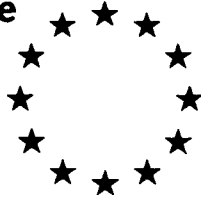


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Council of Europe
Conseil de l'Europe



COE273152

Strasbourg, 20 August 1996

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N° 018/96

Restricted
CDL (96) 61
Eng.Only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

SEVENTH DRAFT

**OF THE TEMPORARY CONSTITUTIONAL LAW
FOR THE PALESTINIAN NATIONAL AUTHORITY
IN THE TRANSITIONAL PERIOD**

**[Drafted by
the Legal Committee of the PLC,
9 July 1996]**

**Draft of the Temporary Constitutional Law for
the Palestinian National Authority in the Transitional Period.
[Drafted by the Legal Committee of the PLC: JULY 9, 1996]**

Chapter 1: Palestine and the Governmental System:

Article 1:

Palestine is a part of the large Arab World, and the Palestinian People are part of the Arab Nation.

Article 2:

The Palestinian People are the source of all authority which shall be exercised during the transitional period, through the legislative, executive, and judicial authorities in the manner provided for in the constitution.

Article 3:

Jerusalem is the capital of Palestine.

Article 4: *same as Article 36 in the 6th. draft.*

Jerusalem is a city holy to the three divine religions. In compliance by Palestine with its spiritual heritage, Palestinian authorities shall provide conditions for tolerant co-existence between religions in Jerusalem and the rest of Palestine.

Article 5:

- A. Islam is the official religion of Palestine and Arabic is its official language.
- B. Principles of the Islamic Sharea'a is the main source of legislation in Palestine.

Article 6:

The government of Palestine shall be based on parliamentary democracy and political pluralism, with consideration by the majority for the rights and interests of the minority and respect by the minority of the decisions of the majority.

Article 7:

The principle of the rule of law is the basis of government in Palestine. All authorities, organs, assemblies, institutions and individuals are subject to the law.

Article 8:

Sovereignty in Palestine lies solely in the Palestinian People. The Palestinian People shall practice this sovereignty, protect national unity, prevent exploitation, lessen income disparities, and guarantee justice and equality.

Article 9:

- A. Palestinians are the Arab citizens who resided, normally, in Palestine until 1947. Every son [and daughter] to a Palestinian Arab father or Palestinian mother, is considered a Palestinian.

Article 10:

The flag of Palestine shall be the following colors and dimensions: Its length twice its width, divided horizontally into three equal parallel parts, the upper black, the middle white and the lower green, the reon placed from the base a red triangle whose base and height equal the breadth and half the length of the flag, respectively.

Chapter 2: General Rights, Freedoms, and Responsibilities:

Article 11:

All Palestinians are equal before the law, without any discrimination between them in respect to rights and responsibilities, because of race, language, religion, sex, or disability.

Article 12:

Palestine recognize the basic human rights and freedoms prescribed in International declarations, covenants, and agreements. The Palestinian National Authority shall work to join these International covenants and agreements.

Article 13:

A. Personal freedom is a natural right, it shall be guaranteed and not harmed. Except in cases of flagrante delicto, it is not permitted to arrest, search, restrict the freedom, or prevent the movement of any person. This shall be carried out only by the provisions of law.

B. Imprisonment or detention are not allowed in locations that are not subject to laws related to the organization of prisons, and law shall determine the duration of precautionary detention.

Article 14:

All persons are equal in human dignity. No person shall be subjected to torture, inhuman treatment. All those deprived of their freedom shall be treated in a human way that respects their dignity. No statement or confession given as a result of torture or inhuman treatment shall be recognized.

Article 15:

Every arrested person shall be informed immediately, at the time of the arrest, of the reasons for the arrest. He should also be promptly informed, in detail, and in a language he understands, of the nature of the charge brought against him. The person shall be given ample time, and adequate facilities to contact a lawyer he chooses, and to be tried without delay.

Article 16:

Punishment is personal and collective punishment is prohibited. No crime and no punishment without text, all punishment shall be for the crimes come after the advertising of the law.

Article 17:

The defendant is innocent until proven guilty in a lawful court that guarantees him the [right] to defend himself. Every defendant, in a criminal case, must have a defense lawyer.

Article 18:

Taking into consideration the prescriptions of law, it is not permitted to perform any medical or scientific experiment on any person without his consent.

Article 19:

Homes shall be inviolable; thus, they may not be entered or (searched, inspected) except in pursuance of a reasoned judicial order and accordance with the law.

Article 20:

Private property shall be protected, and shall not be expropriated except for public interest and with fair compensation in accordance with the law.

Article 21:

Citizens' private life a special sanctity protected by law. The privacy and secrecy of personal mail, telegraphic messages, phone conversations, and other communication methods shall be guaranteed; it shall not be confiscated, infringed upon, or monitored (surveilled) except by a justified legal order, and for a limited period, in accordance with the provisions of law.

Article 22:

Freedom of belief and the performance of religious rituals are guaranteed, in accordance with observed customs in Palestine, as long as that does not violate public order and public morals.

Article 23:

Every person shall have the right to freedom of thought, conscience and expression and publication of his opinion either orally, in writing or in any form of art or through any other form of expression, subject to observance of restrictions imposed by law for the respect of the rights or reputation of others, the protection of national security or of public order or of public health or of public morals.

Article 24:

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

Article 25:

Freedom of economic activities is guaranteed. The law shall organize the extent of economic activity and the rules for supervising it.

Article 26:

The freedom of formation of political parties shall be guaranteed provided that their objectives and activities do not conflict with this Constitution and that they conduct their activities in a peaceful manner. The law shall devise the regulations to the formation of political parties.

Article 27:

A. Every citizens has the right to education. Which shall be free and compulsory until the 12th. grade, in public educational institutions. The Palestinian authorities shall endeavor to provide education at all stages.

B. The Palestinian Authorities shall supervise and guaranteed all education. Universities and scientific research centers shall have inviolability and independence in a manner prescribed by law, and in a way that guarantees the freedom of scientific research , as well as literary, artistic, and cultural creativity.

C. Taking into consideration the prescriptions of law, qualified religious, and non-religious minorities have the right to establish private schools and educational institution.

Article 28:

Work is a right, duty, and honor. The Palestinian National Authorities shall endeavor to provide equal opportunities to citizens to enable them to exercise this right under laws which provide for social justice. No one shall be required to perform forced or compulsory labor except in the following circumstances:

- A. Any national service required by law;
- B. Any service exacted in cases of emergency or calamity threatening the life or well-being of the Community.

Article 29:

Social security is a right, law shall set out the rules.

Article 30:

Housing is a right for every person. The Palestinian National Authorities shall provide housing for those without any.

Article 31:

Congregation is a right, law shall set out the rules of congregation.

Article 32:

Forming and joining associations, and unions, is a right organized by law.

Article 33:

Palestinian have the right to address directly, in writing and with their signature, to public authorities. Speaking on behalf of groups is allowed only for organized assemblies and estimable individuals.

Article 34:

No Palestinian may be deported from the homeland, deprived of his (nationality, citizenship), prevented or prohibited from returning to or leaving it, or surrendered to any foreign authority.

Article 35:

The Palestinian National Authorities recognize the political asylum, in accordance with the International law. The surrender of persons granted this right shall not be allowed to any foreign side.

Article 36:

Freedom of access and visit the holy places and religious buildings and sites are guaranteed to all, citizens and foreigners, without discrimination. All of the forgoing shall be done while taking into consideration the requirements of public security, order, and public morals.

Article 37:

Recourse to courts is a guaranteed right to all persons. Every person who has any of his basic rights or freedoms violated can find sanctuary in the legal system to stop the violation and ask for compensation.

Article 38:

Taking into consideration what has been provided for in this constitutional law, an independent commission for human rights with juridical personality shall be established. Law shall define the formation, functions, and specialties of this commission.

Article 39:

A balanced and clear environment is one of the human rights. The preservation and protection of the Palestinian environment from pollution, for the sake of present and future generations, is a national duty.

Chapter 3: The Legislative Authority
The Council

Article 40:

The elected Palestinian Legislative Council shall undertake the legislative authority in the Transitional Period in the manner explicated in this Constitution; the mandate of the Council shall be until the end of the Transitional Period.

Article 41:

The Council shall be composed of 88 elected members, as stipulated in the Palestinian Elections Law.

Article 42:

The president of the Palestinian National Authority shall open the ordinary session of the Council and presents the Government statement.

Article 43:

A. The council holds its ordinary annual Session over two periods, the duration of each is four months. The first starts in the first week of February, and the second in the first week of September.

B. The Council can extend its ordinary Session as it sees appropriate to accomplish the agenda at hand, but in all cases the Council will not go into recess until it passes the budget.

Article 44:

The Council holds an extraordinary session upon an invitation from its president after a request is submitted from the Cabinet or from 1/4 of its members to look into issues outlined by the invitation. If the Speaker did not call for the meeting, the meeting will be held in the time and place specified by the request of its members or the request of the Cabinet.

Article 45:

In its first meeting, the Council shall elect a president, two deputies, and a Secretary General; in all they makeup the Presidency of the Office for the Council. It is not allowed to combine between the Presidency of the Executive Authority, or membership in the Cabinet, and the Presidency of the Legislative Council. The term of the Presidency of the Council shall be one annual Session.

Article 46:

Before taking on responsibilities, every member of the Council shall swear the following oath; "I swear of Allah Almighty to be faithful to the Homeland, and to preserve the rights and interests of the people and the Nation, and to respect the Constitution and to perform my duties in the best manner, as Allah is my witness."

Article 47:

For the Council session to be valid, more than half of the Council members must be present, and decisions are made with an absolute majority of those attending save the situations where a special majority required. If, at the start of the meeting, there was no quorum, the president shall postpone the opening of the session for half an hour; if there was still no quorum then, the President shall postpone the session until a later date not exceed one week from the date of the first session.

Article 48:

- A. The Council session shall be public. The Council, however, can hold secret sessions in special cases based on request from the President of the National Authority or the President of the Council or at the request of 1/3 of the Council's members. The Council, then, shall decide whether the debate on the subject at hand should be public or secret. This decision shall be taken after a debate in which two members in favor of secrecy and two opposing it are heard.
- B. When the reasons for secrecy are no longer present, the President of the Council shall take the opinion of the Council to end the secret session; the session will then resume publicly.

Article 49:

The members of the Council shall have the right to propose laws and direct questions and inquiries to the Government to any minister, or any responsible in the National Authority Institutions.

Article 50:

- A. In order to enable the members of Council to perform their duties, they may not be questioned, through either a civil or criminal procedure, because of their actions, or opinions or votes in the [Council] sessions and committees' meetings, or any action they undertake outside the Council.
- B. A Council members shall enjoy immunity all through the mandate of Council. Except for cases of clear criminal conduct, no penal measures may be taken against any member except in accordance with the provisions of the law.
- C. Council can take the necessary steps to follow up the procedures, taken against any member of the Council.

Article 51:

- A. No Council member may waive his immunity without the permission of the Council.
- B. A Council member's immunity for all actions performed or statements made during his membership on the Council continues after the end of his term.

Article 52:

A. No Council member may be asked to be witness in a matter related to his actions or statements or information he obtained as a result of his membership on the Council. During or after his term.

B. A Council member may not appear before the courts during the days of Council sessions, whether he is a plaintiff or a defendant or a witness.

Article 53:

It is not permitted to interfere with the affairs of any Council member in any shape or form. It is also not permitted to search his luggage, house, car, or office throughout the period of immunity.

Article 54:

A. No Council member may use his membership on the Council in any other type of private business.

B. It is not allowed to combine membership on the Council and any other job or work (business). The law shall determine the jobs (businesses) that are permitted to be combined with the membership on the Council.

Article 55:

The Legislative Council shall exercise its functions as a legislative through:

A. The enactment and endorsement of laws;

B. The monitoring and questioning of the executive authority and its institutions, departments, and organs;

C. The approval of the general budget and development plans.

D. The approval of general amnesty.

E. Granting or denying the [vote of] confidence to the government or any of its ministers in the manner explained in his constitutional law.

F. Ratification of agreements and confederations.

Article 56:

A. The Council can form permanent committees from among its members within the domain of its functions.

B. The Council also forms temporary committees for information-gathering and fact-finding in the matters related to those functions.

Article 57:

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

Article 58:

The law shall regulate the specific procedures regarding the preparation and approval of the general budget as well as the attached budget, developmental budget, the budgets of public institutions and assemblies, and the budget of every project in which the government's investment comprises 50% or more of its capital. The law shall also regulate the spending of moneys assigned in these budgets.

Article 59:

A. The government must present the general budget proposal to the Council, at least four months before the beginning of the fiscal year, taking into consideration the provisions of **Article 105** of this Constitution.

B. The Council shall hold a special session to discuss the general budget proposal. It can approve the budget or send it back to the government in a period not exceeding two months from the date of receipt. [The returned budget] will include the Council's comments [for the government] to make the necessary amendments and return it to the Council for approval.

C. Voting on the general budget, in the Council, shall be chapter by chapter.

D. Reallocation of funds between the different chapters of the general budget is not permitted except in accordance with the provisions of the law.

Article 60:

The final accounts of the state budget must be presented to the Legislative Council within a period not exceeding one year from the end of the fiscal year. The Council will vote on the final accounts chapter by chapter.

Article 61:

If the position of one or more members of the Council become vacant due to death, resignation, or loss of legal competence, by-elections shall be held in the relevant district to elect a replacement, in accordance with the Palestinian Elections Law.

Article 62:

Every member of the Legislative Council must present a financial report for him, his wife, or wives in case of polygamy, his minor children, detailing what they own in real estate, companies, and cash money to the Speaker of the Council. Speaker of the Council shall take the necessary arrangements to maintain the secrecy to these reports.

Article 63:

The members of the Council shall get monthly salary, determined by the law.

Article 64:

The Council shall set forth its Standing Orders to organize its modus operandi and the manner in which to conduct its functions.

Chapter 4:

The Executive Authority:

First: The President:

Article 65:

The President and the Cabinet shall undertake the Executive Authority in the manner explicated in this Constitution and the law.

Article 66:

The President shall be elected in a general and direct elections in accordance with the Palestinian Elections Law.

Article 67:

Before assuming office, the President shall take the following oath before the Chief of Justice: "I swear to Allah Almighty to be faithful to the Homeland and to its sanctities and national heritage, and to respect the Constitution and the law and to safeguard the interests of the Palestinian people completely, as Allah is my witness."

Article 68:

The term of the presidency shall be five years. The President may not hold office for more than two consecutive terms. The first term of the President or of any successor during the Transitional Period shall expire at the end of this Transitional Period.

Article 69:

1. The office of the President shall be considered vacant in any of the following cases:

A. Death.

B. Resignation.

C. The loss of legal competence.

2. For the President to be considered legally incompetent, a specialized Palestinian court must issue a ruling in that regard, which subsequently must be approved by a 3/4 majority in the Legislative Council.

3. If the office of the President becomes vacant due to any one of the cases mentioned in paragraph (1) of this Article, the Speaker of the Legislative Council shall assume the powers and duties of the Presidency of the National Authority, temporarily for a period not exceeding 60 days during which elections to choose a new president shall take place in accordance with the Palestinian Elections Law.

Article 70:

President is the Commander -in- Chief of the Palestinian Forces.

Article 71:

The President shall receive the diplomatic credentials of Arab and foreign state and organizational representatives in Palestine.

Article 72:

A. The President shall promulgate and sign laws within 30 days after their approval by the Legislative Council.

B. If the President objected or refused to promulgate a law that has already been approved by the Council, he shall return it to the Council within the 30 days period mentioned in paragraph (A). But if he returns the proposed law [without signing it] and the Council passes it again with a 2/3 majority the proposed law shall be considered ratified.

Article 73:

The President and the Cabinet shall have the right to propose laws issue directives, and take the necessary decisions and procedures to execute laws.

Article 74:

The President has the right to pardon, and to commute sentences. General Amnesty, however, shall not be granted except through law.

Article 75:

- A. The President shall exercise his powers, explicated in this constitutional law, through issuing decisions and decrees in accordance with the law.
- B. In exceptional cases, when the Council is not in session period, the President can issue decision that have the power of law.
- C. The [Presidential] decisions must be presented to the first session of the Legislative Council. If the decisions were not presented to the Council, or presented but were not approved, they cease to have the power of law in a reactionary effect, with no need of taking decision about this.

Article 76:

- A. The President can appoint a personal deputy and present him to the Legislative Council for approval.
- B. The President can delegate some of his powers, as he sees appropriate, to anyone of his assistants he choose.

Article 77:

In case of Resignation [the President], the President should submit his resign to the Legislative Council.

Article 78:

A law shall determine the President's salary, allowances and compensations.

Second: The Council of Ministers [Cabinet]:

Article 79:

The President shall appoint the ministers, remove them, and accept their resignations and preside over the Cabinet meetings.

Article 80:

The President shall be assisted by the Cabinet in the performance of his duties and the exercise of his powers in the manner explicated in this Constitution.

Article 81:

- A. After the selection of the members of the Cabinet by the President of the Palestinian National Authority, he presents them collectively to the Legislative Council for a vote confidence after listening to the ministerial statement that defines the Government's program and policy.
- B. If an absolute majority of the Council does not grant the vote of confidence to all of the Cabinet members, or to any one or more of them, the President of the National Authority shall present a replacement in the next session provided that it is held within two weeks from the date of the first session.
- C. In the case of Cabinet changes or the resignation or the death of any minister, the new ministers shall be presented to the Council in the first session it holds for a vote of confidence.

Article 82:

Every Cabinet member must be an elected member in the Legislative Council. In exception to this, the President may appoint ministers who are not members in the Legislative Council, provided that they do not constitute more than 20% of the total number of the Cabinet. Such ministers shall have the right to participate in the Legislative Council meetings without having the right to vote.

Article 83:

The Cabinet shall assume responsibilities of government and administration of the affairs of the country in general.

Article 84:

A. The Cabinet shall comprise of a number of ministers according to the needs of public interest. The decision of appointment shall determine the ministry that each minister shall be responsible for.

B. A minister may be entrusted with one or more ministers as stipulated in the decision of appointment.

Article 85:

A. Before assuming their offices, ministers must take the oath stipulated in Article 67 of this Constitution before the President.

B. Every minister in the Cabinet, must submit a financial report for himself, his wife or wives in case of polygamy, and his minor children, detailing in it what they own in real estate, companies, and cash money, to the President of the National Authority, who shall make the necessary arrangements to keep its secrecy.

Article 86:

Ministers can not purchase or lease any government property, not even through public auction, nor may any one of them have a financial interest in any contract concluded with government entities, nor may they, during their terms in office, be board members in any company, or practice commerce or any other profession or a salary or any other financial rewards from any company or any other source.

Article 87:

Ministers are responsible to the President and the Legislative Council for the general policy of the country within the limits of their functions.

Article 88:

President of the National Authority and the Legislative Council have the right to send a minister to court about crimes that he did during his work in the ministry. The Legislative Council decision to accuse a minister need 1/3 majority of the Council members to submit the proposal, decision need majority of 2/3 to issue the accusation decision.

Article 89:

A minister who will be accuse, he will be suspend from his work. The court, procedures, and punishments shall be in accordance with law. These provisions shall come into effect on ministers assistants and Deputy ministers,

Article 90:

The President of the National Authority may request a vote of confidence for the Cabinet before the Legislative Council. Likewise ten members of the Legislative Council may ask for a vote of confidence for the Cabinet or for any of the ministers. A vote of no-confidence requires an absolute majority. In such case, the Prime Minister must submit the resignation of the Cabinet to the President.

Furthermore, any minister who receives a vote of no-confidence must also submit his resignation.

Article 91:

The functions of the ministers shall be specified by regulations devised by the Cabinet and ratified by the Legislative Council, submitted by the President of the Palestinian National Authority.

Article 92:

With restrictions to the provisions of Article 83, the Cabinet shall have the following functions:

- A. Devising the general policies within the limits of its functions and in light of what its members present in accordance with the ministerial program approved by the Legislative Council.
- B. Executing the general policies set forth by the specialized Palestinian entities;
- C. Preparing and approving the general budget to be presented to the Legislative Council;
- D. Supervising the administrative apparatus;
- E. Following up the implementation of laws and ensuring compliance with the provisions of the laws;
- F. Following up the performance of the ministers and all other components of the administrative apparatus, their duties and functions, and coordinating between them;
- G. Discussing the proposals and policies of the different ministries concerning the implementation of their functions;
- H. Any other functions entrusted to the Cabinet by this Constitution or any other law.

Article 93:

Every minister shall exercise the following powers and functions within his ministry:

- A. Proposing and supervising the implementation of the general policy of his ministry after its approval;
- B. Supervising the conduct of affairs within his ministry and issuing the instructions necessary thereof;
- C. Implementing the general budget within the amounts assigned to his ministry.
- D. Proposing laws concerning his ministry.
- E. Delegating some of his powers to the deputy minister, or departmental heads or senior officers of the ministry as necessary;
- F. Any other powers or functions delegated to him by laws, regulations, orders and decisions issued thereof.

Article 94:

Every minister must submit detailed reports to the Cabinet on the activities, policies, plans and achievements of his ministry in comparison with the goals specified for his ministry within the framework of the general plan, and [report] on his ministry's proposals and recommendations concerning its future policies.

These reports shall be submitted regularly every three months in order to give the Cabinet sufficient knowledge of the activities and policies of each ministry.

Third: Security Forces and the Police:**Article 95:**

A. Security forces and the police are a regular force, established to serve the people, protect the community and to maintain public safety and public order and morals, that performs its duties within the limits prescribed by law with complete respect to rights and freedoms, without prejudice or discrimination.

B. Security forces and the police shall be regulated by law.

Fourth: Local Administration (Local Government in the 4th. Draft):**Article 96:**

The country shall be organized, by law, into local administrative units enjoying juridical personality. Each unit shall have a council elected directly in a manner explicated by law. The law shall determine the functions of the administrative units, their financial resources, their relations with central authority, and their role in the preparation and implementation of development plans. The law shall also determine the aspects of supervision over those units and their different activities. The number of inhabitants and their agglomerations shall be taken into consideration at the time of [administrative] division [of the country].

Fifth: General Administration:**Article 97:**

No component of the administrative apparatus or any official therein may sign or undertake a financial obligation except within the powers prescribed by law. Any conduct in contradiction with this provision shall not be recognized.

Article 98:

No component of the administrative apparatus or any official therein may issue regulations, decisions or instructions which contradict existing legislation. Any decisions, instructions or regulations in contradiction with [such regulations] shall not be recognized.

Article 99:

Every component of the administrative apparatus shall exercise its functions, perform its duties and issue regulations, decisions or instructions necessary to this purpose within the limits of the powers assigned to it by law.

Article 100:

A. The appointment and terms of employment of officials shall be in accordance with the law in effect.

B. The appointment in the high administrative position (jobs), need the approval of the Legislative Council, shall be determine by law.

Sixth: Finance:

Article 101:

Public taxes and duties cannot be imposed, amended and repeated except through law. No one shall be wholly or partially exempt from paying these taxes, except in the circumstances explicated by law.

Article 102:

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

Article 103:

The beginning of the fiscal year shall be determined by law. If the law concerning the general budget was not approved before the beginning of the new fiscal year, spending will continue on the basis of monthly allocations of 1/12 of the previous year's budget.

Article 104:

All the received revenues including taxes, loans must be paid to the public Treasury and included in the budget. No part of the funds of the public treasury may be allocated or spent for any purpose whatsoever except in accordance with the law.

Article 105:

A [general] monitoring office shall be created with a guaranteed independence by law. The office shall perform administrative and financial monitoring on the executive authority and its institutions, including the collection of public revenues and spending therefrom within the limits of the general budget. The office shall submit to the President of the National Authority and to the Legislative Council an annual report, or when will be requested about its activities, observation, the explanation of administrative and financial violations committed, if any, and the responsibility arising.

Article 106:

Public loans shall be enacted by law. The government cannot concluded or guaranteed a loan, that will need to disburse funds from the public Treasury, without the approval of the Legislative Council.

Article 107:

The law shall regulate the special rules related to banks, insurance companies, and financial institution.

Article 108:

The law shall determine the rules and special procedures for granting (contract) related to the utilization of natural resources and public facilities. The law shall also explain the ways of dealing with state-owned real estate and the rules and procedures organizing that.

Article 109:

The law shall determine the rules for granting wages, salaries, compensation, subsidies, and rewards incurred on the state's treasury. The law shall also regulate exceptional cases [in the preceding categories] and the entities responsible for their implementation.

Chapter 5: The Judicial Authority:

First: The Judges:

Article 110:

The judicial authority shall be independent and shall be exercised by the different types and levels of courts that shall issue their rulings in accordance with the law.

Article 111:

Judges shall be independent and, in their judicial actions, shall be subject only to the law. No other authority may interfere in judicial actions and affairs of justice.

Article 112:

- A. The law shall determine judicial assemblies, their formation methods, and their functions.
- B. The law shall provide for the rules and prerequisites for the appointment, transfer, delegation, promotion, and questioning of judges.

Article 113:

A high judiciary council shall be established by law and presided over the Chief Justice. The law shall explicate its composition and functions, and its modus operandi. This council shall be consulted in respect to the draft laws that regulate the affairs of the judicial authority including public prosecution.

Article 114:

The following courts shall be established:

- A. The High Constitutional Court responsible, unlike any other court, for the judicial monitoring of the constitutionality of laws and regulations, as well as interpretation of legislative texts, in a manner explicated in the law.
- B. The other types of courts; orderly, sharea'a, and religious for the other religious denominations, their levels, composition, functions and litigation procedures shall be determined by law.
- C. A law shall organize the military courts, their functions, and the conditions needed to the people who undertake the justice in these courts.

Article 115:

Courts hearings shall be public unless a court decides to make it secret in consideration of public order or morals. In all cases, however, judgment must be pronounced publicly.

Article 116:

Courts' rulings shall be promulgated, in the name of the Palestinian People, in accordance with the law, the Islamic Sharea'a principles, and the principles of justice.

Second: The Attorney General [and public Prosecution]:

Article 117:

The Attorney General shall handle public cases in the name of the people.

Article 118:

A. The appointment, transfer, and removal of the Attorney General and members of the public prosecution shall be in manner and the conditions prescribed by law.

B. The functions and composition of public prosecutions prescribed by law.

Chapter 6: Press Authority:

Article 119:

Press is an independent, and popular Authority, in the manner explicated in this Constitution and the law.

Article 120:

The Press shall exercise its profession in a free and independent manner, in the process of helping the Palestinian Society and the National Palestinian problem, in the different means of expression, to participate in create and express the public opinion, and to lead it to the primitive principles of the Palestinian Society, protect the freedoms, rights, general duties, and to respect the personal life of the citizens, all that in accordance to the Constitution and law.

Article 121: *same as article 23 in the 6th. draft.*

The freedom of Press, printing, publication, and the media is guaranteed. Censorship of the press is prohibited, and no newspaper shall be subject to warning, suspension, or closure through administrative action.

Article 122:

A. Freedom of issuing newspapers is guaranteed for any general or special estimable individuals, and political parties, in accordance to the law.

B. The People is the observer on newspapers, in ownership and funds in accordance to this Constitution and law.

Article 123:

Journalists have the right to get and reach the news and information, in accordance to the situations limited in law. They shall be subject in their work only to the law.

Article 124:

A. The law shall determine the formation, functions, and the relations with the Country authorities of the high council of press affairs, that will be responsible of the press affairs.

B. The council will work to support freedom and independent of press, and will support the National Unity, social peace, and protect the main principles of the Palestinian Society, all that in accordance to the Constitution and law.

Chapter 7: The State of Emergency Provisions:

Article 125:

A state of emergency shall be declared by a decree adopted by the President of the Palestinian Authority, when there is threat to national security caused by war, invasion or general insurrection or at the time of national disaster, or pandemic.

Article 126

The decree declaring a state of emergency must expressly state its purpose, the territory to which it applies and its duration, which may not exceed 30 days.

Article 127:

The decree shall be predispose to the Legislative Council, to be discussed, within 5 days of its issue. If the Legislative Council is unable to meet, the state of emergency shall take place for a period not exceeding 30 days.

Article 128:

The Legislative Council by a majority of at least 3/4 of all the members of the Council, can extend the state of emergency for a period not exceeding 30 days in order to have a period of 60 days.

Article 129:

In case of emergency state, no restriction shall be imposed on the basic rights and freedoms accept to extend necessary to fulfill the state purpose of the decree and to restore security and public order

Article 130:

In case of a state of emergency any derentional pursuant to such a proclamation shall be subject to judge or attorney general within two weeks after the date of detention.

Chapter 8: General and Transitory Provisions:

Article 131:

This Constitution shall apply during the Transitional Period that it does not affect the powers and duties of the Palestine Liberation Organization and its institutions, including its powers to represent the Palestinian people in foreign and international relations and relations with foreign governments and international organizations.

Article 132:

Law shall be promulgated in the name of the Palestinian people, and shall be published in the official Gazette, in accordance to the provisions of this Constitution. They shall come into force 30 days from publishing unless the laws state otherwise

Article 133:

The provisions of laws and legislative decisions shall not apply to matters occurring as from the date on which they come into force. In litigation, save criminal matters, laws may stipulate otherwise.

Article 134:

Except in case of a state of emergency declared in accordance with Chapter 6, none of the fundamental rights and freedoms enshrined in this Constitution may be suspended, and such rights and freedoms shall remain governed by the provisions of this Constitution and the laws enacted in pursuance thereof.

Article 135:

A. Laws, regulations and decisions in force in Palestine before the coming into effect of this Constitution shall remain in force to the extent that they do not conflict with the provisions of this Constitution, until they are amended, repealed, or replaced in pursuance of this Constitution.

B. All the opponent laws, regulations, decrees, and the provisions of this Constitution shall be considered null, including the mandate defense (emergency) regulations *in 1945*.

Article 136:

A 2/3 majority of the Legislative Council shall be required for the amendment of this temporary constitutional law.

Article 137:

This Basic Law shall be published in the Official Gazette and shall come into effect on the date of its promulgation.

Article 138:

The Government must fulfill the provisions of this Constitution