

Clientelist Politics

State formation and corruption in Palestine 1994-2000

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1 A Developmental State in Palestine?

From the establishment of the Palestinian National Authority (PNA) in 1994, until the second intifada and the reoccupation of most of the West Bank and Gaza Strip in 2001, Palestine was undergoing a state formation process. Although the Palestinians were only in partial control of the occupied territories and despite the fact that the territories' international status remained unsettled and contested, a Palestinian state apparatus was established. Based primarily on the Palestinian Liberation Organisation (PLO), this quasi-state established a presidency, a number of ministries and other executive and administrative bodies, an elected parliament (the Palestinian Legislative Council, PLC), and a judiciary branch.

The state formation process came, however, to an almost complete halt with the collapse of the Camp David talks and the onset of the second intifada late 2000 and definitely with the Israeli reoccupation of most of the West bank and Gaza in 2002. At the time of writing, Palestine is divided into eight zones, with 120 checkpoints and 220 enclaves, a wall is being built, the economy is in ruins and the Palestinian National Authority hardly operates.

A severe political predicament nevertheless faced the Palestinians - in addition to the unresolved question of statehood, lack of physical control of the territory, and economic subjugation to Israel - namely the character of the state that was being formed. The emerging Palestinian entity was not democratic, transparent or accountable, and its legitimacy was contested. Moreover, the rule system and the state institutions developed certain institutional and decision-making characteristics that pointed in the direction of a strong developmental state, albeit with many countervailing characteristics.

The new ruling elite emanated basically from the "extra-territorial" PLO with its proper interests, political agenda and internal cohesion. From having a distinctly socialist political agenda originally, the PLO leadership went a long way into negotiations with Israel, in recognising Israel as a state, and in embarking on more liberal political and economic principles. Besides, being based on the PLO, the Palestinian National Authority (PNA) seemed to have the legitimacy, coherence and control necessary to implement most of its policies.

However, largely because of the conflict with Israel, informal, clientelist, monopolist and coercive tendencies developed at the detriment of popular participation, transparency and accountability. This pointed to a possible enduring mal-development of the political institutions with increasing levels of corruption and rent-seeking. Thus, since the PLO-based Palestinian Authority started to operate and develop, and in particular since 1997, accusations, revelations and scandals of corruption increased in numbers and intensity. According to various reports (of which the Rocard-Siegman Report from 1998 was the single most influential), there was political corruption in the Presidency, involving high-ranking political figures and PLO officers, and widespread bureaucratic corruption within nearly all administrative bodies. Although Yasser Arafat was not personally and openly criticised, corruption was said to be systemic in Palestine and to have reached the highest circles, including the president's office.

The purpose of this report is to identify some of these trends and to assess whether the Palestinian quasi-state incorporated traits of developmental or non-developmental (predatory,

client, and clientelist/neopatrimonial) states. Did the Palestinian quasi-state have the qualities necessary for a viable social and economic transformation, and the prospects to be a developmentalist state?

Our basic arguments are as follows: On the one hand, the Palestinian process of state formation included a number of characteristics that bode well for a developmental oriented state that could ensure the transformation of Palestine into an economically and politically dynamic and viable entity; a developmental state. In the outset, the Palestinian National Authority seemed to have the coherence, coordination, legitimacy and political will necessary to bring about deep social, economic and political transformations. On the other hand, the obstacles were almost insurmountable and certain factors came to point in the opposite direction: fragmentation and internal conflicts over scarce resources and the use of state resources to buy the support necessary for regime survival from certain powerful factions and groups in society.

The methodology employed is comparative and eclectic. We identify some of the background conditions for corruption in Palestine, following current theoretical and comparative literature on conditions considered conducive to corruption. Of particular interest are autocratic rule, the transitory and violent phase of state formation, poverty, and foreign influence and dependency.

From our conceptual division between formal and informal powers, we will assess the presence of conditions that favoured the establishment and deepening of a rent-seeking neopatrimonial regime in Palestine. From our attempt to describe and illustrate some of the forms of corruption that existed, we will assess the implications further in terms of regime characteristics.

First, we will analyse the formal powers in terms of checks and balances within the formal political system. This is necessary in order to assess the scope of corrupt practices in Palestine. Corruption and mismanagement are factors that will seriously reduce the legitimacy of a state, and consequently its developmental capacity. Despite a system of presidentialism and centralisation of power, which could have produced a strong and development-oriented Palestinian state, a number of traits pointed to a rather weak political state authority. We have noted factors like weak accountability and transparency, the confusion over the chain of command, an overlap between institutions, inefficiency in public administration and a duality of controls, as well as unsettled legal codes and practices.

Secondly, we will analyse the informal power networks, including interactions and power divisions within the Palestinian polity. In addition to capacity, a developmental state will also need coherence and structure. We will endeavour to identify the political networks that pushed the Palestinian state in the direction of clientelist practices, like informal powers, *wasta* (mediation) and *mehsubia* (patronage), and the localised, clientelist 'fiefdoms'. Some patterns of public and economic power distribution that might have contributed to predatory practices will also be touched upon.

2 Corruption and Institutionalisation

Corruption is a phenomenon that develops and sustains under certain conditions. Among these are the political culture and traditions of a regime, processes of state formation, underdeveloped economic systems, and dependency on foreign powers. Although no direct comparisons between Palestine and other countries known for corrupt practices have been made, a sufficiently large number of system indicators existed from which there is reason to believe that corruption was to become widespread and entrenched in Palestine. In fact, Palestine scored high on most of the indicators conducive to corruption, conditions which the following section will outline.

2.1 Corruption in Palestine

The PLO leadership always promoted a strong state in Palestine, in full control of political powers and state institutions “solely for national interest”, because of the enduring conflict situation with Israel. Furthermore, Israel and the Western powers emphasised “security” for Israel through the Oslo Agreements and made this an issue more important than democratic institutionalisation in Palestine. This “security first” claim resulted in an ineffective parliament and judiciary, and in poor mechanisms for democratic checks and balances. Thus, Palestine scored relatively low on political freedoms and social equality (US Department of State 2000), in particular freedom of the press, with extensive self-censorship.

Typically under regime transitional circumstances, the basic political and economic rules and regulations are vague and fluctuating, and this opens new resources up for ‘grabs’ for various economic interests and social segments. Besides, a wide range of social and conflicts erupts, such as between revolutionary and post-independence ideologies, pragmatic and dogmatic approaches, and modern and traditional norms. Associated with the changes in economic opportunities and unsettled rules, norms and values, a vacuum tends to develop, rendering a society norm-less and allowing people to behave in ways justified by neither old norms, nor new ones (Amundsen 1999).

In Palestine, the new state institutions never gained full political legitimacy, operational capacity or independent bodies for oversight and control necessary to establish its supremacy. There was for instance an unfortunate overlap in the authorities and mandates of the PLO and the PNA.

The unsettled and precarious political condition also gave more prominence to immediate action and short-term interests than to the long-term objectives of democracy and development. Thus, there was a high focus on the task of national reconstruction at the detriment of developing democratic practices. In fact, national reconstruction came to embody - even substitute - the historic struggle for national and democratic rights. This focus suppressed acknowledgment of the devastating impact that informal institutions (clientelism, particularity, patronage and corruption) might have on the political system. In this context, calls for transparent and accountable political and administrative conduct, institutionalisation and obedience to the rule of law were brushed away and dismissed as untimely or even luxurious trivialities.

Quantitative research on corruption has established that on average the governments in poor countries are the most corrupt. Their political leaders and state officials are particularly prone to public power abuse for private benefit (Klitgaard 1988, Della Porta and Meny 1997, Paldam 1999, Lambsdorff 1999). This indicates a medium to high level of corruption in the relatively poor Palestine. Furthermore, the import-oriented nature of the Palestinian economy enhanced the emergence of monopolies and state owned companies, a situation tending to enhance politically mediated access to resources. Under transitional conditions, spoils distribution (like monopoly rights, preferences in the import/export business, accommodations in politically favoured sectors and other income possibilities) were used deliberately to secure the support of important political and economic interests, leaving full discretion to a non-transparent administration and thus opening the doors for corrupt practices. As politically mediated new business opportunities were created and old ones transferred to new individuals, possibilities for quick enrichment were created for those who had the best political connections and political levers.

While there are positive financial effects to foreign aid, it tends to weaken the moral and political obligation of the citizenry to question the ruler and to hold him accountable in the various political, economic, and security spheres. In Palestine, the influence of the donor countries was shown to have a substantial impact on the status of corruption. As the regime's income and assets were divided almost evenly between taxation of the domestic economy and foreign aid, a large portion of the moneys spent was not extracted from the nation's own taxpayers (see Fjeldstad and Zaghera), and this left officials rather independent of domestic popular demands and pressures.

Foreign influence, however, reaches even farther. The entire political field in Palestine was developed with the Interim Agreements, with Israel being its main term of reference. For example, the elected legislative council (PLC) was far from being a sovereign body and its authority and mandate were scattered and limited, geographically and functionally. Thus, although the Oslo Agreement authorised the creation of a Palestinian legislative body, it was restricted from legislating on a wide range of issues, leaving these subject to final status negotiations. This limited sovereignty of the Palestinian legislature severely weakened its initiatives and ability to combat corruption.

Lastly, high levels of illiteracy, huge income differentiation, weak civil society organisations, popular expressions, increasingly concerned NGOs, the many popular allegations and rumours and press reports (despite the dangers of reporting), were all social and cultural indications pointing to widespread corruption in the Palestinian quasi-state. There is no smoke without a fire.

2.2 The Need for Institutions

An institutional approach to assess formal and informal power structures is essential for several reasons.

First, a developmental state needs a relatively high degree of authority and autonomy in order to push through the necessary socioeconomic transformation. Development through economic growth is a messy process in which certain interests will have to be contained and others promoted. This authority partly rests on the coercive means of a regime. But additionally, a certain level of legitimacy and support is required for the long-term sustainability of a developmentalist programme. Legitimacy and support might be characteristics of either a popular and populist authoritarian regime, or a democratic, elected regime. For the sake of

short-term grand transformations, a populist authoritarian regime is usually more efficient, as demonstrated through some military take-overs by younger officers. Such regimes have, unfortunately, no institutional or other guarantee that they will be or stay developmentalist oriented. For the sake of long-term stability and legitimacy, democratic regimes that are more open to inclusion, equality, standard procedures and redistribution, are consequently preferable.

Secondly, political democracy requires a design of the political system that is institutionally inclusive, balanced, and relatively efficient. The degree of inclusiveness can be seen in the level of system contestation, measured as how often and how seriously the system itself is disputed and challenged by social groups protesting against exclusion. When large and powerful groups are considering the political system and its leaders as illegitimate, the regime will usually become paralysed. Democratic principles (one man one vote, freedom of assembly, organisation, information and speech, respect for human rights and minority rights, and free and fair elections) are meant to secure a minimum level of participation and inclusion from which many regimes draw legitimacy.

Furthermore, a certain balance between contending powers in society is required for a democratic system to operate. If a relatively small and coherent group or class captures the state apparatus, public capacities will undoubtedly be used for the benefit of that group or class' vested interests. The end result might be a predatory state, a state captured by the ruling elite. In precarious political situations rulers tend to have short-term interests ant to "take out" as much as possible, and this will definitely be the detriment of long-term planning and development.

According to Max Weber the most efficient capitalist developing state is a state with counterbalancing powers where no group can turn to the easy way of parasite accumulation (Weber 1981:300, Callaghy 1988:68-77, 83). The only way of securing this in practice is through a democratic system that guarantees the basic rights of contestation and opposition. In stable, democratic systems, the formal institutions (the executive, legislative and judicial branches of government) are the main mechanisms for internal checks and balances. Institutions are the main arena for horizontal accountability and control, as well as for contending groups (vertical accountability, participation and control). In more precarious systems, however, like newly established regimes, transitional regimes and regimes engaged in external conflict, that is, when the basic rules of the game are unsettled and unregulated, the informal arenas for conflict and cooperation becomes more important.

Informal politics - the power games going on outside of the formally established channels - are of course essential in any political system, but more so in transitory situations where the rules of the game are unsettled. An institutional approach, which includes the questions of balance and inclusion in the informal as well as the formal political spheres, is therefore suggested in the following. This also makes it possible to develop criteria by which the influence of the formal and informal institutions on each other can be assessed, and furthermore gauge the political system's propensity to protect vested interests or to engage in national development.

3 Formal Political Institutions in Palestine

The Palestinian political system (1994-2000) was a mixed type of government, with parliamentary and presidential elements existing side by side. The parliamentary element was manifest in the presence of an elected council (parliament, PLC) with the authority of enacting laws and guiding public policies. The presidential element was apparent through the president who derived his legitimacy from the people through direct election.

The Palestinian political system was, however, definitely closer to the presidential mode of government, with its extraordinary degree of power concentration. The executive, and particularly the presidency, enjoyed in formal terms almost unrestricted powers. Compared to its counterparts in other polities, it was restricted by very few and very weak institutional countervailing forces. The executive held the lion's share of the resources and assets (coercive, economic, and symbolic), and acted almost unchallenged by legislative and judicial restraints. Democratic and institutionalised checks and balances never developed, but were passed over for the sake of sake of the national struggle.¹

3.1 The Executive

The top executive consisted of the Office of the Presidency, the Board of Ministers and the Security Forces. It supervised the negotiations and implementation of the various agreements with Israel and it negotiated agreements and treaties with foreign countries in the various economic, financial, administrative and semi-diplomatic fields. The cabinet laid down and implemented the general policy of the government. The executive supervised the administrative organs, prepared and approved the annual budget before it was presented to the PLC, initiated and proposed legislation to the council, and issued secondary legislation, including orders, decrees, and regulations. It ratified legislation enacted by the PLC, set up the courts and appointed judges, and granted pardons and commuted sentences.

The structure of the executive branch was rather intricate because of a direct overlap of PNA and PLO institutions (Sayigh and Shikaki 1999). One of the clearest examples was that on the one hand there was the Palestinian Legislative Council (PLC) and its Executive Authority (government), and on the other hand there was the Palestine National Council (PNC, the PLO parliament-in-exile) and the PLO Executive Committee. The PNA cabinet and the PLO Executive Committee were hardly distinguishable and largely overlapping, both in functions and membership. Furthermore, there was a 'Palestinian leadership', a loosely defined group of PNA and PLO officials. This body was designed to handle the negotiations with Israel, but it also dealt with internal affairs, operating in a crisis management style. In fact, meetings of this organ replaced the cabinet for all practical purposes. Dominated by the PLO, the policy decisions of this body were not subject to accountability by neither the PLC nor any other PNA body (Sayigh & Shikaki 1999, Rubin 1999).

While the PNA was the official governing body, much of the actual authority rested with the PLO. Note that the PLO did not recognise the PLC as the sole representative of the Palestinians, because the PLC constituency covered only the estimated 2.3 million inhabitants

¹ The major constraint to the Palestinian executive powers was external, however, and this to such a degree that its mere existence was threatened, and finally almost completely destroyed with the siege of the presidential compound by Israeli forces and the house arrest of the Palestinian president, from June 2002.

of the occupied territories and not the estimated 3.5 million Diaspora Palestinians. The PNC, on the other hand, considered itself as the representative of all Palestinians, both in the occupied territories and in the Diaspora. While in formal terms the PNA had the authority of administering the internal affairs of the occupied territories, it had no authority in the spheres of foreign relations, peace negotiations or in signing agreements. These tasks were the responsibility of the PLO and were performed by the Arafat-appointed 'Palestinian leadership'.

Constitutionally, the executive branch needed approval of the PLC for its major policies, but in reality the most important political and economic policies were formulated, implemented, and assessed by the executive authority alone, without PLC approval. Moreover, the executive disregarded many PLC decisions and laws in the areas of democracy, human rights, administration and budgets. The president did not sign many of the laws enacted by the PLC, such as the Basic Law, which is crucial for the institutionalisation of any democratic system. Until 2001, he had ratified only three laws enacted by the PLC, two of them in the area of local government, and the other in the area of public budgeting. Furthermore, the executive power and its security apparatus occasionally obstructed the work of the PLC and its committees. For example, the council refused means of obtaining information, such as insight into documents requested to facilitate investigation of suspected corruption and other violations. Ministers were neither helpful nor forthcoming towards the PLC's requests of holding hearings regarding various charges. They were slow to reply, when they did not completely withhold documents and information from the council. Finally, findings of commissions of inquiry set up by the executive authority, such as the Presidential Anti-Corruption Commission, were not released to the PLC (let alone the public) (Sayigh & Shikaki 1999).

The executive completely monopolised the negotiations with Israel. It refused to submit the Hebron Protocol before the PLC for discussion and approval; it did not comply with the PLC's decision to put the negotiations with Israel on hold in the aftermath of the Jewish settlement activities on Abu-Ghnaim mountain; and it disregarded the PLC's decision to hold negotiations until the Israeli government fully executed the first and second phase of redeployment of its troops from the West Bank. Thus, the parliamentary branch was largely encroached and marginalized by the executive apparatus in Palestine.

The executive also monopolised other parts of the public arena. It extended its dominance to include the judiciary, where the president enjoyed the power of appointing the members of the Supreme Court and the Attorney General. He could issue decrees to establish local and regional courts. Moreover, several court decisions were simply disregarded. These decisions were in the areas of democracy, economy, and in social matters. There were decisions regarding corruption in the various public agencies and institutions, and decisions regarding the violations of human rights and civil liberties committed by the security authority.

There was a further concentration and overlap of executive functions and responsibilities. President Arafat was not only the Chairman of the PLO and the President of the PNA, he exercised many other functions as well, such as the presidency of the strongest PLO member organisation (Fatah) and the leadership of the various security and semi-military groups (Legrain 1999). Consequently, his powers (and legitimacy) were not based primarily on the fact that he was popularly elected in 1992 as the PNA Interim President, but rather from the fact that he was the chairman of the PLO and Fatah. Endowed with all these functions, the head of the executive operated blatantly in violation of the principle of checks and balances,

he bypassed the representative bodies, and relied heavily on informal powers and political decrees.

The executive controlled the budget of the Palestinian Authority as well. The first budgets were covered partly by grants from the PLO and partly by contributions from international donors. The shares were about 50:50. This direct contribution from the PLO to the PNA implies in itself a total confusion of the two circuits. Recently, the income from domestic sources, from taxation, customs, and revenue transfers from Israel, etc. has been slowly increasing, but it remains still rather insignificant. According to one of the agreements with Israel, the Israelis are to collect taxes from Palestinians in area C, and customs on all Palestinian international trade, and to hand over a certain percentage of this to the Palestinian Authority. But, according to some reports, the Palestinian Presidency requested that Israel should transfer this money on a regular basis to a Tel Aviv bank and into two bank accounts controlled by the president himself and one other PLO officer only.

This performance of the executive caused much criticism. There was disapproval of the manner by which public policies were formulated and conducted, discontentment with the mismanagement of public funds, overstuffed institutions, corruption, violation of human rights, and dissatisfaction with the poor Palestinian performance in the negotiations with Israel. The executive responded to this popular (as well as external) criticism merely with suspicion and distrust. Frequently, criticism was deemed unjustified, since it “did not serve the Palestinian national interest”. Opposition groups, NGOs and other civil society forces were accused of exaggerating the faults committed by the PNA, while their criticism was portrayed as reflecting foreign interests. In some instances, the executive allowed to some extent for investigation into issues such as corruption and mismanagement of government funds, but no concrete and satisfactory action was taken against violators.

3.2 The Palestinian Legislative Council

The establishment of a Palestinian Legislative Council (PLC) through the general election of January 1996 was one of the major achievements of the Palestinian Authority. Palestinian lawmakers have since accumulated valuable experience and demonstrated growing capability to debate legislation, government policies, and budgets. Besides, among the 88 Council members some 35 were independent candidates (and some of them critics) of Arafat and his Fatah faction.

Over the years up till 2001, the PLC passed several important laws, but with the lack of a basic law and a clear constitutional order, laws that were adopted by the PLC rarely found their way to the president’s desk for signature. This nullified the decisions of the legislators, mocked its responsibilities, and aborted the principle of promulgation. The few laws that were indeed ratified were endorsed only after they were reformulated to meet the president’s expectations. One example is the draft law to regulate NGO organisations, their registration and activities, the ‘Charitable Associations and Community Organisations Law’. This law was passed by the PLC, but the president has not promulgated it. Therefore, the General Intelligence Directorate and the Ministry of the Interior continued to make separate attempts to compel NGOs to report to them, and there was a continuing dispute between the ministries of interior, justice and social affairs over which one should register NGOs.

The legislative branch faced the challenge of a deliberate and comprehensive marginalisation. With the lack of a constitutional framework, the PLC lacked credible mechanisms for enforcing its decisions. Furthermore, the Oslo framework provisions were amended with PLO

Executive Committee specifications that concentrated considerable power in the hands of the president, who became bestowed with an US-style veto over the legislature. This situation left the PLC with few constitutional sanctions to enforce executive compliance, deprived of the right to insight and oversight, and bereft of any power to efficiently control decision-making on broad policy issues. Thus, the council has not been able to supervise the decisions of the president or to hold him accountable.

PLC control over the financial situation of the PNA was also weak, despite US and World Bank demands for strengthening the PLC budgetary powers. While the PLC was formally bestowed with budget responsibilities, the first (and so far last) cabinet report of public revenues and expenditures (of April 1999) was not broken down to details and not in line with approved budgets. Besides, there were large sums of 'non-budgetary expenditures', i.e. PLO assets and expenses outside of any PLC control. Even when the situation was finally improved due to persistent donor pressure, the Palestinian Legislative Council not only failed to have full oversight over the national economy in practice, it still has not even the formal right to know all incomes and expenditures.

The legislative branch was further undermined because of various overlaps. First, there was the overlap and confusion of authority between the PLC and the PNC, as mentioned above. Also, there was an overlap between the legislative and the executive domain, as most of the PLC members had official governmental posts as well. They were ministers, advisors, heads of governmental agencies, or appointed municipal and regional leaders. Actually, some PLC members saw their executive positions as more important than their legislative duties, since these positions provided them with more access to real decision making power. Being executive as well as legislative actors, the basic principle of horizontal accountability was seriously undermined.

Partisanship constituted another impediment to the effectiveness of the PLC. The majority of the council's members, its speaker and his two deputies, as well as the general secretary all belonged to one party, Fatah.² Thus, while the PLC was formally bestowed with the right to use its vote of non-confidence, it failed to use this power vis-à-vis the executive.³ If not the above-mentioned overlap of functions between members of the executive and the legislative would suffice to hamper it, the Fatah majority of the PLC would never allow its use. In the words of one analyst, this situation led the system of majoritarian decision-making into stagnant rule (Amal Jamal 2000).

Partisanship reached even further. Fatah also dominated the executive bodies of the PNA, such as the ministries, the security apparatus, governor's offices, mayor's offices, municipal committees, and local government offices, all of which were filled by presidential appointment.

Last but not least, practical problems were hampering the functioning of the PLC. For instance did the council have offices and meeting halls in both Gaza and in Ramallah, and its members consequently needed an Israeli permit to travel and had to pass Israeli checkpoints quite frequently. This caused much frustration. Even when the PLC members enjoy

² This was unfortunate, but hardly avoidable given the boycott of the election by the opposition groups. It is worth noting that the boycott came about partly because the original devising of the electoral system favoured Fatah as the largest political party.

³ The right *was* used when in September 2002 the cabinet was forced to resign after being threatened with a vote of no confidence by the Legislative Council.

parliamentary immunity, they were subject to harassment by both Israeli and Palestinian security.

The following incident is a telling example of the practical working problems of the PLC. In late 1998, a special budget and oversight committee of the Palestinian Legislative Council issued a report that revealed:

- Abuse of public position for financial gain in the area of state monopolies,
- Acquirement of tenders by non-legitimate means for companies that have connections with persons in public positions,
- Appointment of individuals on the basis of nepotism,
- Facilitation of permits and tax cuts for unqualified individuals based on personal relations, and
- Abuse of public properties for personal use.

The Palestinian media totally ignored this investigation (the details were only available to Palestinians through Israeli media), and the president's reaction was to issue a blunt warning that also lawmakers could face punishment over offending statements (Shuaibi 1999, Rubin 1999:41, Al-Tashri'i 1998:4-5, 21).

The Committee then recommended that the cabinet should be dissolved and that a new cabinet should be formed in which none of the ministers stated in the report should be included. The result was that a new cabinet was established, but virtually all of those ministers accused of corrupt practices were back in place - only with a different portfolio. Ironically, when Arafat submitted the names of his new government, he won a vote of confidence. Subsequently, two ministers, who had not been cited in the report, resigned from the cabinet because of the lack of proper political action to deal with the corruption charges and the lack of administrative reform.

3.3 The Judiciary

In Palestine, there was no constitution and no basic law to ensure independence of the judiciary. The Palestinian legislative council approved a draft basic law (the "Law of the Land") as a constitution for the PNA, but the executive branch has not promulgated this document (Sayigh & Shikaki 1999). The chairman neither promulgated the Judicial System Law, which was passed late 1998 and meant to guarantee the independence of the judiciary. Furthermore, the post of Attorney General was placed directly under the executive authority, and the president made appointments to this post, like he appointed judges at all levels.⁴

In other words, Palestinian citizens' civil and political rights were poorly codified and void of fundamental principles to guide the establishment, functions, autonomy and separation of the three branches of government. In addition, there was no Constitutional Court to ensure that laws and regulations were constitutional, and the Supreme Court was not empowered to judicial review.

Enforcement of the rule of law was furthermore impracticable because the judicial system was understaffed. Important judicial positions were kept vacant for a long time, and the president

⁴ In the words of Sayigh and Shikaki (1999), "President Arafat and his Justice Minister retain the powers to appoint, promote, demote, transfer, dismiss, and retire judges at all levels; establish and close local and regional courts; hire and dismiss court personnel; and determine salaries and pensions". (Sayigh & Shikaki 1999).

removed judges from office for both critical statements and unfavourable court decisions (Rubin 1999; U.S. Department of State 2000). Instead, some responsibilities were taken over by traditional social institutions and practices, and public officials were taking up other parts of the tasks of the justice, in a disorganised and informal way. Finally, some decisions were made by Security and Military Courts, which rather than being controlled by the Ministry of Justice, also subordinated only to the president, who confirmed or rejected every decision.

Lack of independence of the judiciary from the executive branch of government seriously hindered the rule of law. The executive preferred to rule by decree and to use the range of legal codes selectively. In fact, there were Ottoman, British, Jordanian, Egyptian and Israeli regulations in force, contributing to the weak and irresolute legal basis of Palestine. According to Palestinian lawmakers, the chairman used the power accorded to him by international agreements in order to issue primary legislation in the guise of secondary legislation, so that it did not need PLC approval (Sayigh & Shikaki 1999). Furthermore, the executive simply ignored many important judicial orders (US State Department 2000).

For example, in 1997 the Attorney General ordered the release of eleven student detainees held for up to two years without charge or trial. They were released but immediately re-arrested by the Preventive Security Forces. This manoeuvre undermined the status of the Attorney General who indeed later resigned because of continuous intervention by the minister of justice and by heads of the various security forces.

In political terms, the judiciary was in a permanent state of deliberate political marginalisation, and in practical terms in a state of operational crisis, as there were shortages of judges, prosecutors, court administrators and other staff, and an extreme task and responsibility overload. As a result, citizen's civil and political rights were frequently violated in the name of security. The security forces made arrests with no clear charges and prisoners were subjected to harsh captivity conditions and a number died in detention. The State Security Court, however, revived and utilised a wide range of emergency laws inherited from previous rulers, and made harsh and speedy sentences.

3.4 The Security Forces

A wide range of security forces existed in the West Bank and Gaza, all of which were directly under the president's command (Luft 1999). They enjoyed such a degree of power and influence that they could not be ignored by any other powers in Palestine. Elected representatives, local and central authorities, members of the opposition, rivals and any influence seeker among the dominant elites, be it politicians, bureaucrats or business figures, had to take the security forces into account. In fact, according to a perception held by a wide part of the public, there was an uncontrolled and ad hoc proliferation of security agencies. When the PNA was established, the security groups were concentrated around the Police Force, which was assigned the task of maintaining security and order and to protect the PNA in general. Later, the security groups consisted of (about) twelve agencies, the police force alone employed about 30 000 people, and these were able to impact considerably on the various spheres of life under the PNA.

Security forces played a crucial role in keeping the emerging entity under the PNA intact. They were present in the various districts and areas of the West Bank and the Gaza Strip, and their composition entailed former PLO guerrilla units, returned Palestinians, and former intifada activists. In theory, the security groups were subordinate to the Higher Council of National Security, a body that comprised of the heads of all security groups and assigned the

task of providing advice on internal security issues. They were to report to the central command in each area, as the local Governors of the districts were officially the highest chiefs of all PNA institutions and organs (!), including the various security forces.

However, the separation of the West Bank and the Gaza Strip and the division of the Palestinian territories into areas A, B, and C forced the PNA to form parallel commands and branches, which fragmented the security apparatus. Besides, the Council lacked clarity of rules and procedures, and its missions and responsibilities remained vague and informal. Among the various groups, divisions of labour and exact duties and responsibilities were either unclear or inexistent, and there was a lack of coordination among the various groups, at times among the various units within the same group. The overlap of functions and confusion further weakened those proper rules and legal procedures that did exist. Finally, all security groups were founded and remained closely controlled by the president. Formally, the PNA president was himself the head of the Higher Council of National Security, and in practice the security forces all reported to him, separately and directly.

Concerning their finances, security agencies had their own budgets independent from the ministry of finance and thus subjected to neither Ministry or PLC oversight and control, nor to external audit. The portion of the general budget spent on security agencies represented the single largest item of PNA recurrence expenditure, accounting for over thirty percent of the general budget (Sayegh & Shikaki 1998:117). In addition, each security group secured some of its own finances, using a wide range of means that sometimes went far beyond what was legal or ethical. In their pursuit of power and resources, security group officials committed human rights violations, practiced corruption, and were involved in undeclared commercial activities as well as unauthorized tax collection.

Personal rivalry contributed to the worsening of the internal environment of the security groups. Security chiefs viewed their agencies as power bases and as means to achieve private gains. To this end, they allied themselves with Fatah chapters and influential clans. Heads of security agencies always sought the support and approval of the Fatah faction in their local area in order to be able to function. Loyalty was a crucial theme. While some groups, the National Guard for instance, made sure that the various West Bank branches were headed by individuals of Gaza origin, all groups, except for the Preventive Security Forces, were headed by individuals known as 'returnees', known for their special loyalty to the PLO and Chairman Arafat.

3.5 The Ministries

The public administration in the Palestinian Authority was weak and inexperienced, and without a basic law and procedural principles its organisational evolution was rather haphazard. There were competing chains of command, insufficient delegation of authority, excessive compartmentalisation in certain respects, and a lack of departmental autonomy in others. Besides, there were inadequate formal procedures, insufficient flows of information, and inadequate audits and internal controls. There was an almost complete lack of audit generals, ombudsmen, and anti-corruption agencies.

There was only one ombudsman, and a relatively weak Palestinian Independent Commission for Citizens' Rights, both established by presidential decree. Commissions nominated by the president himself were investigating most cases dealing with human rights abuses (for instance incidents of detainees died in custody or under torture), even instances regarding consumer rights. However, few of the reports or findings of these commissions were released

or publicly debated, and officials who were criticised were rarely reprimanded or brought to justice.

A duplication of functions and redundancy of institutions prevailed, such as the many parallel departments in the West Bank and Gaza Strip. While the PNA had a significantly inflated payroll, several sectors were understaffed, in particular those requiring specialised or highly qualified personnel. In the civil service there were overstaffing and job inflation in most ministries and agencies, in particular at the top levels of appointment. The desire to ease unemployment, combined with political and personal factors, partially converted public hiring into a means of rewarding political loyalty. This left the Palestinian Authority with a much higher proportion of the labour force in public employment than is the case in other post-conflict countries. The result of this favouritism and corruption was low quality and little efficiency in public services. It inflated the wage bill and future pension requirements, and threatened the domestic legitimacy of the PNA.

Planning and prioritisation greatly improved during the period 1994-2000, as the Ministry for Planning and International Cooperation gradually assumed the central role for these matters. Nevertheless, competition among PNA institutions for donor assistance also led some donors to conclude direct arrangements with PNA ministries, regional agencies, and municipalities. In the cases when separate PNA institutions tried to 'shop' for funding, priorities were confused. Donor support for competing institutions also worsened administrative fragmentation.

Comparative studies suggest that executive dominance in precarious circumstances opens up for short-termism, for personal and political interventions in administrative matters, and for rewarding political loyalty through favouritism and clientelism. Besides, in a situation of inconsistent, unstable and unpredictable rules and regulations, public officials have a particularly large room to extort bribes, to take "fees" for delivering services that are inadequately codified or even known to the public. They can also demand commissions for all kinds of services (be that licenses, permits, exempts, deductions and releases). These factors definitely played a role in Palestine.

3.6 Governorships and Municipal Authorities

Representative institutions at the local level (municipalities, mayors, village councils) were originally granted certain powers, but this was largely subverted by increased powers to non-elected bureaucracies, like the regional governors attached to the Ministry of Interior and nominated by the president (Dajani n.d., Sayigh & Shikaki 1999). There was, for example, a centralisation of revenue collection away from municipal authorities, and the transfers of state funds to local and municipal authorities were unsystematic and politicised since there was no relevant legislation (Sayigh & Shikaki 1999). After the complete halt of transfers of taxes and duties collected by Israel on Palestinian trade and labour, the transfer of funds to local authorities has been even more politicised, and local sources of revenue have become increasingly more important to local authorities.

4 Informal Power Structures

In addition to the deficient institutional arrangements and undemocratic elements mentioned above, a number of informal political characteristics indicated a clientelist and neopatrimonial trend in Palestine. It is not possible at this point to say that it would have become a fully-fledged clientelist or neopatrimonial state, but a number of attributes to this fledgling state were indeed compatible with the label neopatrimonial.

4.1 Neopatrimonialism

The term denotes a political system in which the outer appearance and the institutions of a legal-rational state are in place, but where the actual power rests with deeply embedded patrimonial logic and on patron-client relationships. Neopatrimonial regimes are consequently different from corporatist states, one-party or military dictatorships, and different from institutionalised democracies. They are semi-democratic, relatively stable presidential systems with a number of additional qualifying features. In neopatrimonial systems, the chief executive maintains authority through personal patronage rather than through ideology or law. The right to rule is ascribed to a person rather than an office, and relationships of loyalty and dependence pervade the formal political and administrative systems. The distinction between private and public is purposely blurred, and in essence politics is about awarding favours to clients. In return for loyalty and political support, such awards could be public sector jobs, contracts, licenses and immaterial benefits, like belonging (Bratton & van de Walle, 1994).

Next to personalised presidential power, systematic clientelism is the key institution of neopatrimonial regimes. Personal loyalty to the ruler is established by using the stick and carrot strategy, exercised through his power to appoint and dismiss, to hire and fire, and to forgive and reappoint when opportune. The carrot is letting individuals get access to the prestige and fringe benefits of positions in the ministries, state agencies and parastatals (sometimes with considerable additional possibilities for rents and grease money). Up-coming individuals and individuals with a personal power base, a clientele of their own, tend to be co-opted into the system through nomination and special treatment. Corporate loyalty and collective allegiance from important constituencies is secured basically by nominating one of theirs. The stick is typically the threat to withdraw presidential favours, including one's position and all the benefits that have come with it, but could in some instances also bring peril to a person's freedom and life.

Political corruption is an integrated part of the clientelist system. Political corruption is one of the economic backbones of the state elite; it is the basis of its domination and survival. The extractive capacity of the state apparatus is one of the *raison d'être* of holding power in neopatrimonial regimes, and constitutes what various groups are fighting over. Besides, in neopatrimonial states, corruption and patron-client relations overlap into a pyramid of upward extraction. Note that patrimonial relations are not balanced. The flow of resources benefits the patron more than it benefits the clients, because each patron has a large number of clients in his web, and the patron accumulates more than he redistributes.

As seen from other neopatrimonial experiences, a number of economic factors will contribute to clientelism. A weak economic base with low levels of industrialisation will enable the political elite to dominate an underdeveloped bourgeoisie, and to control and exploit the

import-export sector. In a country where easy access to resources like mineral wealth; strategic natural resources and/or international aid are constitutive characteristics, the ruling elite is consequently relatively independent vis-à-vis the local economy, and relatively immune to popular demands. It will furthermore give it the economic strength to buy off rivals, to accommodate vital supporters in the clientelist network, and to buy the military hardware and security necessary for its survival. Ultimately, a proliferation of security services is a neopatrimonial ruler's last resort.

In sum, in neopatrimonial systems a weakly institutionalised state with ineffective constitutional and legal constraints will facilitate personal rule. The rules of the game will purposely be blurred, while rule by decree and constitutional dodging will be the norm. Besides, a relatively large distance between the rulers and the ruled, economically as well as culturally, will reconfirm and sustain patron-client relationships.

4.2 Patronage in Palestine

Public opinion polls indicated that the Palestinian government was increasingly perceived as corrupt. Resentments were especially strong in the economically struggling Gaza Strip, where many people believed corruption stifled the kind of business activity that could help lift them out of poverty (Associated Press 12 January 1999; Reuters 5 August 1998; Rubin 1999:67). Local newspapers made revelations and accusations of corruption, despite repressive reactions. They claimed that PNA security officers seized thousands of dollars from Palestinians crossing from Egypt and Jordan into PNA areas when travellers were told they were violating currency laws, but no one received receipts for the seized funds. Papers reported that people had to pay kickbacks to avoid traffic tickets, that bribes were necessary to obtain routine government services, and that PNA officials took bribes.

International news reports in late 1999 maintained that the PLO had salted away billions of dollars in foreign bank accounts and investments, controlled only by the president himself and two of his most trusted aides (Daily Telegraph 02.12.00 and 05.12.1999). In addition to allegations of political and bureaucratic corruption, the Palestinian police and security forces were criticised for human rights abuses, and the new leadership for power abuse (see for instance U.S. Department of State 2000; Amnesty International 2000).

These allegations were part of an increasing criticism directed at the Palestinian leadership for power abuse. Apparently, corruption was not a randomly distributed conduct, but rather it was deeply entrenched, systematic and subject to certain patterns. Corrupt acts were committed to consolidate and strengthen power and influence in the ongoing struggle for domination and alliances, particularly between political and security figures for the post-Arafat era. Corrupt acts were also committed as political entrepreneurs attempted to collect more assets, to secure access to high positions in crucial areas in the system, and some even to arm groups that could serve as a nucleus for future militias.

Thus, in Palestine, neopatrimonial logics of a political system seemed to be firmly in place. One of the basic neopatrimonial dispositions was the accumulation of positions (formal and informal) in the hands of Chairman Arafat. According to Jean-François Legrain (1999), the chairman has accumulated some 30 functions, of which the most important were his leadership of the PLO Executive Committee and of the Fatah Central Committee, the presidency of the Palestinian national Authority, and his chief command of the numerous security agencies. In addition to the executive, administrative and judicial branches of government, a large number of national institutions and agencies, even NGOs were attached

by presidential decree directly to the president's office, which gave him the power to nominate the heads and board members. For example, the chairman had in person intervened and appointed heads and board members of important NGOs like the Bar Association (Sayigh & Shikaki 1999).

The ministry of finance did not disburse approved budgets to ministries or agencies according to fixed timetables and plans, even after approval of the PLC, but the minister and agency heads concerned had to seek individual approval from the president (Sayigh & Shikaki 1999). Institutional subordination was consequently transferred into personal dependence.

At the same time, the president indulged into micro-management of Palestine's daily affairs, not only the bigger decisions and appointments. This is a typical feature of neopatrimonial states; the ultimate leader interferes with decision-making in any state office, indiscriminately and unexpectedly, to demonstrate his superiority and personal control.

In controlling the finances of the PLO, the PNA, and of Fatah, the chairman secured personal loyalty and dependence. When, or if, his followers strayed away or opposed him, he did not hesitate to scandalise them, directing harsh accusations and allegations towards them. In Palestine the stick was best known as the '*Fakehani Rules*', the deadly gangster rules of loyalty and treason that the PLO leadership and cadres had learned when in exile in Beirut from 1971 to 1982.

Systematic co-optations and clientelism was present as well. Since there was no public recruitment agency or employment exchange, the regulations regarding public recruitment were weak. Informal ties, political loyalty, personal relationships and other patrimonial logics prevailed, at the detriment of the meritocratic principle of education, experience and efficiency. Like other neopatrimonial leaders, the Palestinian president developed a very sophisticated system of internal balancing that accommodated most of the important individuals and factions. Conservative traditional leaders (clan heads), Islamic figures and radical leftist activists were to be found among the clients of Chairman Arafat. His ruling elite had to accommodate and counterbalance on the one hand the traditional elites, and on the other hand the more modern, institutionalised, educated and professional groups (Rubin 1999:17). As a result, the members of the ruling elite were not loyal to the president (only) because of violence and fear, but because of a skilled and shrewd system of balancing personal as well as corporate contenders.

Appointment was utilised not only to secure loyalty but also to revive traditional ties. The PLO's Executive Committee was enlarged in order to accommodate, among others, members of traditional families (Al-Agha, Al-Khoudari, Al-Husseini, Al-Sheka'a). The Al-Qawasmi clan and its web of relatives and friends dominated most of the high positions in the Ministry of Transportation and its various regional offices. And while the Ministry of Health suffered from a severe shortage of doctors, nurses and technicians, it had 60 general directors who consumed 45% of the salaries in this ministry, and the salary of one director was equivalent to the salary of four nurses. Overall, salaries made 72% of the total budget of this ministry and among the people employed were old people in their seventies, wives of general directors and persons residing outside the country (according to a report by the PLC on corruption in the PNA, published 1997).

While the most important administrative positions were basically filled with people from the PLO apparatus in exile and others who had proven their political loyalty to Arafat, the

administrative apparatus further down was filled in a distinct clientelist manner. For instance, whenever the Israelis were releasing Palestinian prisoners from custody, most of these people were in a need for jobs. And since these were people who had proven their loyalty to the 'cause' and to the PLO, nothing was more natural that to give them jobs in the Palestinian public administration - which secured their continued loyalty. The number of public personnel expanded unchecked, with about 40% of the work force in Gaza on the public payroll (Sovich 2000).

The trade union leadership quandary can further illustrate the system of co-optation. According to Nina Sovich, the Palestinian General Federation of Trade Unions (PGFTU) had failed in its basic task of promoting worker's rights, because the union leaders not only lacked the discipline, expertise and political will, they were co-opted by the PNA as well (Sovich 2000). According to Barry Rubin, independents, leaders of smaller parties, individuals close to Hamas (the major opposition group), and even critics were at least temporarily co-opted (Rubin 1999:17).

4.3 Allegations of corruption and factional disputes

However, allegations of corruption also served as a weapon in the many power struggles going on in Palestine, like for example between PLO organisations and various political opponents, opposition parties, and dissident groups. There were struggles between the various factions and rivals within the PLO leadership (people who were excluded, who had been in the antechamber for too long, internal rivals etc.), between the various organisations of which the PLO is the umbrella, between the PLO dominated executive and the not-so-PLO-dominated PLC, and between the PNA leadership and the opposition. Rumours abounded, some claims were rather wild and unfounded, and probably even the Israeli security and intelligence agencies were 'revealing' or 'producing evidence' to discredit and weaken Arafat and the PLO from time to time.

The proliferation of security agencies in Palestine was also symptomatic for a neopatrimonial mode of rule. Coercion is the ultimate system backer of every political system, but was in Palestine used as much against internal rivals as against external enemies, rather frequently and routinely. To prevent army or security police 'trouble', and indeed to exclude the possibility of a coup d'état, Chairman Arafat did, like a number of neopatrimonial presidents before him, divide the bodies of coercion into a number of parallel services, with himself as the commander in chief of them all. Even when the Palestinian state had not a military apparatus as such, there were twelve different police, intelligence and security agencies, under the umbrella of the GSS (General Security Services) commanded by Yasser Arafat (Luft 1999).

These security agencies were blamed for repeated human rights abuses, insufficient observance of due process, inadequate separation of functions and responsibilities between the various branches, and occasionally violent inter-service rivalries. This threatened the performance of the various police branches and destroyed public approval and the confidence of Israel and the international community.

The governing party (Fatah) was divided into many camps and power bases. One aspect of this division in the West Bank was manifested in the form of a rift between the West Bank leader of Fatah and his rival. However, the two allied themselves as local Fatah leaders when conflicts arose with members of the Fatah Central Committee, whose members were mostly returnees. This group included influential names, such as Abbas Zaki, Sakr Habash, and Hakam Bal'awi among others, all men who enjoyed Arafat's support. When the West Bank

leader of Fatah felt threatened he searched for backing and aligned himself with the head of the Intelligence Service in the West Bank. Meanwhile, the head of the Preventive Security Forces in the West Bank (rival of the Intelligence Services) became a strong supporter of the Fatah leader's rival. This alliance ended years of animosity between the latter two, animosities that started when the one had been the temporary substitution of the other as director of the Preventive Security Forces in 1999.

Competition and conflict over personal influence and power existed not only between the different security forces, but also between the heads of the West Bank and Gaza branches of these security groups. Within the Preventive Security Forces for instance, Mohamed Dahlan was the head of the Gaza branch and competing with Al-Rujub who headed the West Bank branch.

Officials of the Palestinian Authority were not shielded from negative effects of the intrigues of such alliances and conflicts. One illustrative example is the support that the head of the Preventive Security Forces enjoyed from the General Director of the Board of Ministers, and from the Minister of Culture. Some observers explained the minister's support to the Head of the Preventive Security Forces with the latter's need of protection due to his allegiance to a small political faction (FIDA). In return, the Head of the Preventive Security Forces received political support against his rivals. Ties between these three have been strengthened after they defeated a rival group from Gaza, who urged Arafat to accept Barak's proposal at Camp David in September 2000 (Al-Ayyam newspaper 13.05.01 and 14.05.01).

Given this proliferation, it was even more disturbing that those who benefitted from corruption were generally from the security forces, the civil service and the political and economic elite. The intensity of corruption varied from one group to another. The Police Force was perceived as the most corrupt. Other groups that dealt with security matters, such as the Preventive Security Forces and the Intelligence Service, performed more complex activities, due to their overlap with Fatah chapters and armed groups. These two groups stood out as they were at the top of the ongoing struggle for influence and power consolidation.

Security forces were even involved in tax collection. The general prosecutor of Jericho collected large sums of money as taxes from businesses, and kept it in his private bank account without informing the ministry of finance. Allegedly, he amassed over four million NIS. Taxpayers were even exposed to torture in the course of efforts to extract larger sums, as reported by the Al-Raqeeb newspaper and revealed in hearings by the Oversight Committee of the PLC in 1997.

Attempts were made to combat corruption by revealing corrupt practices to the public. Ironically, internal conflicts between the various factions of Fatah seem to be the true driving force behind these efforts. Since the eruption of the second intifada, many leaflets were distributed among the general public, issued by a group that called itself *The Brigades of the Al-Aqsa Martyrs*.⁵ This was not one homogenous group, and it could be conceived as a collection of individual groups that were all (or believed to be) affiliated with Fatah. These groups were independent of each other, each aiming to discredit a certain public figure while praising another one in order to secure more power and influence for their protégé and themselves. The different groups were insisting on using the name that associated them with the struggle of the second intifada in order to stress their respective authenticity over other factions.

⁵ These leaflets have been used as a source of information in some of the following. Despite their clearly propagandist nature, we believe they are illustrating and give some background information on certain conflicts, ways of thinking, and group constellations.

Each leaflet attacked a prominent, influential political figure and accused him of corruption. Among targeted individuals were members of the Palestinian leadership, including ministers (such as the Minister of Civil Affairs), chiefs of security forces (such as the Head of the Preventive Security Forces, and the Police Chief), PLO men, and one previous finance minister of the PLO. They included businessmen, prominent Fatah figures, local leaders, and a previous PLO representative in Tunis and PLC members from Tulkarem. Furthermore, each faction was backed by a certain division of the security forces.⁶

One particular line of conflict can be noticed from these leaflets, namely between the upper ranks, represented by the members of the Central Committee of Fatah, who are mostly 'returnees', and the younger leadership of the movement, mostly residents.

Another illustrative example of the political division and fragmentation within Fatah is an incident that took place in a refugee camp near Nablus. The conflict arose over the confiscation of weapons in the aftermath of the Wye Plantation Agreement in 1999. The groups that became involved were the PNA police force, the respective Fatah branches of the camp and the town, representatives from the municipality, and the governor of Nablus. Fatah has not been able to internalise these conflicts of contradictory tendencies between the champions of authority and the rebellious, the refugee camps and the city, and between the central and the local authorities, as represented by the governor and the mayor. Overlapping this fight was the historical rift between the governor's family (Al-'Aloul clan) and the mayor's family (the Al-Shaqa'a clan). Furthermore, there was a group of Fatah members in Nablus with contradictory alliances, since on the one hand they expressed their support to the refugee camp; on the other hand (and for mutual benefit) they allied themselves with the prominent family of the mayor of Nablus. It should be noted here that the refugee camp received massive support from most other refugee camps in the West Bank and from the Fatah activists in these camps. It even escalated to the point at which activists issued a leaflet warning the PNA against entering the camp. A PLC member from the camp and a local Fatah leader maintained when PNA security personnel approached the boundaries of the refugee camp in an attempt to enter: "You will cross only over our dead bodies".

4.4 The corrupting economics of rent-seeking

Dominating the scene in the game of corruption was a coalition made up of Palestinian elites: the upper bureaucracy, security forces officers, and the local bourgeoisie (bigger merchants, investors, and contractors). The latter group was able to establish a political and economical power base and to forge ties with Israeli and other foreign companies and firms.

Corruption occurred largely because individuals sought access to economic benefit either by becoming partner in large business deals and transactions, or through monopolising certain services or commodities. In this context, proximity to the Israeli side was important, as the most influential individuals among the groups that practiced corruption were those who were in a position that allowed, or even required them, to deal with the Israeli side. It was reported that heads of local companies and firms who dealt with the Israeli side bribed PNA officials with money and gifts. Influential PNA officials owned most new businesses, either through direct and complete ownership, as subcontractors for foreign and Israeli companies, or through partnership with the PNA itself. Examples include the Ministers for Planning & International Cooperation and for Civil Affairs, the PLO leader himself, the head of the PLC.

⁶ The leaflets featured heads of public agencies, such as the late Hisham Mikki, head of Palestinian state television, who was slain in Gaza after severe allegations of corruption, and the chief of the Palestinian aviation agency.

In a 1995 report from the United States General Accounting Office on foreign assistance to the PNA, it was concluded that the PLO and PNA budgets were neither transparent, nor accounted for. Indeed, it stated that Chairman Arafat and his officials were opposed to any financial controls, be they domestic parliamentary, independent, or donor driven (GAO 1995; Frisch 1998). The Chairman and his inner circle enjoyed a near monopoly of control of the entire economy of the Palestinian state. In the higher circles of power there was a tendency of converting political position into private wealth as officials straddled into the semi-private and private sectors. This process also generated downright corruption in terms of embezzlement, fraud and “commissions”.

The report released by the Oversight and Human Rights Committee of the PLC in 1998 revealed another case regarding fees Palestinian travellers paid when passing through the ports to Jordan and Egypt. Each traveller paid 121 NIS as travel fees but got a receipt for 117 NIS only. The sum might seem insignificant, but is estimated to sum up to about 1 million NIS annually. The report included the names of each one involved, including officials in the security forces, bureaucrats and politicians, among them one minister and a few directors and general directors in the ministries.

As noted above, there is no strong and efficient judicial system in Palestine aimed at combating corruption and power-abuse. Because legal channels did not function properly, individuals resorted to *wasta* and bribery in order to avoid punishment, or to reach their aims. Besides, judicial officials sometimes accepted bribes and commissions, and there were stories about how they extracted money and exploited people involved in criminal or political offences.

The argument here is that money extraction – or rent-seeking – was the common form of corruption practised in the Palestine territories. The phenomenon of rent-seeking is another common aspect in neopatrimonial and clientelist systems. Rent-seeking is here referring to the inclination of power-holders to non-productively extract surpluses from politically mediated business opportunities. These include the right to import certain commodities, to produce certain goods, or to deliver certain services. And when access to certain markets is politically restricted like this, only the businessmen or companies with the relevant political connections will get a piece of the cake. Politicians and public officials can then enrich themselves, or enhance their hold on power, by creating opportunities for direct personal rent extraction and by ‘selling’ access to rents.

One of the consequences of this is that economic power becomes concentrated. The presidency controls dealings with private businessmen for their privileged access to government contracts, licenses, and other deals. A number of companies in Palestine gained access to PNA-granted monopolies and preferential treatment this way, and the companies without this access complained that they could not compete with rivals enjoying government favouritism and subsidies (Rubin 1999:39).

A number of businesses were opened to Palestinians. The negotiations with Israel gave the Palestinians the right to import certain quotas of goods (like cement and other building materials, tobacco, flour, meat and fuel), to deliver certain services (like telecommunications and electricity), and to produce and export certain commodities (like textiles). Many of these Palestinian rights or quotas were still in the form of sub-contracts for Israeli companies (because Palestine was not recognised as an independent country), but ever more business opportunities were created through the negotiations and the ‘peace process’. However, there

existed numerous restrictions on economic activity, many imposed by Israel, in particular for residents of East Jerusalem and the Gaza Strip. Underdeveloped infrastructure combined with all the restrictions held back any economic activity of scale, such as independent banking (Mazawi & Yogev 1999). In this environment, political connections became even more fundamental for economic entrepreneurs.

Business opportunities were thus politically mediated, controlled and distributed. Therefore, the most important political game in Palestine was that of distributing concessions and rights. Existing businesses and businessmen were positioning themselves by greasing politicians. The politicians were also manoeuvring for access to rents from PNA ownership of businesses and by taking over politically generated business opportunities. Some businesses were state monopolies (PNA owned) like the Petrol Board (that raised money for the PNA by raising prices higher than in Israel) and the Palestinian Company for Trade Services (cement imports, a monopoly that enjoys police protection against competitors). Profits earned by these PNA-approved monopolies were sometimes put into special budget accounts under the president's control with no public accounting (Rubin 1999:69). Others were parastatals with PLO/PNA notables having personal interests in them, and a large number were sub-contractors.

The local chief of the National Guards in Nablus obtained a personal bank loan by using his institution as collateral. The money was invested in four chicken farms. Dozens of National Guard members served as workers on these farms. The product was sold to the supplies department of the National Guard and then landed on the soldiers' dinner plates. The person in charge of supplying the local branch with foodstuff was a close relative of the local chief. As the returns from these transactions went into the chief's pockets, he came to own several houses and businesses in the West Bank and Gaza.

Yasser Arafat himself, a number of his closest political friends and allies, a number of prominent PLO figures, ministers and top-level bureaucrats, and the PLO as such, were moving into various businesses in Palestine. For instance, the two most prestigious hotels in Palestine, the Oasis Hotel and Casino in Jericho, and the Grand Park Hotel in Ramallah, were owned by PLO figureheads, some said by Arafat himself. The Grand Park was frequently used by state visits, and the Oasis hotel in Jericho was particularly interesting for Israelis and Jordanians who were forbidden to play games for money in their home countries.

More dangerous were the politically mediated monopolies in core industries handed out to certain PLO-affiliated private individuals and in particular to the Chairman's inner circle. These were the state regulated monopolies or quasi-monopolies in telecommunications, oil and energy, and several building materials.

An internationally published case involved the Palestinian Telecommunications Company, Paltel, which enjoyed a monopoly and charged inflated prices. In 1994 an American company signed a contract with the Palestinian president representing the Palestinian Ministry of Post and Telecommunications. But in July 1999 a court in the USA ordered that Palestinian Authority accounts be frozen until it paid \$ 20 million in compensation to the US company for violating their contract and turning over the monopoly rights to Paltel for a period of twenty years. Allegedly, there were mutual interests between Paltel and some Palestinian ministries and officials who owned shares in Paltel (Palestine Report, 19 January 2000).

There were several other examples of top politicians interfering in business for private gains. One case involved the Minister of Civil Affairs, who requested the Israeli side for the closure

of the Allenby Bridge, the border crossing to Jordan, in order not to allow the import of cement for a certain period of time. This action was intended to allow the minister's son to monopolise the cement market through his Al-Karmel Cement Company. Another case involved the Ministry of Planning and International Cooperation, which allegedly spent 92% of its budget on training and consultant work to hire a consultant firm called Teem, which was owned by the minister himself. And so on...

4.5 A culture of loyalty

A traditional political culture persisted among many segments of the Palestinian population, where loyalty was given to local headmen, religious, family- and clan-leaders. In this setting deference to the traditional leaders was encouraged, more than to a modern organisation with a rule of ideology or principles. However, the traditional Palestinian elites were declining, and the remaining traditional hierarchies and patronage relations were fragile. The social basis of Palestine was nevertheless rather conducive to a clientelist mode of rule, because of the fragmentation of the population in a predominantly rural setting, with a large migrant community. In addition to the social and institutional fragmentation of territorial Palestine, two more factors were conducive to political clientelism. One was that there were large Palestinian communities in Israel and Jordan, and smaller communities in Lebanon, Syria and other countries. These had conflicting interests and a fragmented social and organisational base. The PLO/PNA structure was consequently the nucleus of an extremely dispersed and heterogeneous population. Secondly, the PLO was in itself partly a product of the attempt of various Arab presidents and monarchs to withstand Israeli expansion, and not simply a grass-roots organisation. It had furthermore two deep internal cleavages - one between the "insiders" and "outsiders", another one between Gaza and the West Bank.

There existed a considerable rift between returnees (of whom nearly all are Fatah members) and originally local residents, as both were competing for power and influence. In this context, both sides had created stereotype images of each other. Locals perceived returnees as corrupt. The returnees on the other hand saw locals as rigid, backward and inexperienced. Both sides perceived each other as less loyal to the national cause than themselves. In some of the distributed leaflets referred to above, returnees were described as robbers of public money or as violators of the ethical codes of the Palestinian society. From the other side, local residents were frequently labelled as traitors and as collaborators with Israel.

Returnees were perceived as holding the lion's share of power and influence, as they generally occupied the higher positions. While constituting only a small minority of the entire population, they were holding a quarter of the posts on the Board of Ministers, a quarter of the posts of deputy ministers and assistant deputy ministers, and a large number of the posts of directors and general directors in the various institutions and agencies. While administrative work was assigned mostly to returnees, manual work was more likely to be assigned to locals.

Often the heads of the police departments and local chiefs of the National Guard in most West Bank towns were returnees from Gaza. Examples were the governor of Nablus who was a member of the Council of Palestinian National Security, while the mayor of Nablus was a member of the Executive Committee of the PLO. Arafat appointed these two men to maintain a balance between the two factions of Fatah, the returnees and the locals. As a returnee, the governor belonged to a group that had little respect for the local Fatah figures. In an private conversation the governor revealed that he still remembered the day when the PLO – through Abu Jihad – approved the liquidation of the then minister of civil affairs for collaborating with Israel.

While Chairman Arafat was never personally accused of corruption, he seemed to have condoned it among the people he chose for public office. During the first few months after the formation of the PNA in 1994, tens of thousands of dollars worth in gifts were given to high officials in the PNA, especially in the security forces. This money was never registered and was privately spent by the individuals. In a private meeting a Canadian official mentioned that the head of the PLC had received \$ 3 million in foreign aid and deposited it in his private bank account. Some of these people have been known to be corrupt for so many years that in a normal situation they would be a burden to the ruler. This reveals that to the Palestinian president loyalty came before good conduct and allegiance before accountability.

The director of the Palestinian Police Force issued orders to the police directors in the various regions to build new headquarters and to secure the funds from sources other than the official budget of the police. Local police directors were urged to secure the needed money by any means and were threatened that those who did not succeed would be replaced along with their assistants. Thus, police directors resorted to illegal dealings that included car robberies, the obtaining of cash money from spare parts car shops, the confiscation of properties, overcharging people by raising fees, and money extraction from individuals accused of felonies in return for their release. In the leaflets the Director of the Palestinian Police Force was accused of running a 'jail business' accusing people of felonies and then blackmailing them. He was also accused of protecting big drug agents⁷. Another leaflet accused the director of the Palestinian Police Force of running a prostitution ring, naming the women involved in it.

In the Nablus municipality, there was no accountability and oversight. Neither the Ministry of Local Governance, nor the Ministry of Finance checked on the financial dealings or watched over the spending of the money provided by donors and other foreign agencies. The Nablus municipality received large amounts of donor money. Due to the lack of accountability, the mayor was able to allocate some of this money to strengthen his influence and to expand his web of supporters in town. He gave monthly salaries to selected individuals and armed a small militia that received orders only from him. In the words of a member of this group, 'our task is to stand firm against any violators of public order and against those who wish to weaken the patriotic resolve of Nablus'.

Nablus was unique among the Palestinian cities, as it had a highly efficient police force of its own, in addition to the National Police Force (Gaza also had its own but less efficient police force). The head of this local police force was indebted to the mayor, since he was reinstated to his position after he had been fired for illegal business transactions. He had previously served as the head of the intelligence division in Nablus, when in 1997 he was fired after being caught smuggling and dealing with stolen products (personal computers). The general director of the National Police Force immediately appointed this individual as the director of the police department in Ramallah, and in 1998 he was brought back to Nablus.

It should be noted here that the mayor of Nablus maintained good ties with prominent national figures, such as Mahmoud Abbas and the head of the Preventive Security Forces. In a leaflet distributed during the early second *intifada*, the three men were accused of preparing to oust

⁷ Supposedly, the scheme worked as follows: big drug agents paid bribes in return for being allowed to continue with their dealings. The Police Force director arrested the consumers, the drug addicts, confiscated their drugs and released the offenders for a small 'fee'. The confiscated drugs were then resold to the dealers.

the current PLO leadership, working to achieve this with support from Israel and the United States, after they had disappeared for a month and a half.

‘Ghost workers’ were not unfamiliar in the PNA. The Nablus branch of the National Guard had 550 names registered as active members, while only 350 were actually on duty. The remaining 200 names were imaginary, but remained on the payroll. There was the ‘Fatah Quota’ that consisted of 60 imaginary names, which was usually granted to prominent Fatah leaders in the area as a bonus to their own salary.

5 Some Consequences

What kind of state developed in Palestine during the period 1994-2002? The arguments and stories above indicate a state of the neopatrimonial clientelist kind, captured by unproductive internal factions. Given the precarious strategic situation and the undefined statehood, the Palestinian state was rather authoritarian and security-oriented, but too weak to pursue economic developmentalist policies. It was of the neopatrimonial/clientelist type of state, with its core characteristics of presidentialism (personalised power) and patrimonial logics (the use of state resources in order to buy political loyalty), which is quite typical in developing countries.

Politically, Israel and the Western powers continually stressed security and order over democracy and social justice in Palestine. Citing the national struggle, the Palestinian political authority was further monopolised, militarised and personalised by the Palestinian leadership. A presidency with near dictatorial powers was established, where the mechanisms for popular and institutionalised control and restraints were seriously underdeveloped.

Despite the authoritarian traits pointing to a strong – and therefore possibly developmentalist – regime in Palestine, the political and administrative weaknesses of the PNA were apparent. In the state formation process, the political institutions never came to gain full political legitimacy and operational capacity. The process of state formation was further restricted and held back by Israel, and the PNA was partly de-legitimised and critically challenged by a more fundamentalist opposition. The PNA became increasingly incapable of service delivery. Not even security and the most basic social services were provided. These unsettled, precarious conditions gave more prominence to short-term political concerns and military strategies rather than to long-term development concerns.

Thus, the economic performance of Palestine was relatively poor, like in most clientelist countries. This was mainly because the state was too weak to push through the economic, political and social transformations that a genuine and successful development strategy required. Despite funds from the PLO coffers and substantial foreign economic support, state resources were appropriated and used politically to secure the necessary internal support and stability of the PLO-dominated regime.

Basically, rents were created and distributed politically to satisfy three core groups on which the Palestinian PLO-dominated governing elite depended, namely the security apparatus, the nominated public officials and bureaucrats, and local strongmen. The constant redistribution of state resources to these unproductive constituencies was detrimental to the productive private sector, and might well have led to an endemic fiscal crisis and diminished prospects for sustained economic development, if allowed to continue.

Now, when the process of state *deformation* continues and the PNA is pushed back by Israel through the current reoccupation and marginalisation, some local strongmen will probably increase their powers at the detriment of centralised and stable rule. In the possible (and likely) scenario of a complete Israeli reoccupation of Palestine, some local autonomy will probably be granted to certain larger cities (with the bulk of the Palestinian population), via ‘co-operative’ and ‘friendly’ local strongmen as direct clients of Israel. There is a likelihood, unfortunately, for a ‘bantustanisation’ of Palestine.

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Summary

The state formation process in Palestine started after the Oslo agreements between Israel and Palestine in 1994, which established a Palestinian quasi-state. The process came, however, to an almost complete halt with the onset of the second *intifada* in late 2000 and definitely with the Israeli reoccupation of the West bank and Gaza in 2002. At the time of writing, Palestine is divided into eight zones, with 120 checkpoints and 220 enclaves, a wall is being built, the economy is in ruins and the Palestinian administration hardly operates.

This report argues that despite the authoritarian traits and strengths of the Palestinian National Authority, which could have led to a distinct developmentalist state, the same traits pushed the PNA into corrupt, clientelist practices and fragmentation.

The obstacles were almost insurmountable. Palestine had an unsettled international status and an open-ended conflict with Israel over territories and resources, and an enclave economy. Some signs were nevertheless very positive. Initially there was a large degree of national pride and willingness to make huge sacrifices for the purpose of nation reconstruction, a large degree of popular support for the PNA, quite a degree of unity and autonomy within the state leadership (based as it was on the PLO), and a display of government capacities to implement some of the basic policies and reforms necessary for development.

However, the clientelist and corrupt practices, together with a weak legal foundation and internal resistance to democratisation, hampered the process of democratisation and participation, restricted the institutionalisation of checks and balances, and opened up for massive criticism and weakened legitimacy of the regime. Thus, PNA failed in fulfilling the pressing need for democratic reforms, including room for participation, institutionalisation and transparency, in order for the Palestinian Authority to gain more legitimacy internally and externally.

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