



## Notes on Draft Political Parties Law

### December 2007

Below are brief notes on the new draft law on political parties, as discussed by the Council of Ministers in December 2007. For a fuller review of the legislative framework that regulates work of political parties, please see the IFES report *"Palestinian Electoral Reform and the Regulation of Political Parties"*.

#### Background

The first draft law on the regulation of political parties was produced by the Palestinian Authority (PA) Council of Ministers in 1997 but was not addressed any further by the Palestinian Legislative Council (PLC). A comprehensive analysis of political party regulation in the Palestinian Territories can be found in the 2005 AMAN<sup>1</sup> report *"In the Light of the Unique Palestinian Reality: What Parties Law Do We Want?"* which has been translated into English by IFES. The report followed a seminar on political party regulation that was attended by representatives from across the political spectrum and civil society. The report outlines that there was a general consensus amongst the participants in the seminar that there was a need to balance the principled objections to the regulation of political parties against the requirement for parties to act in a transparent and accountable manner. Based on the seminar, AMAN produced a draft Law on Political Parties. In general, it was reported that the response to the draft Law was positive, but when it was presented to the PLC in November 2005, again no action was taken, possibly due to the fact that it was presented shortly before the 2006 PLC elections.

In early 2007, IFES analysed a draft political parties law produced in 2005 by the AMAN coalition. These analyses, comments and recommendations are compiled in the report *"Palestinian Electoral Reform and the Regulation of Political Parties"*.

A current draft emerged in early December, following the news that the Council of Ministers discussed and ratified the new draft political parties law.

#### General

While it was reported that the current draft is ratified by the Council of Ministers, there are some indications that the draft is not in its final form. It appears that there are missing chapters and articles.

The draft is very vague, incomplete and unclear. Some provisions are senseless.<sup>2</sup>

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<sup>1</sup> Coalition of Palestinian civil society organizations and acting branch of Transparency International Palestine

<sup>2</sup> Such as "party's address ... shall not be within a headquarters of any public, private, charitable, religious, or educational institution"

## Framework

The draft defines the Palestinian political system on basis of the Basic Law, the Independence Declaration, and on recognition of the PLO as “the sole and legitimate representative of the Arab Palestinian people in the entire places of its presence”. In addition, it essentially outlaws any political organizing outside the framework of the registered party<sup>3</sup>. (art 32-1). According to this draft, a list of independent candidates that are competing in the elections would be illegal<sup>4</sup>.

## Regulatory Authority

According to the draft, the institution responsible for registration of parties is the Central Elections Commission. The CEC should establish the department for registering parties, however there are no provisions in place that regulate the work of the “department” and there are no details on their responsibilities. The draft also established the Committee for the political parties, but it is completely unclear under which institution this committee should operate, nor does it mention anything about its composition, membership etc.

Responsibility for regulations and bylaws are assigned to the Council of Ministers and not to the CEC (Art.36). The relationship between the Council of Ministers and CEC and the modalities of sharing the responsibilities are unclear. The draft gives authority to the High Court of Justice over “all of the challenges and procedures related to parties affairs” (Art. 22). It is unclear whether this relates to internal affairs of the party.

## Registration of Parties

Every party should have at least fifteen members from each of the nine governorates in order to ensure geographical representation (Art. 8). There are no provisions that define what “from the governorate” means.

Existing factions registered with the PNC are given six months to make necessary changes to comply with the law in order to be registered parties.

Registration of the party can be rejected by the Committee. If the Committee issues rejection decision, applicant can challenge the decision. If the Committee simply does not respond to the application, the draft provides solution in “administrative silence” - party is considered registered “without objection”.

In addition, the draft allows every citizen to challenge the registration of any party.

## Party membership

The draft law lists some of the basic principles of internal democracy and equality (Art. 20). While it allows every Palestinian to join the party (Art. 19), it places restriction on some PA officials (Art.31). The largest group is certainly the armed,

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<sup>3</sup> “any citizen who establishes, founds, organizes, runs or funds in any way other than the provisions of this Law an illicit party even if disguised under any religious cover or in the name of a society, organization or group regardless of the name or title, shall be sentenced”

<sup>4</sup> For example Fayyad’s “Third way” or Mustafa Barghouti’s list

security and police forces<sup>5</sup>. Other positions which are incompatible with the party membership are the PLC speaker, judges, State Comptroller, public prosecutors, Head of the Public Service Office, Chairman of the Anti-corruption Agency, Governor of the Monetary Authority, Diplomats and CEC commissioners.

### **Dissolution of Parties**

Only and membership and high Court of Justice have right to dissolve the party.

### **Party Finances**

The draft includes articles on legal sources of funds for a party's activities; however, their general character gives a very broad interpretation and allows a party to receive funds in a practically unrestricted manner provided that party's finances are public<sup>6</sup>. There are no restrictions on foreign funding of the parties.

Public support of the parties' activities is envisioned (Art. 29, 30) through the PA's assistance. Mechanisms for giving or receiving assistance is not defined; it is a joint responsibility of the CEC and the Council of Ministers to define it. The PA's support is restricted to parties that participated in previous elections.

### **Militia**

The draft practically outlaws a connection between parties and militias (Art. 32-1) and any military activity or training,<sup>7</sup> but only for "illicit parties". It does not mention military activity for registered parties. In addition to military activity it prohibits party nature that is "hostile to the society".

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<sup>5</sup> Employees of the Armed Forces and the Security and Police Apparatuses

<sup>6</sup> The draft does stipulate that parties are not allowed to accept funding from "illegal entities", however it does not define illegal entities

<sup>7</sup> "if the illicit party ....is of a military or semi military nature or undertakes violent trainings that prepare for fighting"