
MEMORANDUM

TO: NSU
FROM: MAZEN MASRI, LEGAL RESEARCHER
SUBJECT: DISTINCTION BETWEEN PLO, PA, PNC, PLC
DATE: FEBRUARY 5TH, 2006

Palestine Liberation Organization (PLO):

The PLO was initially founded by Arab states in 1964 in order to deal with the Palestinian national cause. It was controlled by Arab states till the late 1960s when the Palestinian factions gained more representation in the PLO. In 1969, the late Yasser Arafat, then Head of Fateh faction was elected Chairman of the PLO Executive Committee. Ever since then, the PLO became the umbrella organization for most of the Palestinian factions, and is widely acknowledged as the embodiment of the Palestinian national movement. The Arab Summit in 1974 recognized the PLO as the "sole and legitimate representative of the Palestinian people" and since then the PLO has represented Palestine at the United Nations,¹ the Movement of Non-Aligned Countries, the Organization of the Islamic Conference, and in many other fora. In 1994, Israel recognized the PLO as the representative of the Palestinian People in a letter from Prime Minister Rabin to the late Chairman of the Executive Committee of the PLO.

The leading organs of the PLO are the Palestine National Council (PNC), the Central Council, and the Executive Committee. The PNC is the highest authority in the PLO, and is responsible for formulating the organization's policies, plans and programs. It was established to serve as the parliament for all Palestinians inside and outside of the Occupied Palestinian Territory, including Jerusalem. The Central Council, which was established by the PNC in 1973, is the second leading body of the PLO. The Council functions as an intermediary body between the PNC and the Executive Committee. The Executive Committee is the primary executive organ of the PLO and represents the organization at the international level. The Committee is elected by the members of PNC and is responsible to the PNC. Its main function is to execute the policies and decisions set out by the PNC and the Central Council. The Committee is also responsible for adopting a budget, and for overseeing the functioning of the departments of the PLO, the responsibilities of which are distributed among its members. Decisions of the Committee are taken by a simple majority. Its membership stands at 18, including its Chairman.

¹ The PLO was invited by the United Nations General Assembly to participate in the work of the General Assembly in the capacity of observer. (United Nations General Assembly resolution 3237 from 1974).

The PNC, as the main organ of the PLO, adopted a Palestinian National Charter in 1964.² This Charter was reviewed in 1968 and a new one was adopted. The Charter was amended again in 1996 to cancel articles that were at odds with the PLO's agreements with Israel. The PLO is governed internally by its "Fundamental Law" which describes the powers and the relations between the organs of the PLO³. It also prescribes that members of the Executive Committee shall be elected from the PNC members. The Fundamental Law also includes other provisions regarding the internal management of the PLO.

Palestinian National Council (PNC):

The PNC is the highest authority in the PLO and is considered to be the parliament of all Palestinians inside and outside of the Occupied Palestinian Territory, including Jerusalem. According to the PLO's Fundamental Law, the PNC is responsible for setting PLO policies, electing the Executive Committee and making the necessary changes in its own membership, as well as changing the Palestine National Charter (a special meeting is required) and to the Fundamental Law of the organization. However, it should be mentioned that the functioning of the PNC is irregular, and is constrained by regional developments and political climates. The PNC also elects a speaker, two deputies and a secretary, who make up the Bureau of the Council. The Council has its own standing committees for various aspects of its work, such as its legal and political committees. The composition of the PNC represents all sectors of the Palestinian community worldwide and includes numerous organizations of the resistance movement, political parties, popular organizations (each of the above is represented by specific quotas) and independent personalities and figures from all sectors of life, including intellectuals, religious leaders and businessmen.

According to Art. 5 of the Fundamental Law, the members of the PNC are directly elected by the Palestinian People according to rules determined by the Executive Committee.⁴ Art. 6 stipulates that if it is not possible to conduct elections, the current PNC would continue to act until the circumstances allow for elections to be conducted.

According to Art. 3 of Law n. 13 on Elections that was enacted in 1995 by the PA, the members of the PLC become, in accordance with art. 5 and 6 of the PLO's Fundamental Law, members of the PNC.⁵ This law was repealed by art.116 of Law n. 9 for the year 2005, regarding the Elections. The new law does not include any provision regarding the membership of the PLC members in the PNC. Accordingly, the members

² The Arabic text of the Palestinian National Charter could be found online on http://www.pnic.gov.ps/arabic/gover/plo_4.html

³The Arabic text of the Fundamental Law could be found online on http://www.pnic.gov.ps/arabic/gover/plo_2.html

⁴ Notwithstanding this article of the Fundamental Law, most of the members are appointed by the Executive Committee since the conduction of elections was not possible.

⁵ This law is PA legislation and was neither enacted by the PLO or the PNC. Therefore its legal validity is questionable.

recently elected to the PLC would not acquire membership in the PNC *ex officio*⁶ for the following reasons:

- a. The source of this rule, being the 1995 legislation on elections, has no legal effect as it is beyond the jurisdiction and powers of the PA, as set out in the Oslo agreements. Any PLC law purporting to alter the status, powers, decisions and rules governing the operation of the PLO is *ultra vires*.⁷ On the other hand, it could be argued that since the 1995 PA legislation was enacted by the “Council” appointed by the PLO Executive Committee, and was approved by the Executive Committee and signed by its Chairman, it could also be considered a PLO decision.
- b. Even if the PA had the jurisdiction to enact such a law, it has been repealed by the 2005 Elections Law, which does not stipulate that members of the PLC acquire the status of PNC members *ex officio*. Here also, it could be argued that since it was repealed by the PLC only, its power to bind the PLO as an Executive Committee decision is still valid.

Therefore, the question of the membership of the new PLC members in the PNC is unclear, and requires further investigation and assessment

Palestinian Authority (PA):

The PA is a political entity that was formed according to the Declaration of Principles on Interim Self-Government Arrangements from 1993. According to this arrangement the Palestinian side, which is the PLO, had to authorize persons to form the “Council” which will receive the powers transferred to it by Israel. Pursuant to the agreement, the Central Council of the PLO assigned the Executive Committee of the PLO with the task of forming the Council of the PA and appointed the late Yasser Arafat as Chairman of the Council. The PA, its functions and powers were initially stipulated in the agreements between the PLO and Israel, but were later defined in a Basic Law passed by the Palestine Legislative Council. The Basic Law is a legislation of a constitutional nature, in that it contains the definition of the PA and the principles on which it was formed, and defines its organs and the powers and the responsibilities of each organ.

The PA was formed as an entity, for a provisional period, to manage and control the areas Israel withdraws from and according to the powers transferred to it by Israel. This was supposed to go on till the conclusion of permanent status negotiations with Israel. The whole idea behind it was that the PA will be the seed for a Palestinian state. It should be emphasized that the PA was created by the Oslo Accords to be the organ through which the Palestinians would gradually receive the powers from Israel according to the agreements with the PLO. The PLO therefore, delegated the implementation of the agreements with Israel to the PA. The PLO is the independent body who is the legal

⁶ A Latin term which means "by virtue of one's office." It confers membership on a panel to certain officials by virtue of their office.

⁷ A Latin term which means 'beyond strength'; beyond or exceeding the authority of a person.

representative of the Palestinian People, and its presence, functions and actions are independent of those of the PA. The PA on the other hand, receives its legitimacy and mandate from the PLO and the agreements with Israel. All of the significant agreements with Israel were signed by the PLO as the representative of the Palestinian People, the implementation was however carried out by the PA.

Since the PA is subordinate to the PLO, and it receives its legitimacy from it, and since there is a widespread recognition of the PLO as the legitimate representative of the Palestinian People, it could be said that the PLO is the most senior body, and it is the body that is authorized to negotiate and sign a peace treaty, and that the PA is only a means or an arm of the PLO to bring about a smooth transfer of powers to a future Palestinian State. The dissolving of the PA does not affect the existence or the independence of the PLO. On the other hand, the PA is restricted to act in the areas and the fields that were explicitly transferred to it from Israel by virtue of the agreements.

Palestine Legislative Council (PLC)

The PLC is basically the legislative branch of the PA. It was initially formed by the Law n. 13 on Elections that was enacted in 1995 in accordance with the agreements with Israel. Today, the powers and the mandate of the PLC are governed by the Basic Law of 2003 and by its internal articles. Art. 47 of the Basic Law provides that the PLC is the elected legislative authority of the PA, and that it shall pursue its legislative powers in accordance with the provisions of the 2003 Basic Law. Besides approving the budget of the PA, the PLC is also the body that is authorized to give the confidence to the Government that is formed by the Prime Minister, and similarly, it is authorized to oust the Government by a no-confidence vote of a majority of its members.

The PLC members are elected by Palestinians living in the Occupied Territory only (including East Jerusalem). Palestinians in the Diaspora have no right to vote for the PLC elections. Therefore, as opposed to the PNC, the PLC only represents the Palestinian population of the Occupied Territory, and does not reflect the political will of the entire Palestinian People.

As discussed above, since the validity of the rule providing that the members of the PLC immediately become members of the PNC is unclear, further investigation is needed in order to determine whether there is a legal basis for such an arrangement regarding the newly elected members of the PLC.