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Section 18: State Capacity for development and peace

The Palestinian Authority's process of institutionalization and its capability of providing public goods and assuring order within its territorial jurisdiction

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Introduction:

The signature of the Declaration of Principles on Interim Self-Government Arrangements (Oslo I), in September 1993, represented a landmark in the formalization of the peace process between Israel and the Palestine Liberation Organization (PLO), set in motion two years previously, in Madrid. The declaration defined the establishment of a Palestinian Interim Self-Government for a period of five years, starting when both the Israeli Civil Administration and military forces had withdrawn from Gaza Strip and the Jericho Area. This process would lead to the constitution of a Council, afterwards known as Palestinian Authority (PA). However, details regarding the self-government were concluded only after several meetings between the delegations of Israel and the PLO in Cairo and Paris. From these negotiations resulted the elaboration of the “Gaza Jericho” Agreement, in May 1994, setting the beginning, for fact, of the Interim Palestinian Self-Government. This accord specified the transfer of powers and responsibilities from the Israeli military forces and Civil Administration to the Palestinian Authority. It also outlined the composition of this Palestinian institution, particularly its executive and legislative authorities and judicial organs.

According to the agreements, the Palestinian self-government would not substitute the PLO. This institution would continue participating in the peace process as a representative of the Palestinians during the negotiations, while the self-government would exert authority over the Palestinians based on the territories that would be transferred to its jurisdiction. Therefore, the introduction of this new actor impacted upon the evolution of the peace process and it also brought significant changes to the Palestinian arena. Within this frame, the formation of new institutions, compounds of the self-government, would define the relations between this authority and the Palestinian society.

It should also be highlighted that while the Oslo Agreements¹ have characterized the new Palestinian entity as provisional, they did not define the format it should take after the permanent

¹ By Oslo Agreements I mean the following set of accords made between Israel and the PLO: Declaration of Principles on Interim Self-Government Arrangements (1993), Agreement on Gaza Strip and Jericho Area (or “Gaza-Jericho”, 1994), Agreement on Preparatory Transfer of Powers and Responsibilities (1994), Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (or Oslo II, 1995), Protocol Concerning the Redeployment in Hebron (1997), The Wye River Memorandum (1998) and The Sharm el-Sheikh Memorandum (1999).

status of the peace process². This new political entity would be, thus, unique, since it neither constituted a local government nor presented the main features attributed to a state, namely 1) the territorial principle, which demarcates the jurisdiction as well as political authority over a population living within an exclusive territorial space; 2) sovereignty, principle which denotes the independence of a nation-state in relation to other equally sovereign states; 3) the capability of a state of conducting its own internal affairs in an autonomous manner as well as capability to decide on the pertinence of both external interventions and control; and 4) the legality principle, which claims that there is not any legal authority above the state (Mann, 1992).

The aforementioned features are either absent or limited in the Palestinian political entity as conceived by the agreements. If we take into account Max Weber's definition of state, we may conclude that the PA does not fit in his concept. According to Weber (1979:98): "*a state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory*". In this context, the Palestinian territorial jurisdiction is bound to the decisions defined through negotiations and agreements. Besides, the PA does not have the monopoly of the legitimate use of physical force in the areas under its jurisdiction. In this sense, although the agreements attributed to the PA the legitimate exercise of force over the Palestinian, by means of a police apparatus, some clauses highlighted the fact that this institution would not exclusively exercise the monopoly on the use of physical coercion within its territories. Moreover, the action of some Palestinian groups, such as *Hamas* and the Islamic *Jihad*, put at stake the PA's capability of monopolizing the use of force within its territories, limiting its legitimacy, thus. This issue has seriously compromised the stability of the Palestinian political system during Yasser Arafat's term (1994-2004).

On the one hand, this essay addresses the issues above posed arguing that the institutionalization of the PA was constrained as well as conditioned by the structure of the peace process between Israel and the PLO. On the other hand, it seeks to show that not only the scarcity of resources (which should have been provided by external actors), but also some procedures regarding the administration of Palestinian institutions had a negative effect on the Self-Government capability to supply public goods from 1994 to 2004. Therefore, the proposal of conflict resolution between Israel and the Palestinians, as postulated on the Oslo Agreements, indicates a dialectical process which compromises the possibility of the two sides reaching a stable peace.

The analysis regarding the institutionalization of the PA falls into two parties. The first section examines how the self-government, based on the authority formally established by agreements, has interacted with the Palestinian community, especially with the civil organizations (founded in the Gaza Strip and the West Bank previously to the Declaration of Principles). The

² The peace process was based on two phases which were interlocked in an agreed time frame. The first one corresponds to the interim self-government arrangements and the second one refers to the negotiations on the permanent status of the peace process, based on the 242 and 338 Resolutions of the United Nations Security Council.

second part of this analysis focuses on the coordination of the self-government institutions. In other words, it examines the level of autonomy and cohesion among the main PA public agencies in order to show that the institutionalization level has proved to be low from 1994 to 2004. These two categories are based on Samuel Huntington's (1965;1971) thesis on institutions features. Thus, autonomy should be understood as the capability an organization presents to exist independently of social groups. Cohesion, on the other hand, refers to the degree of consensus reached in setting the functional limits of an organization. The evaluation of these categories enables us to identify the degree of institutionalization of a political institution which, according to Huntington, varies in the same proportion as its level of autonomy and cohesion. Therefore, it is about evaluating, as the author stresses, how the "*government governs*". Furthermore, Huntington thesis leads us to conclude that a low level of institutionalization may compromise the capability of an organization to provide public interests.

The third section discusses the governmental capability of the PA. It focuses on some economic indicators as well as on the government capability of generating and allocating income. In short, while the second section examines the PA in terms of its institutionalization level, the subsequent section analyses the capability of the PA institutions to both formulate and implement social and economical policies.

Section I: The formation of the Palestinian Authority and its interaction with the Palestinian community

The implementation of the Palestinian Authority has begun in a disorganized manner, without proper planning and mainly based on Yasser Arafat's *ad hoc* decisions (Ghanem, 2002). Moreover, the conduction of the Palestinian self-government has been concentrated since it's beginning in his hands. Hence, Arafat was the main figure with the power to make decisions, lead the Palestinian people and has endeavoured - since the establishment of the PA, after the withdrawal of Israeli forces from Gaza and Jericho -, to concentrate power in ways that relegated to a secondary role the formal structure specified in the peace agreements³.

Although the peace process has redefined both the structure and the powers attributed to Palestinian institutions, this power-centered characteristic has remained as a PA policy during Arafat's term. Thus, the PA president has determined the foundation of public institutions without providing neither a proper legal apparatus to determine the means to control these institutions nor the terms to regulate the relation between these institutions and the central authorities. Besides, most of these institutions were generated by decrees, without the elaboration of a legislation to

³ This centralization of political power in Arafat had started even before the beginning of the negotiations for peace with Israel. Since the last years of the 50's, he became *Fatah's* leader (the main and larger group of the PLO) and became president of the PLO in 1969. Soon after, he seized control of the Palestinian Armed Forces. Some usual political practices in PLO administration, such as patronage, also characterized the PA's rule while Arafat was in its presidency (Hillel, 1997; Schulz, 1997; Robinson 1997a,b).

define their functions and powers. Until the end of 2004, there were problems related to the formation, supervision and jurisdiction of the institutions created, as well as overlapping of some activities performed by distinct agencies⁴.

Arafat, who was both the president of the PLO and leader of *Fatah*, was considered the main authority figure in the Palestinian politics. Furthermore, he owned a charismatic personality which, allied his ability to symbolize the aspirations of the Palestinian national movement for its right to self-determination, conferred him enough power to: build the PA institutions, participate of the decisions taken by the self-government in each and every level and also indicate people loyal to him to occupy key positions in the governmental institutions. Such centralizing drive became even stronger when Arafat was elected the PA president in 1996. In addition, his authoritarian profile at the PA presidency has moulded the relations between the PA and the Palestinian society, considered a pluralist one by the time of Israeli military occupation (Robinson, 1997a).

Between 1967 and The Declaration of Principles in 1993, diverse political groups, non-governmental organizations, unions and Palestinian professional associations organized, in a common effort, institutions aimed at attending the communities residents in both the West Bank and the Gaza Strip. These civil organizations were mainly directed by members of the lower classes who generally lived in refugees' camps and villages in the West Bank and the Gaza Strip, rather than by "*the notables*" (members of prominent land-owner families)⁵.

During the Israeli military occupation of these territories, the presence of these members of the lower classes and of those groups above mentioned was crucial in preserving the Palestinian national identity as well as in mobilizing the population to protest against that occupation. We can say, thus, that before the institution of the PA there was already a group of activists in the territories whose attitudes contrasted to those of the PLO, in exile. Besides the fact of not submitting to any Palestinian authority at the occupied territories, most of these institutions functioned illegally during the occupation, that is, they did not have any register at the Israeli government.

In the beginning of the peace process, the NGOs provided about 60% of the basic services in terms of health care and 50% in terms of hospital services; two of these organizations responded for nearly 100% of all the research, trainings and other activities done in the agricultural sector. The NGOS also supported schools and philanthropic associations (Sullivan, 2002: 157). When the PA was created, it absorbed some of these organizations within its ministries and self-government agencies. It is worth noting that until the establishment of the Legislative, in 1996, the

⁴ Annual Report- PICCR, 2004, p. 98 (available at <http://www.piccr.org>).

⁵ These organizations started to be founded in the 1920s and 1930s. But the establishment of the state of Israel in 1948 was a turning point, which led these organizations to reconfigure their nature. The Palestinians, thus, searched to reconstruct their social structure in two manners: 1. by electing the family as its main element; 2. by means of unions and students' associations. These organizations developed mostly outside the refugees' camps and included former 1948 nationalist activists and intellectuals who, on their turn, highlighted the instrumentality of these organizations in mobilizing the people. After the PLO was founded, many of these institutions became part of its structure. Nevertheless, the 1967 Israeli territorial occupation brought a considerable expansion of these Palestinian civil organizations which played a vital role by providing the most varied services to the population.

decisions related to the fate of these organizations were taken by the presidency cabinet and implemented via decrees. Other NGOs became redundant since Arafat founded new institutions which exerted similar activities. Those which continued acting became either directly or indirectly monitored by the Office of National Institutions, of which Arafat was appointed honorary president. This institution was created by the *Fatah* in 1995 and later became linked to the PA as well as responsible for supervising the activities of every institution under the authority of the self-government.

The points highlighted above show that the PA, since its establishment, controlled the activities of the NGOs and demanded that public meetings should be previously communicated to it. Also, as a manner to restrain the activities developed by the NGOs, the PA determined that these organizations could only receive resources from the self-government and some agencies of the United Nations Organization (UN), or from international non-governmental organizations (INGOs). As regarding the INGOs, the transfer should be previously approved by the PA and the financial aid should be coordinated together with the PA. Therefore, the external supporters transferred their resources directly to the PA⁶ which, in its turn, limited and conditioned such transfer to the Palestinian NGOS. As a consequence, the NGOs ended up by losing their capacity to assist the population who had always depended upon their services. And worse, this happened while the PA was not able yet to replace the NGOs by providing to the population the same services.

On September 24 of 1994, the self-government convoked these organizations and demanded them to register until November that year. The NGOs interpreted this governmental decision not as a case of bureaucratic procedure but as direct intervention over their activities since the convocation implied that their continuity depended on the approval by the Ministry of Justice. In this context, the confrontations between the NGOs and the PA appear inevitable and before they have run out of time about 20 organizations had associated, jointly claiming their rights to external financing as well as exemption of any kind of license, at least until the promulgation of a specific law regulating the relations between the NGOs and the PA.

When the Law Project⁷ which regulated the NGOs operations was being discussed in parliament, in October 1997, dozens of NGOs began to criticize the self-government attitude and joined to pressure the Legislative to approve a new law version. Workshops between the parliament members and the NGOs leaders took place and the NGOs exposed their claim of a law which assured a higher level of independency in relation to the Executive. As a result, a third version of the NGOs Law, which better attended the interests of these institutions, was approved

⁶ After the Declaration of Principles (1993), the Palestinian NGOs had to deal with expressive cuts in external financial support. In the 1990s these cuts mounted from de US\$170 to US\$ 240millions, decreasing to US\$100 to US\$120 millions, in 1995. See Sullivan, 2002:161-70. It is worth reading the following World Bank report since it presents an evaluation of the Palestinian NGOs during 1995: *The role and performance of Palestinian NGOs in health, education and agriculture*. World Bank, Bisan Center for Research and Development, December 2006.

⁷ *Qanun al-jamiyat al-Khayriya wa-al-Hay'at al-Ijtima'iya*, Schenker, 2002:66.

by the Legislative in October 1998. However, Arafat refused to ratify this version and counteracted by reiterating the demand for obligatory registering. This time, this process would depend on the control of the Ministry of Interior, directed by the president of the PA.

In describing the dynamics of the interaction between the civil organizations and the PA, I aim at demonstrating the discretionary and centralizing drive that characterized Arafat's government. The authoritarian trait present in the Self-Government has to be understood as an attempt at consolidate the power based on the Oslo Agreements principles.

When Arafat returned from the exile to the Gaza Strip, he was accompanied by around 5 thousand members of the Palestine Liberation Army (PLA) as well as hundreds of members of the PLO bureaucratic apparatus. Most of these people were integrated into the self-government structure. But Arafat's attempt to consolidate a strong political basis did not stop there: he made use of patronizing strategies to gain political support of both the former elite – *the notables* – and the *Fatah* members residents in the Gaza Strip and the West Bank. The cooptation of opponents by appointing them to prestigious positions in the self-government was also a strategy to ensure the PA political sustainability.

It comes as no surprise, thus, that the first Palestinian Authority Cabinet meeting, held on June 26 of 1994, in Gaza, gathered mostly members of the PLO that had returned from the exile with Arafat. The same pattern was repeated in the indication of the following Cabinet in January 1995, composed by members of prestigious families in the Palestinian territories, *Fatah* integrants and individuals who supported the ones who came from the exile. Needless to say that the concessions of benefits as well as the indications to bureaucratic key positions took into account personal and family connections rather than professional qualification and expertise⁸. The 16 ministries established at that time were invested with executive authority to execute the objectives defined by the PLO. In organizational terms, the composition of 11 ministries had *Fatah* members, 2 were from the Palestinian Democratic Union (FIDA) and 1 was from the Popular Struggle Front (PSF). Moreover, 5 members of the PA also took part in the PLO Executive Committee; some of the other PA members integrated the PLO Central Council (PCC) and the Palestinian National Council or happened to be leaders of important professional organizations in the West Bank or Gaza Strip. In socioeconomic terms, the members of these cabinet members were mostly medium class individuals or members of local prominent families, such as al-Nashashibi, Frayj, al-Masri, al-Husayini, and Erakat⁹. To compound the sector of security, Arafat nominated officials from the *Fatah* external military wing, officials from the Palestine Liberation Army (PLA), agents of secret

⁸ These practices are encompassed by the term "neopatrimonialism". This concept is based on the principle that the political system legitimacy, the state authority and the governor influence are mainly maintained by means of material incentives. The key element to these practices is the personalization of power, which brings forth three consequences, namely, 1. The informal rules become more important than the formal ones, 2. The political leadership governs by means of patronage and clientelism, and 3. The corruption becomes systemic due to the lack of effective controlling mechanisms. On this matter, it is worth reading Brynen, 1995 and Khan, 2004.

⁹ It is worth noting that the members of these families did not participate in the *Intifada*, some of them were even considered Israel collaborationists. For that reason they become marginalized in terms of local politics and did not have any basis of autonomous power which could pose threat to Arafat's authority. See Robinson, 1997a.

security groups who were also members of the PLO, and some *Fatah* organizers who had been deported from the occupied territories by the Israeli government. The aforementioned composition clearly indicates that the self-government aimed at aggregating those who could ensure political support to the PA leadership.

In spite of the administrative deficiencies and lack of resources at the security field, the Palestinian security forces played a key role in the PA institutionalization process. Firstly, it acted as one of the main providers of workforce. Secondly, it made possible to co-opt *Fatah* members who took part in the *Intifada* (which started in 1987). This absorption of former activists into the police forces had a political motivation and two main political consequences: first, it prevented the creation of an opposing wing by the *Intifada* activists; second, it made possible the control of the security forces by the *Fatah* thus politicizing this sector. Thirdly, the forces gave Arafat the means to control the opposition to his government while assuring political support by means of the patronage practice (Usher, 1998:154; Sussman, 1999:68).

The participation of prominent family members from the occupied territories in the *Intifada* was so inexpressive, that this fact undermined their power to defy the self-government authority. Therefore, the incorporation of these individuals by appointing them to public posts deflagrated a wave of protests especially from the *Fatah* young guard, mostly from those who actively participated in that popular movement to contest the Israeli occupation by the end of the 1980s.

To sum it up, after the foundation of the PA and its leadership attempt to hold on power, a division in the Palestinian society came to pass: on the one hand, the PA elite mainly formed by former exiled who had returned to the territories; on the other hand, the leaders of the Palestinian civil organizations. It is worthy noting that most of the PA prominent figures were *Fatah* members while an expressive number of those associated with the civil organizations were also members of left wing groups, such as the Communist Party, the Popular Front for the Liberation of Palestine (PFLP), and the Democratic Front for the Liberation of Palestine (DFLP).

Regarding the PA institutionalization process both formal and informal elements should be taken into account. On the one hand, the agreements established between the PLO and Israel led to the development of a formal administrative apparatus as well as judicial and legislative institutions, which, together, should be a base for a democratic profile by the part of the new regimen. On the other hand, some informal political practices have influenced the PA institutional design from 1994 to 2004. As previously addressed, patronage and clientelist practices favoured the constitution of a dominant political coalition in the Palestinian self-government. As Rex Brynen (1995) pointed out, these practices are well-known since the first PA cabinet was structured based on a PLO Executive Committee decision. As a consequence of such practices, highlights Brynen, the political institutionalization weakens since the personal connections become overvalued when compared to the formal structures supported by Law and bureaucratic procedures.

Moreover, the PA institutionalization process was also characterized by the personalization of power, being Arafat, since the beginning of the PA, the central point from which this political practice emanated. Being so, the proximity with Arafat and with other members of the self-government became common practices that, in turn, defined the way the bureaucratic machine worked as well as the configuration of the Palestinian political arena (Robinson, 1997a,b; Frisch, 1997a,b; Schulz, 1999). It should be pointed that the gaps regarding institutional arrangements still under formation, reinforced the practice of soliciting Arafat's intervention on yet non-regulated issues, even judicial matters, especially when there were no established agencies. This personalized Executive-centered-authority had as consequence the reduction of the role the Palestinian public institutions should play (Hilal, 1998), reinforcing a cyclic process: since the institutions are weakened, it becomes more difficult to create mechanisms able to control possible abuses derived from the personalization of power in the Executive.

Section II – The Self-Government institutional structure and political behaviour

The terms of the Oslo Agreements determined a restriction of the Palestinian self-government autonomy by Israel in several dimensions of the public sphere. Besides the fact that the transference of authority was restricted to specific areas, Israel, by means of its military government in the occupied territories, would continue to exert powers upon the spheres not transferred to the Palestinians. The PA was also impeded to take international responsibilities in the foreign affairs and external security, which remained Israel's exclusive attributions (Declaration of Principles, annex II; art. 3:b). The restrictions above listed highlight that the new entity would not have the attributes of a sovereign state. Two other pieces of evidence this restriction of autonomy. The first concerns the mandatory requirement of communicating the Israel government any modifications of the PA composition, via quitting or substitution of its members (Declaration of Principles, Minutes, art.VI:2). The second evidence concerns the procedures of laws formulation. In this respect, based on the agreements, the Israeli government could object to some Palestinian Authority decisions ("Gaza-Jericho" Agreement, art. VII).

As regarding the expansion of Palestinian territorial jurisdiction, the Agreements determined that it would be conditioned to the PA capability of ensuring public order and security in the places under its administration (Declaration of Principles, art. XIII). It is worth analyzing the restrictions established in the Oslo II concerning the PA jurisdiction over the West Bank. This agreement restricted the Palestinian administrative autonomy by categorizing the West Bank into three different areas, each one with diverse legal and political status. Although the PA possessed full administrative control over both civil and security issues in area "A", it only controlled civil issues in area "B". As regarding the rest of the West Bank, it would remain under Israel control. It is worth stress that the self-government would not have the right to exert its authority over Israeli agencies,

citizens, and settlements while they remained in the territories under its jurisdiction (Declaration of Principles, Minutes, art. IV:1).

On the one hand, if the accords established details regarding the PA reach in terms of powers and responsibilities, on the other hand they did not present specific references regarding the composition of Interim Self-Government agencies. Instead, they paid more attention to the Palestinian police forces, stipulating since the number of officers until the type of allowed armaments (“Gaza-Jericho” Agreement, annex I). The accords also defined the creation of two other agencies, namely a committee to exert the Palestinian self-government executive authority (Israeli-Palestinian Interim Agreement, art. V:1) and a Law Court to analyze the denounces of abuse of authority by the part of the Executive in the course of its functions (Israeli-Palestinian Interim Agreement, art. VIII).

The Declarations of Principles determined that, until free and direct elections were held to compound the new interim entity, Israel would transfer powers and responsibilities to “authorized Palestinians” (art. VI). Nevertheless, that document did not establish who would be able to undertake this authority nor the criteria to guide such choice. The following Agreement, “Gaza-Jericho” (signed on May 4, 1994) defined that it would be a PLO competence the indication of people to fulfil such functions. Such document – though more comprehensive and specific than the preceding one in terms of specifying the structure and composition of the Interim Self-Government (art. IV), as well as its jurisdiction (art. V), its powers and responsibilities (art. VI) – did not present any criteria to select the members of the PA. It only mentions that the PA would be compounded by 24 members, who would exert legislative, executive and judicial functions, according to the principles established in the accord. The document, thus, does not establish a clear-cut separation of powers; on the other hand it determines that both the attributions and jurisdictions to be transferred to the Gaza Strip and the West Bank would be undertaken by a single authority.

Moreover, the “Gaza-Jericho” Agreement did not require a public consultation to indicate the self-government members, nor determined the creation of mechanisms of control or accountability in order to regulate the activities of those appointed by the PLO to administrate the Palestinians public life. Although the Israeli-Palestinian negotiations resulted in the constitution of a new Palestinian actor – the PA, which would play a distinct role from that of the PLO, namely the governmental authority in the territories to be transferred to its jurisdiction –, it linked the PA to the organization leaded by Yasser Arafat. In other words, the autonomy degree of the PA was restricted since its origin and this new political entity would be submitted to the PLO decisions. It is important to draw attention to the fact that while it was a PLO attribution the power to decide on external affairs which interested the Interim Self-Government, the decisions regarding the territories internal affairs were concentrated in the hands of people appointed by the PLO president, Yasser Arafat. The submission of the PA to the PLO, firstly defined in the “Gaza-Jericho” Agreement, was confirmed on May 28, 1994, when the Palestinian leadership presented the new

entity political program. This program revealed a great dependency from the part of the PA in relation to the PLO in terms of socioeconomic restructures, political organization, composition of administrative, judicial, and monetary institutions, among others. It also stipulated that the new entity legitimacy would derive from the PLO (Ghanem, 2002:156).

The selective process of the Palestinian self-government agents as well as the composition and functions of the PA Legislative, Executive and Judicial Powers were only established after the conclusion of the Israeli-Palestinian Interim Agreement, on September 1995. This document determined that the organization, structure and performance of this entity should, on the one hand, follow the principles accorded between Israel and the PLO, and, on the other hand, follow the Basic Law established to regulate this institution (art. III:7)¹⁰. Besides confirming that the composition of the PA remained as a PLO attribution, this agreement does not present any clause establishing a demarcation between the Palestinian authority leadership in Tunis and the one emerging from the centre of power in the Palestinian territories.

Therefore, the foundation of a new actor, a vital step in the preparation for the interim's phase arrangements of peace negotiations as well as an entity in charge of providing public goods to the Palestinians residing in the West Bank and Gaza Strip, was defined by the negotiations parties. Its formal structure of powers should follow, thus, the accorded terms. Nevertheless, during the period in which Yasser Arafat led the PA – from 1994 to 2004 – the structure predicted in the accords configured itself as parallel to the informal political behaviour adopted.

Another power-centralizing element of the Executive Authority is the post of *Ra'ees*¹¹, which allowed to the bearer of this position, in this case Arafat, the right to take decisions which fell into the ministries' and public agencies directors' competence restricting, thus, these actors' participation to mere counselling. The self-government cabinet meetings, therefore, consisted in merely reports from the ministers to Arafat with the sole purpose of relating ministerial activities and further consultations. Besides centralizing the political decisions, it is also a *Ra'ees* attribution the choice or confirmation of civil servants designations. Arafat also possessed the control of the PA expenses and incomes by means of three organizations: the Ministry of Finances, the Palestinian Economic Council for Development and Reconstruction, and special funds at the *Ra'ees* disposal.

The agreements also permitted the Palestinian self-government executive authority to play certain legislative functions. The Declaration of Principles stated that the executive and legislative authorities of a Palestinian Council would be defined in a future agreement. Regarding this point,

¹⁰ The Basic Law text has undergone several revisions since 1994. It was approved by Arafat only in 2002, being from 2003 the most recent version. Nevertheless, an amendment has been predicted regarding the Electoral Law n. 9, from 2005. The "Road Map" mentions the necessity of preparing a constitution for a future Palestinian State. Following this line of thought, a PLO committee has elaborated a document, available at <<http://www.mopic.gov.ps/constitution/english%20constitution.asp>>. Both the Constitution and the Basic Law define the functions, powers, and responsibilities of the public institutions, namely the Executive, Legislative and Judiciary, as well as remaining agencies that compound the PA.

¹¹ This term corresponds to the title of Palestinian Executive Authority president, equivalent to "*chairman*".

the first article of this accord equated the Palestinian Authority to an “Elected Council”. There was not, therefore, a clear-cut separation of the self-government powers, which ended up by generating ambiguities regarding the functions attributed to the Council.

A minute description of this institution and the role it would play in the Palestinian government were only presented in the 1995 Israeli-Palestinian Interim Agreement. Besides the power to formulate laws, it would also fall under the Palestinian Council competence the task of establishing a judicial system compounded by courts and tribunals. In spite of these powers, the agreement limited the Council autonomy to promulgate legislations that would entail amends or abrogation of laws and military orders already existing and put into practice in the Palestinian territories. In other words, any implementation in the existing legislation would be invalid unless the negotiating parties agreed on it (Interim Agreement, art. XVIII:4,a).

Related to its legislative powers and duties, the institution would be responsible for taking up security arrangements such as the constitution of a police force (Interim Agreement, art. XIV). On the other hand, the Interim Agreement determined that the Palestinian Council would not have foreign relations powers. In its fifth article the accord defines that the Executive would exert its authority on behalf of the Council and the president (*Ra'ees*) would be an Executive *ex officio* member, competent to propose and promulgate laws, as well presidential decrees, without former consultation to any legislative authority. Moreover, the majority of the Executive committee members, according to the agreement, would also compound the Palestinian Council, being a *Ra'ees's* attribution to select the members who would, afterwards, be approved by the institution. Within this frame, the fact that a Palestinian authority invested of executive powers had been instituted previously to the formal establishment of the Legislative and Judicial Powers is worth noting. That is, an Executive-centralized system was constituted previously to the creation of mechanisms to control and regulate the Executive activities. It was not until the general elections for both the Executive Authority (*Ra'ees*) and Palestinian Legislative Council presidencies on January 20 of 1996, that a formal division of the PA institutional structure into three powers was effected: the Executive (presidency and cabinet), the Legislative (parliament), and the Judiciary. It is important to emphasize that three other important aspects negotiated between Israel and the PLO were conditioned to the realization of the elections: the transference of powers from Israel to the PA, new Israel army withdraws steps from the Palestinian territories, and the extension of the Palestinian jurisdiction.

The groups opposed to Arafat and to *Fatah* interpreted the 1996 elections as an Oslo product rather than the result of domestic negotiations. Moreover, they believed that their participation on the elections would mean an approval of the accords they had rejected, as well as an instrument to legitimize Arafat power. As a result, a significant part of the PFLP and the DFLP members, as well as of Islamic groups, did not register to run for the elections. This attitude ended up by favouring the *Fatah*, which, without facing a strong opposition obtained 77% of the

Parliament chairs. It also permitted Arafat to remain in power, elected with 82% the votes. In addition, for refusing to run as candidates they did not create an opposing wing in the Legislative. Thereby, by rejecting the PA policies without offering alternative political programs, the opponents contributed, at that moment, to the maintenance of the political elite in the power (Hilal, 1998).

Although the agreements had determined a formal division of powers after the elections, and despite its stipulation that the PA should be elected by the Legislative Council (exception to the 20% of ministers who could be directly appointed by the president), the principles were not followed. The PA proceeded with its strategy of cooptation and patronage in the composition of its cabinet. These practices were maintained even after the Palestinian Local Authorities Law had been approved (number 1 of 1997). This law unified the legislation regarding the work of the authorities in the West Bank and Gaza Strip, deciding over the procedures regarding their appointment and demission. Moreover, the Legislative was impeded to require the submission of the governmental budget to its approval, as demanded by the internal regulations and the Basic Law.

The overlapping of certain functions by some self-government members and the fact that the separation of powers was not always respected by the PA can be noted, also, in the meetings hold by the Cabinet (Executive Authority) together with the PLO Executive Committee, *Fatah's* Central Committee members, the heads of security services, the Legislative spokesman, and the peace negotiations delegates. This practice of convoking different Palestinian leaderships to participate in the Cabinet's meeting was justified by Arafat as a way to highlight the role the PLO played as the PA main reference (Abu-Amr, 1997:92)¹².

The Executive also intervened in the judicial power by appointing Supreme Court members and the general prosecutor, and by emitting decrees establishing local and regional courts. In practical terms, the reach of the Judiciary autonomy in exerting its functions was very similar to what was happening to the Legislative. The main obstacle to their activities derived, thus, from the interventions and the excess of power conferred to the PA Executive Authority.

In summary, the self-government lacks clearness in administrative terms since distinct agencies are in charge of similar functions and there is an excessive number of posts, especially in the ministries. Furthermore, it is also a common practice adopted by the agencies to double the posts by designating a employee to take a post in the West Bank and another one to an identical post in the Gaza Strip. To illustrate this point it is enough to pay attention to the security forces: the General Intelligence Service, The Preventive Security Force, the Presidential Guard, and the

¹² This structure reveals an overlapping of the PA and the PLO institutions. On the one hand stands the Executive Authority and the Palestinian Legislative Council composing the PA; on the other hand stands the PLO Executive Committee and the Palestinian National Council – the PLO Parliament in the exile. Though the PA Cabinet is distinct from the PLO Executive Committee, some members belong to both institutional bodies. It should be noticed, also, the formation of a third group named as "Palestinian Leadership", responsible for dealing, at the same time, with the negotiations with Israel and domestic affairs.

Special Security Force are likewise responsible for monitoring and controlling internal opposition, be it militant or political (Robinson, 1997:182).

Following this train of thought, and applying as parameters Samuel Huntington's institutionalization measures (1965; 1971) to the period analyzed in this paper, it can be argued that the Palestinian police forces did not present a high degree of cohesion and autonomy. The low degree of cohesion in the functioning of these various agencies and its sections shows itself in the lack of consensus regarding internal procedures as well as in the difficulty to visualize the dividing lines of their respective attributions. If, on the one hand, they presented a high degree of independency in relation to each other, they were not autonomous to choose their commandants. Moreover, the patronage practice used in the hiring members for the security forces, the inconsistency in the promotional practices as well as its politization in detriment of professional criteria, and the abuse of power as well violations of human rights used in the control of public order, can be pointed as elements of the low level of institutionalization of these agencies. The characteristics displayed by these agencies, thus, impeded an adequate and efficient functioning of the police forces.

Likewise, the legal system presents ambiguous attributions of roles and responsibilities. Besides, it bases its practices in different sources, depending on the region. That is, in the West Bank it follows the Jordanian legal system model, based on the Napoleonic tradition, while at the Gaza Strip it founds its practice in the Anglo-Saxon tradition. Moreover, some areas of the Gaza Strip were still working under laws passed during the British mandate.

The panorama presented, as well as the institutionalization indicators pointed by Huntington, may lead us to conclude that the PA presented a low institutionalization level in the period analyzed (1994-2004). Following this, the self-government characterization, if examined the coordination among its public institutions, shows a low level of autonomy and cohesion which compromises the consolidation and stability of the same institutions that compound it. The low degree of autonomy presented by the self-government is due to the behaviour of external actors as well as the dynamics of its political system. On the one hand, the agreements permitted that both Israel and the PLO established limits for the Palestinian self-government. On the other hand, these imposed limitations obstructed the development of effective institutions.

In addition, the informal political practices adopted by the Palestinian leadership, namely the political clientelism and the personalism, undermined the functionality of the self-government institutional structure due to two main reasons: firstly, the centralization of authority on one person alone; secondly, the non-formalization of these procedures by means of institutional mechanisms. As a result, the emerging Palestinian bureaucracy can be considered as a source of patronage in which fulfilment of civil posts did not always follow the pertinent statutes and laws regarding public employment. Foremost, the appointments used to be done based on group or familiar connections,

or on public consideration rather than on professional capability and technical and educational qualifications.

Section III: The Palestinian Authority governance capability

The analysis of the Palestinian Authority (PA) governance capability enables us to evaluate its condition to formulate and implement policies, in the domestic arena, concerned with the provision of public goods. The degree of satisfaction of basic needs should be seen as an indicator of the quality of the political and social institutions as well as a determinant of their long term effectiveness and stability. Although such an argument is generally associated with the notion of governability, this paper does not intend to point out an ideal pattern of governability to this institution. Another aspect related to this issue regards the PA capability of setting “*the rules of the game*” by regulating economic and political behaviour.

If we consider the period of time analyzed in this paper, from 1994 to 2004, the Palestinian Authority institutionalization process can be divided in two stages. The first one begins in 1994, when the PA is created, and goes on with the formation and consolidation of the PA institutions until the break of the second *Intifada*¹³, in 2000. The second stage of the institutionalization process begins with the Israeli military reoccupation of the Palestinian areas – and the destruction of a great part of the PA’s infra-structure – and goes on until the end of Arafat’s term on November 2004.

The performance of the Palestinian institutions was not restricted only by the agreements clauses and the conditions – especially those associated with the demands on the security sphere – put forward by the Israeli government during the negotiations. The Palestinian Authority capability of developing its institutions was also affected by external factors, such as funds donations and financial investments, and by domestic factors namely internal disputes, corruption and clientelism, which sprung due to the lack of effective legal mechanisms to supervise the Executive Authority activities.

One way of evaluating the PA institutional capability is the examination of its capability of creating and allocating diverse types of income, fundamental to its development and political stability. Following this, two factors have affected the PA institutional development: its inadequate fiscal system and its dependency on external actors – such as Israel and other states – to obtain resources. These are the lines that guide the issues addressed in this section.

Regarding the tax collection system, the ratio between the tax revenues and the Gross Domestic Product (GDP) was 20.4% in 1998, which corresponds to the indexes presented by countries with the same level of development (*The Economist Intelligence Unit*, 2004:57; Fjeldstad

¹³ The term *Intifada* refers to a popular movement occurred in the period comprehended between 1987 and 1993. The “second *Intifada*”, known as *Al-Aqsa*, started in 2000.

and Zagher, 2004:194). Nevertheless, this percentage considerably decreases in the two years after the second *Intifada*: in 2001 this index was 7.2% and, in the following year, it reached 9.7% (*The Economist Intelligence Unit*, 2004:57).

The Palestinian fiscal operations followed the directions of the “Paris Protocol”¹⁴, which turned the Palestinian economy considerably dependent and vulnerable in relation to the Israeli policies in the field of trade, employment and taxes transferences. In 1995, for instance, Israel collected 80.2% of the indirect taxes on Palestinian goods and services to be transferred to the PA (Fjeldstad and Zagher, 2004:195).

Although the PA undertook measures to both reformulate and improve its fiscal administration performance, the basis of the system had deteriorated, partly due to the exemptions conceded to large companies, foreign investors, and the agricultural sector among others. Moreover, there had been some concessions of benefits from the part of the PA to monopolies – restraining the development of local small-sized companies and of a private sector in a transparent and competitively fair environment –, of which some were controlled by individuals who also occupied high-level positions in the self-government (Roy, 2001). These procedures favoured tax evasion and corruption. Other factors have contributed to the deficiency of the fiscal system, namely: an inadequate training of the employees, a precarious allocation of resources in the fiscal unities, and the practice of negotiating the taxes that would be charged.

Deficiencies of the fiscal system are associated with structural problems and restrictions: deficient socioeconomic conditions of the Palestinian population; the lack of autonomy over the external borders; the lack of hydric and natural resources; the limitations regarding its territorial jurisdiction; the stage of development of its political institutions; and political and economic uncertainties related to the peace process evolution. The factors aforementioned, as a whole, limited the volume of investments in the region. Moreover, the negative effects of a fiscal system bearing these features end up by reinforcing the structural conditions which turn this system deficient. This context became more critical after the *al-Aqsa Intifada* in 2000. The escalation of violence brought by this popular manifestation drastically reduced the possibility of increasing government revenue by means of tax collection. At the same time, Israel interrupted the transfer of taxes collected by its government.

In institutional terms, the Paris Protocol limited the role the PA played in the constitution of its own fiscal system, giving to Israel a significant control over the revenue to be transferred to the PA¹⁵. At the time the negotiations regarding the economic relations between the Palestinian territories and Israel were held, the Palestinian negotiators thought the Paris Protocol would

¹⁴ “Protocol on Economic Relations between the Government of the State of Israel and the P.L.O., representing the Palestinian people”, signed in April 29 of 1994, by Abu Ala (Ahmad Q’reia) on behalf of the PLO and by Avraham Shohat, Israeli Minister of Finances. This document was incorporated to the “Agreement on Gaza Strip and Jericho Area” (Cairo, May 4, 1994).

¹⁵ According to this protocol, Israel would transfer to the PA 75% of the taxes collected from the Palestinians working in Israel as well as the totality of taxes levied on the Palestinians working in Israeli settlements.

reinforce the integration and dependency of the Palestinian economy. Their pessimism was due to uncertainties regarding the external borders, yet to be discussed in future negotiations related to the permanent status of the agreements. Therefore, the territories economic frontiers still remained conditioned to interim agreements.

Each crisis between the parties in the negotiations, and the subsequent restart of conflicts, affects not only the Palestinian infrastructure but also the trade and the workforce since the confrontations between Israeli and Palestinian communities interrupt the circulation of people and goods. Following this, it is worthy noting that between 1999 and 2002 the revenues derived from the Palestinian workforce in Israel declined about two thirds, representing an annual loss of about US\$530 millions (FMI, 2003). Salary loss, thus, was a consequence of the impediment of Palestinians to continue working in Israel, and led to the decrease of domestic demand in the territories as well as to GDP retraction.

Another aspect that enables us to examine the Palestinian Authority institutional capability refers to external financial aid. Shortly after the beginning of the peace process, representatives of 43 countries met in Washington to discuss the provision of resources to the Palestinians, aiming at the economical development of the Gaza Strip and the West Bank.¹⁶ The proposal set a donation of US\$2.1 billion allocated along the five-year interim stage, to be invested in the economy, social development, and administrative infrastructure of the Palestinian territories. In that occasion some of the representatives committed themselves to keep the resources donations until 1998 raising, thus, the total financial aid to an amount superior to US\$4 billion. A new meeting of the 29 financing states would be held a month after the signature of the Interim Agreement in September 1995 – with the participation of representatives of the PA, Israel, and the World Bank among other international organizations – aiming at formulating a new program for the development of the Gaza Strip and the West Bank. Once more the vinculum between the peace process and international financial aid became evident.

However, the transfer of resources to the territories did not follow the plans delineated in Paris and were sometimes not used in the destined projects. Of the total amount donated for the United Nations Development Program (UNDP), which should have been transferred to the PA, only 31% were applied in projects in 1994 (Brynen, 2000:115). By the end of the same year, 66% of the foreseen donations had been transferred to the PA to be applied in projects. This situation was

¹⁶ The major financing agents are the USA, the European Union (EU), Japan and Saudi Arabia. For the coordination of resource transference two structures were established: the Consultative Group and the *Ad-Hoc* Conjoint Commission, composed by representatives of the USA, the EU, Japan, Canada, Saudi Arabia, Norway, and by these associated members: PA, Israel, Egypt, Jordan, Tunis and the UN. The World Bank, besides putting at the Palestinian disposal its own resources, also participates in both commissions. The donations are made in conjunction with two agencies linked to the World Bank: The International Association of Development and the International Financial Corporations which, in its turn, offers loans to the private sector. Following the World Bank, other agencies have directly participated in projects for the development of the territories and assistance projects: the United Nations Development Program – the United Nations Relief and Works for Palestine Refugees –, and the International Monetary Fund, among others (See Brynen, 1996).

repeated in the following years, and in 1998 50% of the total amount of resources had been transferred (Brynen, 2000:114).

The delays in transferring the international resources to the PA occurred due to several structural factors associated with the PA limited institutionalization. It comes as no surprise, thus, that dealing with an infrastructure still to be consolidated and fragmented public sector the agencies had difficulties to implement their assistance programs. Some restrictions to these programs derived from the peace agreements settled to the Interim Palestinian Self-Government, particularly the "Paris Protocol", along with the Palestinian authority limitations either of functional or of territorial nature (Brynen, 2000:116-117).

Between 1994 and 2004, there was also a high level of employee hiring in the public sector, considerably burdening the self-government budget. This configuration of the civil servants structure was a result of the natural process of composing the administrative machine aiming at the functioning of diverse sectors of the self-government. As pointed out in the previous section, the political practices adopted by the Palestinian leadership at the command of the PA, namely personalism and patronage, revealed that the decision process moved towards the political consolidation at the expense of the consolidation of public institutions.

From 2000 on, parallel to the *Al-Aqsa Intifada*, a gradual loss of the PA legitimacy can be observed, followed by the emergence of new actors which undertake its authority and administrative functions. Governors and municipal administrators, political groups and armed militias from the Gaza Strip and the West Bank have searched, since then, to promote the social stability based on its association with the PA high positioned employees, or on their own ethical codes, or even acting on behalf of a national struggle. It is worthy noting that during the "Oslo Process" years, these actors did not have power enough to threaten the president position. However, the ongoing process has accentuated the social fragmentation and the debility of a central power, which, in some areas, has resulted in chaos due to the power competition between domestic agents. Nevertheless, these groups' agenda in some aspects approaches the one which had guided the constitution of the PA: the formation of unified and effective institutions, founded on the principles of good governability and of the rule of law. Besides these actors, leaders of Islamic groups began to exert a larger influence on the Palestinian community, particularly in the Gaza Strip, where the *Hamas* has undertaken the PA's administrative functions. The constant presence of military units associated to the Islamic groups, which compete with the PA for the legitimate use of force, has increased the percentage level of the Palestinians who perceive their safety threatened and who are pessimists towards the PA capability to control the public order.

According to the *Palestinian Centre for Policy Survey and Research*, regarding the level of popular approval of the government, in May of 2002, 91% of the respondents supported the implementation of reforms in the PA. This percentage decreases in August of the same year, but it still is high: 84%. The level of disbelief in the government was also significant: 75% of the

respondents did not trust in the governance capability of the new cabinet and 62% did not believe on the government capability to realize political reforms, fight corruption, improve economic conditions, and negotiate with Israel¹⁷. The percentage of those favourable to comprehensive political reforms was still significant in 2003 (89% in December)¹⁸ and in 2004 (93% in September)¹⁹.

The effects of the political crisis with Israel along with the internal problems created by the restart of conflicts between the two communities motivated Arafat to take part in the discussions about reforms on the security sector. In this sense, his proposal of a “100-Day Plan”²⁰, announced to the Legislative Council on May 15 of 2002, was a response to the internal demands for institutional reforms after the Israeli operation “*Defensive Shield*”²¹. Afterwards, a Ministerial Committee for Reform (MCR) was created aiming at the elaboration of a chronogram to schedule the reforms to be implanted on several sectors of the PA. Among the measures was the reconstruction of the organizations’ infrastructure – damaged by the Israeli army –, the adoption of a severe fiscal control, and the reformulation of the regulations for the governors. The Palestinian Authority also committed itself to put at practice the laws already approved by the Legislative as well as to promote the strengthening of the Judiciary. It was also decided that the Palestinian security forces would be integrated within three structures. The first one would encompass the “internal agencies” – namely the Preventive Security Forces, the Civil Police, the Civil Defense, and the Border Police – which would remain under the authority of the Minister of Interior who, on his turn, should report to the prime minister. The second structure joined the external agencies such as the National Security Forces and the General Intelligence Service. The third structure was compound by the Presidential Security Force. These two last structures remained under the direct control of Arafat.

The reform plans sketched in 2002 were gradually undone by Arafat in 2003. At the same time, the Israeli army slowly undertook the civil functions regarding the assistance of the Palestinian population. It follows that district coordination offices installed on the Palestinian territories, responsible for regulating the activities of cooperation in the area of security between the PA and the Israeli army, were dissolved in 2003. The resources and workforce allocated to these agencies were redirected to the implantation of an administrative civil system in which each city in the West Bank (except for Jericho and Eastern Jerusalem), would be treated as an isolated microcosm.

¹⁷ PCPRS, *Public Opinion*, Poll #5 (August, 18-21, 2002).

¹⁸ See PCPRS, *Public Opinion* Poll # 10 (December, 4-9, 2003).

¹⁹ See PCPRS, *Public Opinion* Poll# 13 (September 23-26, 2004).

²⁰ Bearing in mind that the PA intended to implement urgent measures in a “tangible and visible way” within 100 days, the name of this reform became associated to its deadline (“100 Days Plan of the Palestinian Government”). After the official release of this plan, on June 23 of 2002, the PA counted with the support of an International Task-Force for the Palestinian Reform, composed by the European Union, Russia, USA, UN, Japan, Norway, International Monetary Fund, and World Bank.

²¹ After a series of suicide attacks against Israeli civilians in 2002, the Israeli Prime Minister, Ariel Sharon, announced the government decision of realizing a large-scale military operation in the West Bank.

After Abu Mazen resigned from his post of Prime Minister on September 2003, Arafat commissioned the National Security Council (NSC) with the task of reorganizing and commanding the security forces until a new cabinet was formed. Nevertheless, the NSC maintained these attributions even after the constitution of an emergency government on October 2003. These attributions became permanent after a new regular government was defined on November 2003 by means of an Arafat decision supported by the *Fatah* Central Committee members. As a consequence of these alterations, the Ministry of Interior lost its authority over the security issues addressed by the NSC, and the chiefs of the Civil Police and Preventive Security Forces reported directly to the president. It is important to highlight that although the NSC was of an interim nature, it continued operating after the agreed term without a constitutional basis or established legal procedures, becoming an instrument that enabled Arafat to control the security agencies.

It was only after a governmental crisis, marked by the temporary resignation of the Prime Minister Ahmed Qrei'a on July 2004, that the Ministry of Interior recuperated, for fact, its control over the internal agencies and the General Intelligence Service. It was also accorded that there would have been an integration of the National Security Force into the Border Police, the Naval Police and the Military Intelligence under the general command of Arafat. Nevertheless, until the end of his term the compounding agencies of the security forces remained acting independently from each other, reporting directly to him.

A survey conducted by the University of Birzeit (Ramallah)²², in 2004, evaluating the self-government measures towards social questions, life conditions and the provision of basic needs, sheds some light on the PA performance in providing public goods. According to this survey, 58% of the respondents affirmed that the PA was totally incapable of providing their daily basic needs and 57% declared that the poor did not receive any kind of assistance. Thirty six percent of the sample considered the government performance weak, and 51% were favourable to the substitution of the government. To 40% of the respondents the government does not have a clear strategy and only 26% evaluated as good the Prime Minister Ahmad Qrei'a's performance.

To Anat Kurz (2002), the domestic demand for a better governmental capability form the part of the PA should not be considered as a response to external demands for structural and administrative reforms in the Palestinian institutions, particularly from the United States and Israel. The author suggests that the domestic claims upon the PA reflect the perception of the necessity of safeguarding its infrastructure and its civil organizations from the Israeli military incursions and, at the same time, to be able to produce positive results in the resolution of the conflict with Israel. In this context, one of the main domestic demands falls on the security sector, expecting it to become more efficient in guaranteeing the public order in the territories and in protecting the Palestinians against the Israeli attacks. It comes as no surprise, thus, that the PA deficiency of material resources and governability, and the institutionalization pattern adopted, were a target for

²² Available at <http://home.birzeit.edu/dsp/opinionpolls//poll17/>.

internal criticism. Although these aspects can not be considered the causes of the non-successful resolution of the Israeli-Palestinian conflict, they might be regarded as intervenient variables on the evolution of these processes. In other words, the factors aforementioned can compromise the stability of the Palestinian political order and the legitimacy of the institution designed to implement the peace agreements.

Final Considerations:

The peace process between Israelis and Palestinians defined the establishment of a new political entity limited in its powers and rights. The negotiations, by deciding to restrict the autonomy of the future Palestinian entity, also restricted its political and economic resources as well as its institutional capability to implement its responsibilities regarding the peace agreements. The limitations in the Palestinian autonomy; the restrictions of territorial jurisdiction illustrated by the continuity of Israeli settlements in the Gaza Strip and in the West Bank; the fact of not controlling international borders and not owning the monopoly of legitimate use of force have conferred to this actor a *sui generis* character. Therefore, the institutional design of this new political entity, configured during the peace process negotiations, was one of the factors which impacted upon the evolution of the peace process.

On the other hand, this paper aimed at calling attention upon the fact that the limitation of resources, along with governance problems and the PA low degree of institutionalization have undermined the implementation of policies in the domestic arena during the period of time analyzed (1994-2004). Moreover, the institutionalization pattern – which presents the coexistence of formal and informal political practices – has generated internal criticism as well as the questioning of the legitimacy of the new Palestinian entity. Among the self-government practices that raised protests from the Palestinian community are the discretionary practices, the centralization of decisions in the public institutions of the Executive, and the administration of public order by means of the surveillance and intimidation apparatus created in the security area. This type of criticism mainly derived from journalists, human right activists and members of left-wing groups, such as the Popular Front for the Liberation of Palestine (PFLP) and the Democratic Front for the Liberation of Palestine (DFLP). The discretionary and coercive measures adopted by the PA to curb popular protests were not only a result of Israeli pressure on this entity to accomplish its responsibilities, as determined by the agreements. Nevertheless the violations of human rights perpetrated by the Palestinian security forces and the restrictions on freedom of speech can be seen as practices adopted by the emergent local leadership to consolidate its power. Moreover, it can be affirmed that the elite who moved in to the Palestinian territories supported by some segments of the Palestinian society by means of patronage and cooptation had been engaged in building an institutional apparatus which privileged its interests. The elite, thus, by

leaving on second plan the provision of social needs and demands, compromised the political stability, favouring personal connections rather than privileging the role of the institutional apparatus.

As Khalil Shikaki (1996) has noted, the peace process produced negative effects on the Palestinian project for national reconstruction since it did not solve vital issues of the Israeli-Palestinian conflict. On the contrary, it deepened the divisions already existents in the Palestinian society by supporting the political order established with the foundation of the PA. Following this, the self-government faces a dilemma: the non-recognition of its legitimacy by the opposition, due to the implementation of the signed agreements. Moreover, since 1998 the PA has been facing the opposition of other relevant actors in the Palestinian society, even members of the government party, *Fatah*. The discourse delivered by this group suggested that a militant practice should be adopted by means of an *Intifada* against the Israeli occupation in the Palestinian territories. Their members argued over the necessity of reformulating the PA institutions, defending the establishment of an independent Judiciary, and the non-interference of the militaries on political questions. They also highlighted the imperatives of respecting the rule of law, a higher level of transparency in the self-government activities, and the end of despotism.

The PA configures itself as institutionally weak, lacking clear rules that orient some administrative procedures and functions. Also, division of labour in the ministries, as well as in other self-government agencies, has revealed itself imprecise when it comes to employees' powers and duties. Moreover, different ministries administrate distinct institutions which are in charge of similar responsibilities. One of the consequences of this overlapping of functions is the competition of these agencies for results: distinct groups developing, simultaneously, similar projects and activities. Needless to say, this practice is not always bringing forth efficient results.

Although the PA low degree of institutionalization is not one of the causes of the peace negotiations failure, I have argued that this aspect constitutes an intervenient variable with significant impact upon the evolution of this process. The PA institutional deficiency has compromised the stability of its political system as well as its governability in the domestic arena. It has also limited its capability of implementing international agreements. As suggested by G. Hossein Razi (1990), the legitimacy of a government is the key element for the public order stability and it is not only due to the manner its political leadership has reached the power but also, and essentially, it is associated with its actions towards its community. Therefore, I take as an assumption that the questioning posed by the Palestinian groups about the PA legitimacy, particularly by those who rejected the accords with Israel – namely *Hamas* and Islamic *Jihad* –, represented a challenge to the maintenance or public order by the self-government.

The points addressed in this paper can help us understanding some aspects of the ongoing relations between *Fatah* (main group in the composition of the PLO and of the PA presidency) and *Hamas* (group that has become majority in the parliament after the elections held on January

2006). Since the confronts between these groups have started this year, and since the control of Gaza was taken by *Hamas* – later deposed by Abu Mazen, the PA president –, the Palestinian territories are undergoing a moment of political instability. On the one hand, it is still premature to signalize how the ongoing crisis will end. On the other hand, it can be argued that some of its causes lay in the PA institutionalization process and the way its domestic institutions, particularly those related to the security area had been conducted since 1994.

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