to death, resignation or loss of capacity, partial elections shall be conducted in the relevant district to elect a successor, in accordance with the law.

Article 49

Before commencing work, every Member shall take the following oath before the Council:

“I swear by God, the Almighty, to be faithful to the homeland, to preserve the rights and interests of the people and the nation, to respect the law, and to perform my duties in the best manner, as God is my witness.”

Article 50

In its first meeting, the Council shall elect a Speaker, two Deputies to the Speaker, and a Secretary-General. Together, they shall make up the Office of the Legislative Council. It shall not be permitted to be a member of the Office and hold at the same time the position of President of the National Authority, or Minister, or any other governmental position.

Article 51

The Council shall accept the resignation of its Members and establish its own Standing Orders, as well as procedures for questioning its Members, in a manner that does not contradict the provisions of this Basic Law or general constitutional principles. The Council shall be solely responsible for maintaining order and security during sessions and committee meetings. Security personnel may not be present in the Council premises unless requested by the Speaker or by a Committee Chair, as the circumstances may require.

Article 52

The President of the Palestinian National Authority shall open the first ordinary session of the Council and deliver an opening address.

Article 53

1. Council Members may not be questioned in civil or criminal proceedings due to opinions they express, facts they mention, their voting in Council sessions or committee meetings, or because of any action they undertake outside the Council in the course of performing their parliamentary duties.
2. No Member shall be interfered with in any manner, nor shall any search be made of a Member's luggage, home, place of residence, car, office, or any real estate or movable property belonging to the Member, throughout the period of immunity.
3. No Member of the Legislative Council shall be required during the period of membership, or subsequently, to testify on any subject regarding Council-related actions, statements or information obtained as a result of membership in the Council, unless the Member voluntarily agrees to do so and has the prior consent of the Council.
4. No penal measures shall be taken against any Member of the Legislative Council unless a Member is found red-handed in the commission of a crime. The Council shall be notified immediately about measures taken against a Member so that the Council may decide upon its proper course of action in the matter. The Office of the Council shall assume this responsibility if the Council is not in session.
5. A Member of the Legislative Council shall not relinquish parliamentary immunity without the prior permission of the Council. Immunity shall not lapse after membership in the Council ceases but shall be subject to the limits prevailing during the membership period.

Article 54

1. A Member of the Legislative Council may not exploit Council membership in any type of private business or in any manner whatsoever.
2. Members of the Legislative Council shall present financial statements for themselves, their spouse and their minor children that detail their wealth, including real estate and movable property both inside Palestine and abroad, as well as debts. These statements shall be kept in sealed confidential envelopes at the High Court of Justice and may not be accessed unless permitted by the Court and within the limits it allows.

Article 55

A Member of the Legislative Council shall receive a monthly salary determined by law.

Article 56

Each Member of the Council shall have the following rights:

1. To submit to the executive branch all legitimate requests necessary to enable the Member to carry out parliamentary functions.
2. To propose laws. Rejected proposals may not be resubmitted within the same term.
3. To address inquiries and interpellations to the government, to any Minister or to others of similar rank. Interpellations may only be discussed seven days after submission, unless the addressee agrees to reply immediately or within a shorter period. However, the seven-day period can be shortened to three days in urgent cases and with the approval of the President of the National Authority.

Article 57

1. Following an interpellation, a minimum of ten Members of the Council may submit a request to withdraw confidence from the government or from any Minister. Voting on such a request may not be held earlier than three days after submission. A decision may be issued by approval of the majority of the Council's Members.
2. Withdrawal of confidence shall result in termination of the term of the party from whom confidence was withdrawn.

Article 58

The Council may form special committees or entrust one of its committees to conduct information gathering and fact-finding regarding any public matter or regarding any public institution.

Article 59

The Legislative Council shall approve the General Development Plan. The law shall specify the way to prepare and present the Plan to the Council.

Article 60

The law shall regulate the specific rules governing the preparation and approval of the general budget and disbursement of funds appropriated in it, as well as any attached budgets, developmental budgets, budgets for public institutions and services, and budgets for any project in which the government's investment comprises at least 50% of its capital.

Article 61

Taking into consideration the provisions of Article 90 of this Basic Law:

1. The government shall present the draft budget to the Legislative Council at least two months prior to the start of the fiscal year.
2. The Legislative Council shall convene a special session to discuss the annual draft budget. It shall either ratify it with the necessary amendments prior to the start of the new fiscal year or send it back to the government, within a period not exceeding one

month from the date of receipt. The returned draft budget shall include the Council's observations so that its requirements can be fulfilled and the draft budget resubmitted to the Legislative Council for approval.

3. The Council's voting on the general budget shall be title by title.
4. Transfer of funds between the various budget titles is not permitted unless it is agreed upon between the Legislative Council and the Executive branch.

Article 62

The final accounts of the National Authority's budget shall be presented to the Legislative Council no later than one year after the end of the fiscal year. The Council shall vote on the final accounts title by title.

TITLE FIVE: THE EXECUTIVE AUTHORITY

Article 63

The Council of Ministers (the "government") is the highest executive and administrative instrument; it shoulders the responsibility for implementing the program that has been approved by the legislative branch. Except for the executive powers of the President of the National Authority, as specified in this Basic Law, executive and administrative powers shall be within the competence of the Council of Ministers.

Article 64

1. The Council of Ministers shall comprise a Prime Minister and a number of Ministers, not to exceed twenty-four (24) in number.
2. The appointment shall identify to which Ministry each Minister shall be assigned.

Formation of the Government

Article 65

1. Once appointed by the President of the Palestinian National Authority, the Prime Minister shall form a government within three weeks of the date of appointment. There shall be a right to an extension of a maximum of two weeks.
2. If the Prime Minister fails to form a government within the stated deadline or does not obtain the confidence of the Legislative Council, then the President of the National Authority shall appoint another Prime Minister within two weeks of the passing of the deadline or the date of the confidence session, whichever applies. Provisions contained in the above paragraph 1 shall apply to the new Prime Minister.

Confidence in the Government

Article 66

1. Once the Prime Minister selects the members of the government, the Prime Minister shall submit a request to the Legislative Council to hold a special session for a vote of confidence. The vote of confidence shall take place after hearing and discussing the written ministerial declaration which specifies the program and policy of the government. The session shall be held no later than one week from the date of submission of the request.
2. The vote of confidence shall be cast for the Prime Minister and the members of the government together, unless the absolute majority of the members of the Legislative Council decides otherwise.
3. Confidence shall be granted to the government if it obtains the affirmative vote of the absolute majority of the Members of the Palestinian Legislative Council.

Article 67

After obtaining the vote of confidence and before assuming their offices, the Prime Minister and members of the government shall take the constitutional oath, stipulated in Article 35 of this Basic Law, before the President of the National Authority.

Powers of the Prime Minister

Article 68

The Prime Minister shall exercise the following powers:

1. To form or modify the composition of the Council of Ministers, to dismiss or accept the resignation of any of its members, or to fill a vacant position.
2. To convene the Council of Ministers for weekly meetings, or when necessary, or upon a request from the President of the National Authority, as well as to set its agenda.
3. To preside over sessions of the Council of Ministers.
4. To manage the affairs of the Council of Ministers.
5. To oversee the work of the Ministers and public institutions dependent on the government.
6. To issue necessary decisions within the Prime Minister's competence in accordance with the law.
7. To sign and issue regulations approved by the Council of Ministers.
8. The Prime Minister shall appoint a Minister to serve as deputy and to assume the duties of the Prime Minister, if the Prime Minister is absent.

Powers of the Council of Ministers

Article 69

The Council of Ministers shall exercise the following powers:

1. To devise general policies within the limits of its jurisdiction and in light of the ministerial program approved by the Legislative Council.
2. To implement general policies adopted by the relevant Palestinian authorities.
3. To prepare the general budget for presentation to the Legislative Council.

4. To prepare the administrative apparatus, set its structure and provide it with all necessary means, as well as to supervise it and follow up on it.
5. To follow up on the implementation of laws and to ensure compliance with their provisions, taking necessary actions in this regard.
6. To supervise the performance of the ministries and all other components of the administrative apparatus in respect of their duties and functions, as well as to coordinate between them.
7. To be responsible for maintaining public order and internal security.
8. To discuss with various governmental bodies relevant to paragraphs 6 and 7 above their proposals and policies with regard to implementation of their respective responsibilities.
9. (a) To establish or dissolve agencies, institutions, authorities and similar administrative units belonging to the executive apparatus of the government, provided that each shall be regulated by law.
(b) To appoint heads of institutions and agencies mentioned above in subparagraph (a), and to supervise them in accordance with the provisions of the law.
10. To specify the respective areas of responsibilities of all ministries, agencies and institutions, that report to the executive branch, and others of similar status.
11. To assume any other responsibility assigned to it, in accordance with the provisions of the law.

Article 70

The Council of Ministers shall have the right to transmit draft laws to the Legislative Council, to issue regulations and to take necessary actions to implement laws.

Article 71

Each Minister shall exercise the following powers and functions within their respective ministry:

1. To propose the general policy for the ministry and to supervise its implementation after approval.
2. To supervise the conduct of affairs in the ministry and to issue necessary instructions therefore.
3. To implement the general budget within the funds allocated for the ministry.
4. To propose bills and legislation related to the ministry and to present them to the Council of Ministers.
5. A Minister may delegate certain powers to a Deputy Minister or to other senior officers in the ministry, within limits set by the law.

Article 72

Each Minister shall submit detailed reports to the Council of Ministers on the activities, policies, plans and achievements of their respective ministry in comparison with the objectives specified for the ministry within the framework of the General Plan, including the ministry's proposals and recommendations concerning its future policies.

These reports shall be submitted regularly every three months, so that the Council of Ministers remains well informed and has sufficient information about the activities and policies of each ministry.

Meetings of the Council of Ministers

Article 73

1. Upon invitation of the Prime Minister, the Council of Ministers shall meet periodically every week, or whenever necessary. Persons other than Ministers may not attend these meetings, unless there is a prior invitation from the Prime Minister.
2. The meetings of the Council of Ministers shall be documented.

Accountability of the Prime Minister and Ministers

Article 74

1. The Prime Minister is accountable to the President of the National Authority for his actions and the actions of his government.
2. Ministers are accountable to the Prime Minister, each within the limits of their jurisdiction and for the actions of their respective ministry.
3. The Prime Minister and members of the government are jointly and individually accountable to the Legislative Council.

Article 75

1. The President of the National Authority shall have the right to refer the Prime Minister for investigation as a result of crimes attributed to the Prime Minister during, or due to, the performance of official duties, in accordance with the provisions of law.
2. The Prime Minister shall have the right to refer any Minister for investigation based on any of the reasons mentioned in the above paragraph 1, in accordance with the provisions of law.

Article 76

1. Any accused Minister shall be suspended from the performance of official duties immediately upon the issuance of an indictment. The termination of service shall not prevent continuing the investigation or follow-up procedures.
2. The Attorney General, or a representative from the Public Prosecution, shall undertake the investigation and indictment procedures. If a trial ensues, it shall be conducted before an appropriate tribunal and shall follow the provisions and procedures prescribed in the Penal Code and in the Law of Criminal Procedure.
3. The above provisions shall apply to Deputy Ministers, Assistant Ministers and others of similar rank.

Vote of No Confidence

Article 77

1. A minimum of ten Members of the Legislative Council may submit a request to the Speaker to hold a special session to withdraw confidence from the government or from any Minister after an investigation.
2. The date of the first session shall be specified three days after the date of submitting the request. The session shall not be held later than two weeks after the date of the request.

Article 78

1. A vote of no confidence in the Prime Minister and the government shall require an absolute majority of the Members of the Palestinian Legislative Council.
2. A vote of no confidence in the Prime Minister and the government shall result in the termination of their term.
3. Upon the completion of the term of the Prime Minister and the government, they will temporarily exercise their powers in the capacity of a caretaker government, during which they may make decisions only insofar as they are necessary for the conduct of executive affairs until a new government is formed.

Article 79

1. In case the Legislative Council, by an absolute majority, casts a vote of no confidence in the Prime Minister, or in the Prime Minister and the members of the government collectively, the President of the National Authority shall present a new Prime Minister who will take over from the former within a period not to exceed two weeks from the date of the vote of no confidence. The new Prime Minister shall be subject to the provisions of this title.
2. In case the Legislative Council casts a vote of no confidence in one or more members of the government, the Prime Minister shall present the new member or members to the following session, provided that it takes place within two weeks of the date of the no confidence vote.
3. (a) Any addition or change that affects a portfolio, a Minister, or more than a Minister shall be considered a ministerial reshuffle, so long as it affects less than one-third of the members of the Council of Ministers.
(b) Upon a ministerial reshuffle, the addition of a Minister, or the filling of a vacancy, for any reason, the new Minister or Ministers shall be presented at the very next session of the Legislative Council, which shall occur no later than two weeks from the date of the reshuffle or the occurrence of the vacancy, for a vote of confidence in accordance with the provisions of this article.
4. Neither the Prime Minister nor any of the Ministers shall assume their duties until they have obtained the confidence of the Legislative Council.

Financial Liability of Members of Council of Ministers

Article 80

1. The Prime Minister and each Minister shall submit a financial statement for themselves, their spouse and their minor children that details what they own in real estate, movable property, stocks, bonds, cash money and debts, whether inside Palestine or abroad, to the President of the National Authority, who shall make the necessary arrangements to maintain their secrecy. Such information shall remain confidential and may not be accessed unless permitted by the High Court when necessary.
2. Neither the Prime Minister nor any Minister may purchase or lease any property belonging to the State or to any public entity, or have a financial interest in any contract concluded with any governmental or administrative body, nor may they, during their terms of office, be board members in any company, or practice commerce or any other profession, or receive a salary or any other financial reward or remuneration from any person in any capacity whatsoever, other than the single salary determined for Ministers and the relevant allowances.

Remuneration and Allowances of Prime Minister and Ministers

Article 81

Remuneration and allowances for the Prime Minister, Ministers and others of similar rank shall be determined by the law.

Article 82

The appointed Prime Minister and all Ministers shall be Palestinians who enjoy full civil and political rights.

Article 83

The government shall be considered dissolved and shall be reformed in accordance with the provisions of this title in the following cases:

1. Upon the commencement of a new term of the Legislative Council.
2. After a vote of no confidence in the Prime Minister, in the Prime Minister and the government, or in one-third or more of the total number of Ministers.
3. Upon any addition, change, vacancy, or dismissal that involves at least one-third of the Council of Ministers.
4. Upon the death of the Prime Minister.
5. Upon the resignation of the Prime Minister, or the resignation of one-third or more of the members of government.
6. Upon the dismissal of the Prime Minister by the President of the National Authority.

Security Forces and Police

Article 84

1. The Security Forces and the Police are regular forces. They are the armed forces in the country. Their functions are limited to defending the country, serving the people, protecting society and maintaining public order, security and public morals. They shall perform their duties within the limits prescribed by law, with complete respect for rights and freedoms.
2. The law shall regulate the Security Forces and the Police.

Local Administration

Article 85

1. The law shall organize the country into local administrative units, which shall enjoy juridical personality. Each unit shall have a council elected directly, as prescribed by law.
2. The law shall specify the areas of responsibility of the local administrative units, their financial resources, their relations with the central authority and their role in the preparation and implementation of development plans. The law shall specify the aspects of oversight over these units and their various activities.
3. Demographic, geographic, economic and political parameters shall be taken into consideration at the time of defining the administrative divisions so as to preserve the territorial unity of the homeland and the interests of the communities therein.

Public Administration

Article 86

The appointment of all public officials and governmental staff, and the conditions of their employment, shall be in accordance with the law.

Article 87

The law shall regulate all affairs related to civil service. The Civil Service Department shall, in coordination with the relevant governmental bodies, upgrade and develop public administration. Its advice shall be sought upon drafting laws and regulations that deal with public administration and civil servants.

Public Finance

Article 88

Public taxes and duties shall be imposed, amended and repealed only by law. No one may be totally or partially exempted, except in circumstances prescribed by law.

Article 89

The law shall state the provisions concerning the collection of public funds and the procedures for spending therefrom.

Article 90

The law shall specify the beginning and the end of the fiscal year, and shall regulate the public budget. If the public budget is not approved by the beginning of the new fiscal year, expenditures shall continue on the basis of a monthly allocation of one-twelfth (1/12) of the previous fiscal year's budget, for each month.

Article 91

1. All revenues received – including taxes, duties, loans, grants and profits accruing to the Palestinian National Authority from managing its property or activities – shall be paid to the Public Treasury. No part of the Public Treasury funds may be allocated or spent for any purpose whatsoever except in accordance with the law.
2. In accordance with the provisions of law, the Palestinian National Authority may form a strategic financial reserve, to encounter fluctuations and emergency situations.

Article 92

Public borrowing shall be concluded by law. It is not permitted to commit to a project which would require spending funds from the Public Treasury at a later stage unless approved by the Legislative Council.

Article 93

1. The law shall regulate the Monetary Authority, banks, the securities market, foreign exchange and insurance companies and all financial and credit institutions.
2. The Governor of the Monetary Authority shall be appointed per a decision issued by the President of the National Authority and endorsed by the Palestinian Legislative Council.

Article 94

The law shall specify rules and procedures for granting privileges or imposing obligations related to the utilization of natural resources and public facilities. The law shall also detail the ways and means of dealing with real estate owned by the state and other public legal personalities, and the rules and procedures regulating them.

Article 95

The law shall specify the rules for granting wages, remuneration, pensions, subsidies and allowances incurring to the state's treasury. The law shall also specify the bodies that will be responsible for their implementation. No exceptional funds shall be spent except within limits specified legally.

Article 96

1. A Financial and Administrative Auditing Bureau shall be established by law to provide financial and administrative oversight to all apparatus and bodies of the National Authority, which shall include monitoring the collection of public revenues and spending therefrom, within the limits of the budget.
2. The Bureau shall submit to the President of the National Authority and to the Legislative Council a report annually, or upon request, about its work and observations.
3. The Chief of the Financial and Administrative Auditing Bureau shall be appointed pursuant to a decision issued by the President of the National Authority and endorsed by the Palestinian Legislative Council.

TITLE SIX: THE JUDICIAL AUTHORITY

Article 97

The judicial authority shall be independent and shall be exercised by the courts at different types and levels. The law shall determine the way they are constituted and their jurisdiction. They shall issue their rulings in accordance with the law. Judicial rulings shall be announced and executed in the name of the Palestinian Arab people.

Article 98

Judges shall be independent and shall not be subject to any authority other than the authority of the law while exercising their duties. No other authority may interfere in the judiciary or in judicial affairs.

Article 99

1. Appointment, transfer, secondment, delegation, promotion and questioning of judges shall be as prescribed in the Judicial Authority Law.
2. Judges may not be dismissed except in cases that are allowed in the Judicial Authority Law.

Article 100

A High Judicial Council shall be created. The law shall specify the way it is constituted, its responsibilities and its operating rules. The High Judicial Council shall be consulted about draft laws relating to the Judicial Authority, including the Public Prosecution.

Article 101

1. Matters governed by *Shari'a* law and matters of personal status, shall come under the jurisdiction of *Shari'a* and religious courts, in accordance with the law.
2. Military courts shall be established by special laws. Such courts may not have any jurisdiction beyond military affairs.

Article 102

Administrative courts may be established by law, to consider administrative disputes and disciplinary claims. Any other jurisdiction of such courts, and procedures to be followed before them, shall be specified by the law.

Article 103

1. A High Constitutional Court shall be established by law to consider:
 - (a) The constitutionality of laws, regulations, and other enacted rules.
 - (b) The interpretation of the Basic Law and legislation.
 - (c) Settlement of jurisdictional disputes which might arise between judicial entities and administrative entities having judicial jurisdiction.
2. The law shall specify the manner in which the High Constitutional Court is formed and structured, the operating procedures it will follow and the effects resulting from its rulings.

Article 104

The High Court shall temporarily assume all duties assigned to administrative courts and to the High Constitutional Court, unless they fall within the jurisdiction of other judicial entities, in accordance with applicable laws.

Article 105

Court hearings shall be public, unless a court decides to make them *in camera* due to considerations related to public order or public morals. In all cases, the sentence shall be pronounced in a public hearing.

Article 106

Judicial rulings shall be implemented. Refraining from or obstructing the implementation of a judicial ruling in any manner whatsoever shall be considered a crime carrying a penalty of imprisonment or dismissal from position if the accused individual is a public official or assigned to public service. The aggrieved party may file a case directly to the competent court and the National Authority shall guarantee a fair remedy for him.

The Public Prosecution

Article 107

1. The Attorney General shall be appointed pursuant to a decision issued by the President of the National Authority, based upon a nomination submitted by the High Judicial Council.
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 specified by law.

Article 108

1. The law shall specify the manner of forming the Public Prosecution service, and its jurisdiction.
2. The law shall determine the conditions for appointing, transferring and dismissing members of the Public Prosecution service and the rules of their accountability.

Article 109

A death sentence pronounced by any court may not be implemented unless endorsed by the President of the Palestinian National Authority.

TITLE SEVEN: STATE OF EMERGENCY PROVISIONS

Article 110

1. The President of the National Authority may declare a state of emergency by decree when there is a threat to national security caused by war, invasion, armed insurrection or in times of natural disaster, for a period not to exceed thirty (30) days.
2. The state of emergency may be extended for another period of thirty (30) days if a two-thirds majority of the members of the Legislative Council vote in favor of the extension.
3. The decree declaring a state of emergency shall state its purpose, the region to which it applies and its duration.
4. The Legislative Council shall have the right to review all or some of the procedures and measures adopted during the state of emergency, at the first session convened after the declaration of the state of emergency or in the extension session, whichever comes earlier, and to conduct the necessary interpellation in this regard.

Article 111

It is not allowed to impose restrictions on fundamental rights and freedoms when declaring a state of emergency except to the extent necessary to fulfill the purpose stated in the decree declaring the state of emergency.

Article 112

Any arrest resulting from the declaration of a state of emergency shall be subject to the following minimum requirements:

1. Any detention carried out pursuant to a state of emergency decree shall be reviewed by the Attorney General, or by the appropriate court, within a time period not to exceed fifteen (15) days from the date of detention.
2. The detained individual shall have the right to select and appoint a lawyer.

Article 113

The Palestinian Legislative Council may not be dissolved or its work hindered during a state of emergency, nor shall the provisions of this title be suspended.

Article 114

All provisions regulating states of emergency that were applicable in Palestine prior to the entry into force of this Basic Law shall be cancelled, including the [British] Mandate Defense (Emergency) Regulations issued in the year 1945.

TITLE EIGHT: GENERAL & TRANSITIONAL PROVISIONS

Article 115

The provisions of this Basic Law shall apply during the interim period and may be extended until the entry into force of the new Constitution of the State of Palestine.

Article 116

Laws shall be promulgated in the name of the Palestinian Arab people and shall be published immediately in the *Official Gazette*. These laws shall come into force thirty (30) days from the date of their publication, unless the law states otherwise.

Article 117

Laws shall apply only to that which occurs after their entry into force. It may be stipulated otherwise when necessary, except for penal matters.

Article 118

Laws, regulations and decisions in force in Palestine before the implementation of this law shall remain in force to the extent that they do not contradict the provisions of this Basic Law, until they are amended or repealed, in accordance with the law.

Article 119

All legal provisions that contradict the provisions of this Amended Basic Law are repealed.

Article 120

The provisions of this Amended Basic Law may not be amended except by a majority vote of at least two-thirds of the members of the Palestinian Legislative Council.

Article 121

This Amended Basic Law shall be effective as of its publication in the *Official Gazette*.

Issued in Ramallah City on March 18, 2003
Corresponding to Muharam 15, 1424 H.

Yasser Arafat
Chairman of the Executive Committee of the
Palestine Liberation Organization, and
President of the Palestinian National Authority

**The Basic Law of 2005 A.D.
Concerning the Amendment some of the Provisions of
the Amended Basic Law of 2003**

**The Chairman of the Executive Committee of the Palestine Liberation
Organization;
The President of the Palestinian National Authority**

Having reviewed the Amended Basic Law of 2003 A.D., particularly Article (120) thereof;

Based upon what the Legislative Council approved during its session, which convened on July 27th, 2005, A.D.;

Based upon what the public interest necessitates; and

In the name of the Palestinian People,

I hereby promulgate the following Law:

Article (1)

Articles 36, 47/Clause 3 thereunder, 48, and 55 of the Amended Basic Law of 2003 A.D. shall be amended so as to become as follows:

Article (36)

The term of the presidency of the National Authority shall be four years. The President shall have the right to nominate himself for a second term of presidency, provided that he shall not occupy the position of the presidency more than two consecutive terms.

Article (47) Clause 3

The term of the Legislative Council shall be four years from the date of its being elected and the elections shall be conducted once each four years in a regular manner.

Article (48)

1. The members of the Legislative Council shall be elected in general, free and direct elections in accordance with the provisions of the Elections Law, which shall determine the number of members, electoral constituencies and electoral system.
2. In the event the position of a member of more than a member of the Legislative Council becomes vacant, the vacancy shall be occupied in accordance with the provisions of the Elections Law.

Article (55)

Allocations, rights and obligations of the members of the Legislative Council and Ministers shall be determined by law.

Article (2)

A new article under number (47 *bis*) shall be added to the Amended Basic Law of 2003 A.D., the provision of which shall be as follows:

Article (47 bis)

The term of the current Legislative Council shall terminate when the members of the new elected Council take the constitutional oath.

Article (3)

This Law shall be effective as of its publication in the *Official Gazette*.

Promulgated in the City of Gaza on August 13, 2005 A.D.

Corresponding to Rajab 8, 1426 A.H.

**Mahmoud Abbas
Chairman of the Executive Committee of the
Palestine Liberation Organization
President of the Palestinian National Authority**

http://www.elections.ps/Portals/0/pdf/The_Amended_Basic_Law_2003_EN.pdf

http://www.elections.ps/Portals/0/pdf/The_amended_Basic_Law_of_2005_EN.pdf