ASSISTANCE TO THE PALESTINIAN LEGISLATIVE COUNCIL

REPORT ON THE EXTERNAL LEGISLATIVE PROCESS IN THE PALESTINIAN TERRITORIES

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USAID/West Bank and Gaza

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REPORT ON THE EXTERNAL LEGISLATIVE PROCESS IN THE PALESTINIAN TERRITORIES

I. INTRODUCTION

This report is a deliverable under the contract between the U.S. Agency for International Development (USAID) and Associates in Rural Development, Inc. (ARD) -- *Assistance to the Palestinian Legislative Council, Contract No. 294-C-00-99-00156-00* (PLC2). The report examines the portion of the legislative process that is external to the Palestinian Legislative Council (PLC). A separate report examined the aspects of the legislative process that are internal to the PLC.[1] This report concentrates on the major actors in the legislative process other than PLC members and staff, i.e., the Diwan al-Fatwa wa al-Tashr'ie (the Diwan), the Council of Ministers, the Ministry of Parliamentary Affairs, and civil society.

The report seeks to accomplish several purposes. First, an understanding of the external constraints on the legislative process is important in designing and reviewing the PLC2 project's activities with the PLC. The PLC does not operate in a vacuum. External actors participating in the legislative process present obstacles and opportunities that the PLC2 project must consider in assisting the PLC. Second, the PLC2 project can undertake limited, targeted activities to strengthen the external legislative process. The name of the PLC2 project, *Assistance to the Palestinian Legislative Council*, reflects the focus of the project on the institutional development of the PLC, rather than the general strengthening of the legislative process. However, our contract identifies two main areas for providing direct assistance to the executive branch in strengthening the legislative process -- activities with the Diwan relating to legislative drafting, and activities with the Ministry of Parliamentary Affairs relating to executive-legislative relations. Contract activities directed at civil society may also fit within the project's constituent relations sector. This report provides background that may be helpful in designing and developing these activities.

The report is not a work plan. Many of our proposed activities with the Diwan were included in the *Legislative Drafting and Review Three-Year Work Plan (October 1, 1999 -September 30, 2002)*, submitted to USAID on March 31, 2000. Many of our proposed activities with the Ministry of Parliamentary Affairs were included in the *Executive-Legislative Relations Three-Year Work Plan (October 1, 1999 – September 30, 2002)*, dated May 2000. Other proposed activities regarding the external legislative process will be included in our work plan on the legislative process, due June 30, 2000. Because the report is not a work plan, it discusses problems in the external legislative process that cannot necessarily be addressed by the PLC2 project. Many problems with the external legislative process in the West Bank and Gaza are political, rather than technical, in nature. Although technical assistance may help to inform the political debate and may help to create a demand for political change, there are clear limitations

[1] *Report on the Internal Legislative Process of the Palestinian Legislative Council*, submitted to USAID on April 30, 2000.

on the ability of technical assistance projects to help resolve political issues. Unfortunately, many of the most serious issues with the external legislative process in the West Bank and Gaza are political in nature, e.g., the President's decision to modify a portion of the NGO law without legislative approval. Although the project can provide legal advice and comparative information, many issues in the external legislative process will need to be resolved on a political level -- at least until a basic law is adopted and the judicial system is in position to enforce it.

This report is divided into five sections, including this brief introduction (Section I). Section II of this report provides an overview of the external legislative process -- before, during and after consideration of legislation in the PLC. Section III provides a more detailed analysis of the main external actors in the Palestinian legislative process. In particular, this section explores the roles of the Diwan, the Council of Ministers, the Ministry of Parliamentary Affairs and civil society. Section IV provides recommendations for improving the external legislative process. In those situations where the PLC2 project can have a role in implementing or advancing a particular recommendation, Section IV describes this role. Section V concludes the report with a brief summary of the findings and recommendations of this report.

II. OVERVIEW OF THE EXTERNAL LEGISLATIVE PROCESS

Although the PLC is the locus of the Palestinian legislative process, external actors also play critical roles -- before, during and after the period that the proposal is under consideration by the PLC. The level of involvement that the various external actors have in the legislative process varies during these three different stages:

Initiation of legislative proposals. The executive branch plays a crucial role in the initiation and development of legislative proposals before they are introduced in the legislature. This is particularly true in parliamentary systems where legislative members and committees typically initiate fewer pieces of legislation. The Palestinian legislative system can be viewed as a hybrid or mixed system, where legislative members and committees play a significant role in initiating legislation, even though the executive branch initiates the majority of the legislation.[2] The major executive branch institutions involved in the legislative process are: the line ministries, which have primary responsibility for the initial development of legislative policy in their respective areas of competence; the Diwan, which has primary responsibility for placing these policy ideas in proper legislative form; and the Council of Ministers, which has responsibility for approving legislative proposal before they are submitted to the PLC. Civil society in the West Bank and Gaza has played a significant role in the initiation of new legislative proposals, although civil society's role in legislative initiation should continue to be developed.[3]

Consideration of legislative proposals by the PLC. In most countries, the executive branch closely monitors legislation under consideration by the legislature in order to ensure that its interests are adequately represented. There are several different models used by the executive

[2]Historically, PLC member have initiated roughly 30% of all legislation. See *Performance Indicator Report: October1, 1999 to March 31, 2000*, submitted to USAID in May 2000.

[3]Notable examples of civil society involvement in legislative initiation include: the Law on the Disabled, the Law Prohibiting Torture, the Arbitration Law and the Labor Law.

branch to fulfill this monitoring function, varying in their degree of centralization. In many US states, each of the major executive branch agencies has a legislative liaison who is responsible for monitoring the progress of all legislation in which the agency has an interest. Often a more centralized process is used, with a single agency responsible for monitoring all legislation pending in the legislature, e.g., a state department of administration or the federal office of management and budget. Often governments use both of these approaches simultaneously to complement each other. The Palestinian Authority does not seem to have an institutionalized system for monitoring legislation as it moves through the PLC. Currently, the legislative monitoring role appears to be carried out informally through personal connections between the executive branch and members of the PLC. With respect to civil society, this intermediate stage in the legislative process is the most active. Civil society comments on the merits of legislation within the context of public hearings or workshops and suggests possible amendments to support their policy interests. Palestinian civil society has also played an important role at this stage in the process.

Enactment and promulgation of legislation. The final stage of the legislative process, enactment and promulgation, is generally more limited in scope than the previous stages. However, in the West Bank and Gaza, this stage of the legislative process has been particularly problematic. Under the draft basic law, the President does not possess a "pocket veto".[4] If the President does not sign or return the bill to the PLC with objections within 30 days, the law takes effect without the President's signature. It takes effect upon publication in the Official Gazette.[5] Although the publication of a law in the Official Gazette was intended to have been an automatic step upon the expiration of the 30-day period, the executive branch has refused to publish certain laws in the Official Gazette. The Diwan is an executive branch agency under the control of the President. As a result, the President has indirectly assumed the power to exercise a pocket veto by directing the Diwan not to publish laws that are not signed by the President.[6] The PLC has raised the possibility of developing its own Official Gazette to challenge this executive branch assertion of power, but so far has not proceeded with this approach.[7] The role of civil society at this stage in the process is typically limited. Civil society organizations may lobby the executive branch regarding whether to sign a bill into law or to return it to the PLC with objections. However, civil society organizations tend to recognize the difficulty of making significant changes to legislation at this late stage.

III. EXTERNAL ACTORS IN THE PALESTINIAN LEGISLATIVE PROCESS

[4]Although the basic law has not been ratified, in the absence of an agreed-upon constitution, the draft basic law serves to provide guidance regarding the respective roles of the Executive Authority and the Legislative Council.

[5]See Article 57 of the draft basic law.

[6]The ambiguity that is arguably present in the draft basic law allows the President's Office to make a technical legal argument to support their position that laws that are unsigned by the President have no legal effect. This provides an excellent illustration of the importance that legal drafting skills play in the development of a legal system.

[7]See, Schenker, *Palestinian Democracy & Governance: An Appraisal of the Legislative Council* (Washington, DC: The Washington Institute for Near East Policy, 2000), p. 31.

This section reviews the principal external actors in the Palestinian legislative process: the Diwan, the Council of Ministers and civil society. This report focuses on technical, rather than political, aspects of the external legislative process. Accordingly, the report does not focus on the role of the President, whose role is primarily political. In addition, our discussion of the Council of Ministers focuses on its role as the conduit for official communication between the executive branch and the PLC; rather than its political role.[8] Although the Ministry of Parliamentary Affairs does not yet play a significant role in the legislative process, it is also discussed in this section because of the institutional role that it may be able to play in the future.

A. The Diwan al-Fatwa wa al-Tashr'ie

The Diwan is one the most important external actors in the legislative process. Among other things, the Diwan is responsible for drafting and reviewing legislation on behalf of the Executive Branch.[9] It is legally and administratively under the Ministry of Justice[10] and consists of the Head of the Diwan, technical staff, and administrative staff. The President appoints the Head of the Diwan and the technical staff; the administrative staff members are appointed by the Minister of Justice at the suggestion of the Head of the Diwan. As of April 2000, there were 11 technical staff and 3 administrative staff. Officially, the Diwan is divided into five administrative departments (legislation; *al-fatwa* (advice and opinions); agreements and contracts; technical support; and work review). However, the staff members have not been assigned to these departments and this administrative structure remains unimplemented.

Law Number 4 of 1995, "concerning the preparation and issuance of legislation", governs the Diwan's role in the legislative drafting process. The law is somewhat problematic and needs to be revised for several reasons, including the fact that it was drafted before the establishment of the PLC. The law envisions that proposed legislation would be drafted initially in the relevant line ministry and that the Diwan's involvement in the legislative drafting process would begin with a review of this initial draft. However, the Diwan has played a role in the initial drafting (rather than review) of legislation, particularly within the context of the World Bank's Legal Development Project. Law Number 4 of 1995 also provides for two further steps after the Diwan's initial review of a draft (whether originating with a line ministry or the Diwan): 1) ministry comment and 2) review by an inter-ministerial committee. These steps take place before the Council of Ministers submits a draft law to the PLC. Although the Diwan does not

[8] Largely for these reasons, our contract does not contain any illustrative activities with the Office of the President or the Council of Ministers. Accordingly, this report provides only a very limited overview of the role played by these institutions; its focus is limited to the aspects of this role that impact our programming with other actors in the legislative process.

[9] The Diwan also provides legal supervision and assistance to legal departments and advisers at the ministries and other public institutions. Under the Council of Ministers Decision Number 1 of 1998, "all legal advisors and staff members of the legal departments at the ministries, governates and public institutions and organizations report to the Diwan". As these legal advisors and staff members are, at times, responsible for the drafting of legislation, the Diwan is technically responsible for overseeing the legislation drafting process in the line ministries. However, as reported by the Diwan staff, there is only limited coordination between the Diwan and ministry legal staff. Because Diwan staff members have significant expertise in legal drafting, strengthening their oversight role in ministry legal drafting should help to improve the quality of initial legislation drafted by the ministries.

[10] See Council of Minister Decision Number 286.

take a very active role in monitoring legislation pending at the PLC, it does play an informal role in reviewing legislation after the second reading to advise on whether the executive branch should request a third reading.[11] Lastly, the Diwan plays a critical role in promulgating laws; it manages the publication of the Official Gazette, the official record of all Palestinian primary and secondary legislation. Each of these aspects of the Diwan's role in the legislative process are discussed below:

Initial Drafting. As previously noted, although many executive branch legislative proposals originate with the relevant line ministry, the Diwan has been involved in the initial drafting of proposals, particularly within the context of the World Bank's Legal Development Project. The 5-year project is administered by the Diwan. The project works in five different sectors, one of which is the harmonization of laws in the West Bank and Gaza. Under this sector, the Head of the Diwan and the Director of the World Bank project establish the priorities for the harmonization and modernization of the law in a particular area. After establishing priorities, they grant permission to create a law commission to prepare a new draft law on a particular legal topic. The law commissions are coordinated by a member of the Diwan's technical staff, and typically include judges, lawyers, academics and, where appropriate, international experts. Currently, law commissions are working on a number of draft laws, including the following: a civil law; a penal law; a value-added tax; a commercial law, a law regulating court clerks and a law regulating court fees. A staff member from the Legal Development Project coordinates the committee and provides technical assistance, such as conducting preliminary research. Each commission develops a detailed work plan during the first meeting to develop a first draft of the law. Generally, once an initial draft is completed it is referred to a regional expert for comments. Once these have been incorporated, a public workshop is conducted for concerned parties. Generally, the commission and the expert meet to finalize the draft of the law. Although there have been a number of criticisms of the Legal Development Project, one of its strengths is the degree to which it has involved the Diwan staff in the drafting process. It has helped to build the capacity of the Diwan's staff to facilitate groups of experts and interested parties to work on a draft law.

Initial Review. Unlike the role played by the Diwan in preparing initial drafts of legislation, its review function is legally mandated. Article 2 of Law Number 4 of 1995 requires government ministries and official bodies to submit all draft legislation to the Diwan to put the draft legislation in proper legal form. The law prohibits the Diwan from changing the substance or purpose of the draft. When the Diwan receives a draft law from a ministry or official body, the draft is assigned to a legal adviser, or a group of legal advisers, from the Diwan's technical staff. The legal advisers compile relevant reference materials and do an initial review of the draft law to understand its content and to check for conflicts with current law. The Diwan’s legal advisers then review the draft law again, article by article, to review the arrangement of articles and to ensure that appropriate legal terminology is used. The legal terminology specialist at the Diwan also reviews the draft for use of Arabic terminology.

According to reports from Diwan staff and Diwan records, almost all laws reviewed by the Diwan (except for very small or minor laws) go through all of these steps in their review process.

[11] Article 68 (B) of the PLC’s Standing Orders allows the Council of Ministers to request a third reading of a legislative proposal.

However, not all laws from the executive branch are referred to the Diwan for review. It appears that from 1997 to1999, approximately one third of the laws were referred directly from the Council of Ministers to the PLC, without being reviewed by the Diwan. This proportion seems to have improved in the recent indicator reporting period. From October 1999 until March 2000, the Diwan reviewed 10 of the 11 laws that the executive branch submitted to the PLC. Only the Budget bill did not go through the Diwan. It does appear that, as the Diwan develops greater legitimacy and expertise, the executive branch increasingly utilizes the Diwan's services. During early 2000, ARD requested information from the Council of Ministers about their opinion on various legislative issues, including the role of the Diwan. The Council of Ministers reported that they use the Diwan because it provides useful technical legislative drafting assistance.

Ministry comment. After the Diwan completes its own analysis, review and revision, the Diwan is required to send out the revised draft to all concerned ministries and official bodies for comment. This requirement is derived from Article 3 of the Law Number 4 of 1995, which requires the Diwan to confer with all concerned ministries and to coordinate with them to reach a final agreement regarding the proposed draft. The Diwan reviews these comments, resolves any conflicting comments from different ministries, and incorporates these comments into a draft law before submitting the law to the Council of Ministers. According to its records, the Diwan is not submitting many laws to ministries through a formal comment process. Between October 1999 and March 2000, only three of the 10 laws reviewed by the Diwan were reported to have been submitted to the relevant ministries for comment. There are three possible explanations for this finding. First, the Diwan staff, as they become more experienced, confident and professional may feel there is a diminishing need to submit legislation to the ministries. Another possibility is that the Diwan's records are not accurate, so some instances where laws were actually submitted to a ministry for review were not recorded. A final possibility is that the Diwan staff members, as they develop professional relationships with the various ministries, are increasingly utilizing informal methods of ministerial review, rather than the formal mechanism of sending out written requests for comments. While all three of these explanations are possible, there is strong anecdotal evidence that Diwan staff are increasingly using informal methods of ministerial review, including phone calls with ministerial staff, and inviting ministerial staff to attend relevant review meetings.

***Review by interministerial committee*.** Finally, Article 4 of Law Number 4 of 1995 requires an interministerial committee to review draft proposals before they are submitted to the PLC. In particular, Article 4 requires the Diwan to submit proposed legislative laws to the Secretary of the Council of Ministers. The Secretary then refers the proposed laws to an interministerial committee, created by Presidential decree and chaired by the Minister of Justice. The committee is composed of representatives of concerned ministries and the Head of the Diwan. Law Number 4 of 1995 requires the interministerial committee to study the law and submit the law with their final comments and recommendations to the Council of Ministers.

This step of the executive branch legislative drafting process is not being implemented.[12] This does not appear to be a serious problem because of the number of points where input can be

[12] One of our contract's performance indicators monitors the Diwan's performance in complying with the established procedures. Our indicator tracks only compliance with the first two of the steps in the process

received from the relevant ministries -- in the initial drafting of the legislation before it is submitted to the Diwan, during the Diwan's review process, during the ministry comment procedure (when this is followed), in Council of Minister discussions on whether or not to submit a draft law to the PLC, in the PLC itself (given the number of ministers in the PLC), or when the President reviews the legislation for his signature. Although the procedure may have made sense when Law Number 4 was drafted (before the establishment of the PLC), it appears needlessly cumbersome in the current context.

Support for the President's review. After the Diwan has finished the draft law, it is submitted to the Council of Ministers for approval and then transmitted to the PLC for its review. The Diwan does not track the deliberations at the PLC closely. However, within two weeks of a bill's second reading at the PLC, the Council of Ministers or one-fourth of the PLC members may request that a bill be given a third reading. If no third reading is requested or the bill passes its third reading, it is sent to the President for review and signature. The Diwan provides comments on legislation that has been referred to the President after the second or third reading in the PLC. The role of the Diwan is to ensure that the draft is in proper legal form and to ensure that the draft law resolves any conflicts with prior law by repealing or amending the prior inconsistent law. For laws that originated in the executive branch, the review would focus on amendments that were adopted in the legislature. For laws that were originated by PLC members, the review would cover the entire law. While review by the Diwan at this stage of the process is not legally mandated, it does provide another opportunity to ensure legislative quality.

Publication of the Official Gazette. The Diwan also publishes the Official Gazette of the Palestinian Authority, *Al Waqai' Al Filastiniyyah.* Among other things, the official Gazette contains all enacted laws and all decrees, orders, decisions and resolutions issued by the Palestinian Authority.[13] The Diwan collates the submissions of these materials from the Council of Ministers and from the various line ministries and contracts out the layout, design and production of the Official Gazette. It also manages the distribution of, and the subscriptions to, the Official Gazette.

Although this activity should be purely administrative, it has become a very controversial part of the legislative process. First, the Diwan has made changes in the text of laws before publication in the Official Gazette, but after adoption by the PLC. Often an administrative agency is given

established by Law Number 4 of 1995, namely: 1) that executive branch proposals go to the Diwan to be put in proper legal form and 2) that the Diwan distributes the draft laws to concerned ministries for comments.

[13] At one point, the Official Gazette was intended to include the following: all Presidential decrees, orders and laws, all Council of Minister orders, decisions and decrees, all ministerial orders and decrees, all regulations, lists of births and name changes as issued by the Ministry of Interior; resolutions of the Central Planning and Zoning Commission; resolutions regarding the dissolution of cooperative societies issued by the Ministry of Labor, and company, agency and trade name registrations in Gaza. At this point, it seems that Diwan relies primarily on the submission of relevant documents from the ministries and public institutions, rather than guaranteeing the systematic publication of all material required to be published in the Official Gazette. The Diwan has requested our assistance in developing a database for managing the distribution of, and subscriptions to, the Official Gazette. In the context of this assistance, we may be able to provide limited assistance in developing a system for ensuring the publication of all relevant material in the Official Gazette.

the authority to make minor, non-substantive, technical corrections to laws after enactment.[14] Typically, these changes are limited to things like correcting spelling errors, correcting cross-references to other laws, eliminating gender specific references, modernizing obsolete terminology, etc. These changes are made pursuant to specific authorizing legislation, which narrowly circumscribes the scope of permissible changes. The Diwan has clearly exceeded these types of technical corrections in some instances; and has published laws unilaterally altered by the President after passage by the PLC. A second area of controversy involves the refusal to publish laws that should take effect without the President's signature. Under the draft basic law, if a law on the President's desk remains unvetoed and unsigned for more than 30 days, it should be enacted by being published in the Official Gazette.[15] However, currently, the Diwan is not publishing unsigned laws, presumably at the direction of the President. The executive branch has taken the position that, since these unsigned laws are not published, they are not in effect.

B. The Council of Ministers

The Council of Ministers also plays a critical one in the legislative process. The Council of Ministers is the executive branch body that is responsible for official communications with the PLC. If there is a vacancy in an electoral constituency, the Speaker of the PLC is required to inform the Council of Ministers.[16] If the executive branch desires an extraordinary session of the PLC, the Council of Ministers is empowered to request the Speaker to call an extraordinary session.[17] The Council of Ministers can request that a bill be given a third reading.[18] It is the Council of Ministers that is responsible for submitting all executive branch proposals to the PLC.[19]

In addition to this role as being the principal conduit for the executive branch's communication with the PLC, the Council of Ministers also fulfills a role in coordinating policy for the executive branch. USAID had previously supported a project, implemented by Checci/PaL-Tech, to improve policy coordination within the executive branch. The project envisioned policy development, analysis, and coordination occurring within the General Directorate of Policies and Plans (GDPP) in the Ministry of Planning and International Cooperation (MOPIC). The GDPP was to be responsible for coordinating policy development and analysis with line ministries and official bodies. Although the aims of this project were admirable, it does not appear to have had sufficient backing from the PA and MOPIC. The envisioned legislative drafting partnership between the Diwan (focusing on legal review) and the GDPP (focusing on policy review) did not materialize and the GDPP is no longer active. Although the Council of Ministers plays a policy review and coordination role, given the other responsibilities of the Council of Ministers, it cannot conduct this review with the required level of detail.

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[14] The administrative agency that is assigned this function varies by jurisdiction. At the state level in the US, the statutes are often published by a legislative agency, often named the Reviser of Statutes Office. In other US states, the function is performed by the Secretary of State's office in the executive branch.

[15] See Article 57 of the draft basic law.

[16] See Article 112 of the PLC's Standing Orders.

[17] See Article 16 of the PLC's Standing Orders.

[18] See Article 68 (B) of the PLC's Standing Orders.

[19] Article 65 (A) of the PLC's Standing Orders requires the Council of Ministers to submit the text of any draft law to the Speaker, accompanied by a preamble or explanatory memorandum.

This has several implications for the PLC2 project. First, in the absence of a staff of policy analysts dedicated to ensuring policy consistency, it is likely that the Diwan staff will attempt to play a greater role in policy development and formulation than may be warranted. Anecdotal evidence supports the view that the Diwan has assumed a greater policy formulation role than is appropriate given the organization's mission and the capabilities and skills of its staff. Second, the absence of a policy coordination staff increases the potential for policy (and legal) conflicts. This makes it all the more important for the PLC2 project to provide training to ensure that these conflicts are identified and to develop mechanisms to ensure that they are resolved. Finally, the centralization of policy formulation and coordination in the Council of Ministers is likely to slow the pace of the formulation of policy and the development of legislation. The theme of centralization as a cause for the slowness of the legislative process is found in many aspects of both the internal and external legislative process.

C. The Ministry of Parliamentary Affairs

The President established the Ministry of Parliamentary Affairs in 1998.[20] The Ministry of Parliamentary Affairs is one of the smallest ministries, currently having a staff of only six. Two of these staff members work directly with the PLC; one records and reports on the plenary sessions to the minister and the other works primarily with the PLC committees. The other four staff members are administrative - one translator, and three secretarial staff members.

To date, the ministry's role in the legislative process remains unclear. Staff members of both the PLC and the ministry have noted this lack of clarity. There seems to be a recognition of the role that the ministry plays with respect to the facilitation of oversight issues. In the area of oversight, the minister, largely through his personal contacts and strength of his personality, has helped to facilitate contact, and resolve disputes, between the executive and legislature branches. For example, if a PLC committee is having difficulty getting a response to a particular request for information from the executive branch, they may ask the Minister of Parliamentary Affairs to approach the relevant ministry to facilitate a response. The minister does not appear to have played as strong a role in facilitating the resolution of disputes on legislative issues.

The ministry's role not only remains unclear, it also remains uninstitutionalized. The minister, supported by the nonadministrative staff of the ministry, facilitate the resolution of problems on a case-by-case basis through the personal influence of the minister. Problems have not yet been approached on a structural or institutional level. For example, the Ministry of Parliamentary Affairs has not attempted to implement improvements in structures used by the line ministries of the Palestinian Authority to facilitate oversight or legislation. Section IV of this report provides some recommendations on how an institutional role for the Ministry of Parliamentary Affairs in facilitating legislation may be able to be structured.

[20] The establishment of this ministry was part of the reorganization of the executive branch by the President in response to the *Special Committee Report Concerning the 1996 Annual Report of the General Comptroller Office*, better known as the Corruption Report issued in July 1997. In response to this report, instead of dismissing ministers charged with corruption in this report, the President added an additional eight ministers, one of which was the Minister for Parliamentary Affairs.

D. Civil Society

Because of the resistance to the Israeli occupation and the need to provide alternative social services during this time, Palestinian civil society organizations have a long and active history. Since the establishment of the Palestinian Authority, Palestinian civil society has continued to play a very important role in the provision of supplementary social services and in state-building. As part of this effort, civil society organizations, particularly nongovernmental organizations (NGOs), have played an important role in the legislative process from the establishment of the PLC. NGOs have played three key roles in strengthening the legislative process: 1) increasing public awareness about the legislative process and its importance through civil education programs and public awareness campaigns; 2) increasing public participation in the legislative process; 3) providing technical expertise during the legislative process. These three roles are interlinked and mutually reinforcing.

Civic education. NGOs have been the most active sector of the Palestinian community in educating the public about the legislative process. Currently there is little within the formal education system about the legislative process within Palestine, as there is no formal civil education curriculum in either the UNRWA or Governmental education systems. NGOs have conducted civic education sessions with school children and members of the public that have addressed the legislative process, they have conducted media campaigns to increase public awareness about the importance of the PLC and have produced informational material about the PLC. One important example of such activities is Democracy Day, a day to celebrate and learn about democracy. This year, Democracy Day activities continued over a period of two weeks, and a major focus of the activities was the PLC's legislative process. Educational activities included a media campaign and town-hall meetings. Educating the public about the legislative process helps strengthen the legislative process in a number of ways. When the public is informed about the legislative process, they are more likely to become involved and invested in this process, either directly through lobbying their representatives on issues of concern to them or indirectly by paying greater attention to their voting choices. They are also more able to make informed choices about what types of legislation will best serve their interests and the interests of the community.

Facilitating public involvement in the legislative process. NGOs have also facilitated the involvement of the public in the legislative process, both during the initiation of legislation and during the PLC legislative review process. NGOs have been involved in the initiation of legislation is through the preparation of draft legislation. NGOs may submit draft legislation for consideration either through the executive branch or through a PLC member. NGOs have initiated a number of laws, including the Labor Law (initiated by NGOs concerned with workers' rights), the Disabled Law (initiated by groups representing the rights of the disabled), the Law Prohibiting Torture (initiated by Human Rights organizations), the Bar Association Law (initiated by the Bar Association) and the Small and Medium Enterprises Law (initiated by the Palestinian/European Chamber of Commerce). NGOs involve the public in the initial drafting of such laws in a number of ways – by holding public workshops about the law, by consulting with different community sectors, and by forming drafting committees with representatives from different community sectors.

NGOs also facilitate public involvement in the legislative review stage through a number of mechanisms. NGOs have held many public meetings about particular laws, both with and without the participation of PLC members. They have also conducted information and media campaigns about the impact of particular laws. Through committees and consultation with sections of the public, they have collected and collated public opinion about particular laws. This information has been used to lobby PLC members, as well as to submit suggested amendments to individual members and to relevant PLC committees.

NGOs have had varying degrees of success at amending legislation as it moves through the legislative review process. One of the most notable positive examples was the effect of NGO lobbying and submissions on the NGO law, which according to one NGO leader, underwent a 95% revision, largely because of the work of the NGO community.[21] Many PLC committees have close relationships with NGO groups – for instance, the Oversight and Human Rights Committee has close working relationships with a variety of Human Rights organizations. However, both NGOs and PLC members and staff have expressed some frustrations with the relationship between the PLC and NGOs. From the perspective of NGOs, they have at times found it difficult to obtain information from the PLC and have felt frustrated at a perceived lack of cooperation. Some PLC members and staff display a lack of trust in the NGOs, and others feel that the NGOs are overly critical.

As one would expect, NGOs have had less of an influence on legislation after passage of the legislation by the PLC. As draft legislation advances through the legislative process, it typically becomes progressively more difficult to influence the legislation. In addition, PLC members, being the elected representatives of their constituents, should be more directly responsive to the wishes of the public than the executive branch. This is particularly true in the West Bank and Gaza, given the level of tension between the executive branch and the NGO community. While NGO leaders may be able to influence the enactment of legislation through their personal relationships, institutional level lobbying by NGOs at this stage of the legislative process has not been particularly effective.

***Provision of technical expertise*.** NGOs also influence the legislative process through the provision of technical expertise and information. NGOs have provided the PLC with access to experts or committees, who have analyzed draft laws and suggested draft amendments. NGOs have also provided reports and information on the likely impact of particular laws, on the relationship of draft legislation to current Palestinian law or other laws in the region. To take but one example, MAS has provided limited technical expertise to the Budget and Finance Committee in its review of the draft budget laws. The development of linkages between PLC committees and local and regional sources of expertise, including NGOs and universities, is a goal of the PLC2 project. Not all of the NGO-provided technical assistance has been fully utilized by the PLC, either because of a lack of trust or a lack of appropriate coordination. It is important not only to continue to strengthen the ability of NGOs to provide technical assistance during the legislative process, but also to ensure that there are appropriate coordination mechanisms to allow the PLC to fully utilize this assistance.

[21] Schenker, p. 68. It should be noted that one of the most important changes in the legislation passed by the PLC as a result of the lobbying of the NGOs – that is, that NGOs must register under the Ministry of Justice rather than the Ministry of Interior – was later revoked by the President when he enacted the legislation.

IV. RECOMMENDATIONS FOR IMPROVING THE EXTERNAL LEGISLATIVE PROCESS

This section makes a number of specific recommendations for improving the external legislative process.[22] These recommendations are grouped under five main categories: 1) greater clarity in the external legislative process, 2) greater institutionalization of roles for monitoring legislation at the PLC, 3) greater coordination between the PLC and executive branch staff, and 4) a broader role for civil society. As noted in the introduction, the implementation of certain of these recommendations can be facilitated by the PLC2 project; other recommendations are either outside the scope of the PLC2 project or are political decisions beyond the reach of a technical assistance project. For each of the recommendations, the report comments on the role that the PLC2 project might play with respect to the implementation of the recommendation.

A. Greater Clarity in the External Legislative Process

As to be expected in a relatively new legislative system, there is a lack of clarity regarding the legislative process and the various roles and responsibilities of the actors in this process. Even where clear rules and procedures have been adopted, they often conflict with actual practice. Occasionally, the gap between law and practice can be attributed to the rate of change in a new, evolving system. In these cases, the provision of technical assistance can play an important role in reducing this gap. In other cases, the gap between law and practice is caused by a conflict between political interests and legal requirements. Absent a judicial system that is capable of enforcing legal requirements, the conflict is generally resolved based on political power. In these areas, there are clear limits on the ability of a technical assistance project to effect change.

Many of the recommended clarifications to the external legislative process could be made in the context of a law on legislation. Others could be made on a less formal basis. It may be difficult to get support for the adoption of a law on legislation before decisions are made with respect to Palestinian statehood and the form of a future Palestinian legislature. However, it may be appropriate to begin work on such a law now, so that a draft is available as a base document when issues relating to the future form of a Palestinian legislature are resolved. Our specific recommendations, regarding the issues to be clarified in such a law, follow.

Specify those changes that can be made by the Diwan to legislation before its publication. Currently, there is no clear guidance on what changes, if any, the Diwan may make to legislation before publishing legislation in the Official Gazette. Few people would argue with the appropriateness of allowing the Diwan to make minor technical corrections to legislation, provided that this authority is granted by law and not abused by the Diwan. Given the fact that the Diwan is already changing legislation without any explicit authority, it may be appropriate to

[22] A number of activities for strengthening the Diwan are discussed in our *Three-Year Work Plan for Improving Legislative Drafting and Review: October 1, 1999 to September 30, 2002*, submitted to USAID on March 31, 2000. Similarly, a number of planned activities with the Ministry of Parliamentary Affairs are described in our *Three-Year Work Plan for Improving Executive Legislative Relations: October 1, 1999 to September 30, 2002* dated May 2000. Although these activities should help to improve the external legislative process, they are not restated in this report.

explore methods of granting this explicit authority in exchange for clear limitations on the types of changes that may be made (e.g., fixing incorrect cross-references to other legal provisions, correction of clear typographical and spelling errors, etc.). Given the executive branch's tendency to push the limits of its authority, this approach is not without risk. To minimize this risk, it would be important to have a clear mechanism for challenging and undoing changes that exceed the authority granted to the Diwan. Although the PLC2 project can make recommendations regarding the scope the Diwan's role and provide comparative information on these issues, it may be difficult to get the Diwan to agree any express limitations on its role without some political pressure on the Diwan to accept these limitations.

***Revise Law Number 4 of 1995*.** As noted in Section III, Law Number 4 of 1995 was enacted by the President before the creation of the PLC. There are a number of provisions in the law that should be modified to reflect the establishment of the PLC. For example, Articles 5 and 6 require the Diwan to prepare a final version after approval by the Council of Ministers to be submitted to the President for signature. These provisions should be modified to refer to submission of the draft approved by the Council of Ministers to the PLC for consideration. The revised procedures should also specify the manner in which the PLC should transmit legislation that it has adopted to the President for review and signature. In addition to modifying the law to refer to the PLC, the law should be modified to eliminate the procedure in Article 4 for submission of a draft law to an interministerial committee for review and approval. The Diwan and the Council of Ministers is following this procedure and there does not appear to be a strong policy justification for retaining it. Although the PLC2 project can recommend changes to Law Number 4, we expect resistance to any modification that would be perceived as weakening the position of the Diwan.

***Clarify the definition of primary and secondary legislation*.** There remains a degree of uncertainty regarding the situations in which the executive branch may adopt so-called secondary legislation (administrative regulations) and when it requires the enactment of primary legislation by the PLC (laws). The PLC2 project has already achieved some progress with respect to the acceptance of a common definition of primary and secondary legislation. The legislative drafting manual being worked on by the PLC Legal Department, the Diwan and Birzeit University, supported in part by the PLC2 project, does contain a fairly substantial discussion of primary and secondary legislation. However, this legislative drafting manual has no official status, and line ministries and others may not agree with the definitions contained in it. At some point, the definitions of primary and secondary legislation should be codified in a law. Agreement on an approved definition of primary and secondary legislation is a deliverable due in the eighth quarter of the PLC2 contract.

***Assign responsibility for policy coordination in the executive branch*.** Policy coordination functions in the executive branch should be clearly assigned. Previous USAID-funded efforts to support the establishment of a separate policy coordination unit in the Ministry of Planning and International Cooperation have not been successful. It is not particularly important where the function is located, as long as there is sufficient, competent staff to support this function. It appears that the policy coordination function is being performed by the Council of Ministers itself. However, unless there is adequate Council of Minister staff to support this function, there is a danger that the lack of delegation of this function to staff will result either in a failure to

identify policy conflicts or in a bottleneck in the process. Support for the executive branch policy review function is outside the scope of the PLC2 project. However, to the extent that the PLC2 project supports the drafting of a law on legislation, the project can propose addressing this issue in the context of the law and can provide comparative information about how other jurisdictions perform the policy coordination function.

B. Improved Executive Branch Policy Coordination and Legislative Monitoring

There are a number of ways that the capacity of the executive branch to coordinate policy and monitor legislation could be improved. To a limited extent, the Council of Ministers has assumed the policy coordination function, in the absence of a separate agency focusing on policy coordination. In the absence of staff specifically assigned to ensure policy coordination among the various ministries, the executive branch has relied on informal, noninstitutionalized patterns of policy coordination. Similarly, the role of monitoring pending legislation in the PLC could be institutionalized. Typically, the executive branch monitors pending legislation to help prevent the legislature from adopting amendments that the executive branch considers problematic from either a legal or a policy perspective.

There are several ways in which the executive branch's policy coordination and legislative monitoring could be improved:

Improve policy coordination in the executive branch. As noted in Section III, USAID previously support a project, implemented by Checchi-PaLtech, which was in part designed to improve policy coordination within the executive branch. The project envisioned policy development, analysis, and coordination occurring within the GDPP of MOPIC. The objectives of the project were valid, although there does not appear to have been sufficient backing from the PA and MOPIC for the GDPP as an institution. It may be that the policy coordination function is more appropriately located in the staff of the Council of Ministers. Stronger policy coordination would reduce the potential for introducing policy (and legal) conflicts into the legislative process. The development of improved policy coordination in the executive branch is outside the scope of the PLC2 project and would need to be supported by USAID through a different mechanism.

Improve executive branch monitoring of legislation pending at the PLC. The executive branch has not developed formal, institutionalized mechanisms for monitoring legislation as it progresses through the PLC. This may be because of the number of informal mechanisms that represent the executive branch in the PLC.[23] Nonetheless, there are good reasons for supporting the executive branch in developing a more formalized system to represent its interests in the PLC. First, the time of ministers and PLC members is already very limited; greater (appropriate) use of staff may improve the efficiency of the legislative process by reducing the workload of

[23] There are close party and other ties between the executive and the legislative branches of government. Roughly three-quarters of the PLC members are identified as Fateh or Fateh Independent. Over one-quarter of the PLC members are also ministers in the government. Given these close ties between the government and the PLC, the executive may not have felt a strong need to institutionalize formal mechanisms for monitoring legislation in the PLC.

individual members and ministers. Second, continued reliance on personal, rather than institutional, mechanisms in the legislative process weakens the sustainability of these institutions and, ultimately, the rule-of-law. Third, there are executive branch staff members who could be effectively be used to perform this legislative monitoring role, both within the Diwan and within the Ministry of Parliamentary Affairs.

The Diwan could play an important role in monitoring the legal correctness of amendments proposed at the PLC. The three legal advisers in the Ramallah Office of the Diwan are currently underutilized. This is in part because of the relatively small size of the office, the lack of senior management in the office and the lack of a shared network between the Ramallah and Gaza Offices of the Diwan. The legal advisers of the Diwan would like additional work. Given their proximity to the plenary sessions of the PLC and the PLC's Ramallah staff, it may makes sense for one or more of these legal advisers to act as a liaison for the Diwan to the PLC. As staff members of the Diwan, they would know which Diwan staff members worked on laws pending at the PLC. They could coordinate with the legal adviser at the Diwan who drafted the law to ensure that any amendments made in the PLC are legally correct. Often a change to one part of a law will require a host of conforming changes elsewhere in the legal draft; lawyers who were not involved in the original drafting of a proposal may not be familiar with all of the places where these conforming changes are required. Because of the Diwan's legally mandated role to put executive branch proposals in proper legal form before submission to the PLC, it is ideally suited for this type of monitoring role. The development of this role is something that may be able to be supported (or at least suggested) by our project. We will raise this issue at appropriate times in the project and will provide assistance where possible for the development of this function.

Just as the Diwan is well-suited to a role in monitoring the *legal* aspects of proposed PLC amendments to legislation initiated by the executive branch, the Ministry of Parliamentary Affairs could assist in monitoring the *policy* aspects of such amendments. There are a number of ways that this policy-monitoring role could be developed. One possibility would be the development of a network of legislative liaisons in each of the executive branch ministries. The Ministry of Parliamentary Affairs could maintain this network and could notify the appropriate legislative liaisons of proposed amendments to legislation in their areas of concern. Alternative methods of coordination could involve providing information on proposed amendments to appropriate staff in the Council of Ministers. As with the Diwan, support of the development of a system of legislative liaisons is within the scope of our contract and will be worked on, as appropriate, during the course of the contract.

C. Increased Technical Cooperation and Coordination

In developed democratic systems, there is a level of technical cooperation and coordination between the executive and legislative branches that is relatively constant, even though the two branches may have significant policy disagreements. Political parties acknowledge the "right to disagree" and, despite policy differences, are able to cooperate with respect to improving the overall democratic process. This level of mutual respect and trust does not yet exist in the Palestinian territories. There is less cooperation among the executive and legislative branches than in many developed democracies. In the Palestinian territories, advocacy of a strong

legislature is often viewed, not in terms of the long-term development of governmental institutions, but in terms of opposing President Arafat. The building of confidence among new institutions is a slow process. However, we believe that we can move to improve cooperation and coordination between the executive and legislative branches in the following areas, in order to improve the overall legislative process:

***Develop methods for avoiding retyping of data*.** It appears that there are instances when draft laws are retyped when they arrive at the PLC from the executive branch, or when they arrive at the Diwan to be published in the Official Gazette. During the course of the three year project we hope to be able to review the hard copy and electronic copy document flow for laws throughout the entire legislative process to develop mechanisms for the transmission of data the ensures that data does not need to be reentered. This may involve the development of common protocols and conventions for the format in which electronic data is shared. In addition, both the Diwan and the Chief Clerk's Office of the PLC maintain bill-tracking databases, tracking the status of legislation. Certain of the data maintained in these databases should be able to be shared to avoid the retyping of this information.

***Involve PLC Legal Department in Law Commission Process*.** During the second quarter of the PLC2 project, ARD helped facilitate a dialogue between the Head of the Diwan and the PLC Legal Department regarding PLC Legal Department's participation in the law commissions sponsored by the World Bank's Legal Development Project. This dialogue was successfully concluded in the first several weeks of the third quarter with the signing of an informal memorandum of understanding allowing PLC Legal Department attorneys to participate in the law commissions. The purpose of their participation on in the law commissions is to facilitate information sharing, cooperation and coordination between the executive and legislative branches with respect to the legislative drafting process. It is hoped that the PLC Legal Department's participation in the law commissions will accomplish several objectives. First, participation in the law commissions is a low-cost way to provide the PLC Legal Department staff with exposure to the World Bank experts who participate in the commissions. Second, participation in the law commissions provides Legal Department staff members with detailed information about the laws that the executive branch will eventually submit to the PLC, making the Legal Department more useful to the PLC. Finally, the Legal Department's participation in the law commissions should help to provide the executive branch participants in the law commissions with more information about the PLC and its internal processes.

Result A.3 of the PLC2 project calls improved legislative drafting and review capacity. One of the PLC2 project's accomplishments in this area during the second and third quarters of the project has been involving the PLC Legal Department in the Legal Development Project's law commissions. The PLC2 project obtained the approval of the Head of the Diwan and the approval of the Legal Development Project to include PLC Legal Department staff in the law commissions as observers. Although it is not appropriate for the Legal Department staff (as employees of the legislative branch) to participate in executive branch policy formulation, it is crucial that the members of the PLC Legal Department have a thorough understanding of the laws that will come before the PLC for consideration. Including the PLC Legal Department lawyers in the law commissions will give the Legal Department an understanding of the drafting history of the proposals; this will enable them to answer questions regarding the drafts when the

proposals reach the PLC. The experience of working with the legal experts in the law commissions and the experience in running meetings to mark up legislative drafts are also very important in building the skills of the PLC Legal Department staff.

Inviting executive branch testimony on legislation supported by the PLC. To date, much of the testimony provided by executive branch staff members at the PLC has been in the context of oversight hearings or questions and answers, when many members of the PLC have been very critical of the executive branch. Although oversight is one of main functions of a legislature, it should not be the only method of interacting with the executive branch. In the case of the PLC, the focus on oversight has had several negative effects: 1) ensuring that the executive branch is opposed to a strong legislative branch, and 2) having the public become very frustrated with the PLC by raising unrealistic expectations for reform. At this early stage in its development, the PLC does not have the tools necessary to force some of the reforms that it has been viewed as promising. This has lead to increased cynicism by the public. Although many of these effects are difficult to undo, it may be possible to demonstrate to the executive branch that there are positive aspects to a strong legislative institution. This may be able to be achieved by having a more balanced role by the executive branch in the legislature. Testimony should be invited not only when a large number of PLC members oppose an executive branch measure, but also when there is broad support for a measure. This may be able to help demonstrate the value of a strong legislative institution to the executive in terms of providing a forum for advocating its proposals and gaining additional public support for its policies.

D. Broadening Civil Society's Role beyond Issue Advocacy

To date, civil society's role in the PLC has been focused primarily on issue advocacy. Civil society has interacted with the PLC to press for new legislation or changes to pending legislation on issues within the scope of the civil society organization's mission. This role is extremely positive and should continue to be encouraged. However, civil society can also have an important role in the PLC's institutional development – in terms of helping to press for institutional reforms. There is a degree of resignation or cynicism among civil society organizations regarding the PLC, and there is not a great deal of civil society pressure for reform, except perhaps with respect to calling for new elections. There are a number of ways that the role of civil society could be expanded:

Continue to promote lobbying by civil society. Many civil society organizations are currently engaged in lobbying and advocacy activities with the PLC. Although the PLC2 project does not intend to do significant lobbying or advocacy training with the NGO community, we do hope to help make the PLC more receptive to receiving technical expertise and lobbying information from civil society. Our continued work promoting the use of public hearings at the PLC should help encourage likely to help to encourage civil society to provide information and expertise to the PLC. In addition, improving public awareness of the legislative process – through activities like the preparation of the guides to the legislative process or brochures on the budget process – should help to promote continued advocacy and lobbying by civil society.

Promote awareness of legislative development issues. Although civil society has had a great deal of training on lobbying and issue advocacy, its understanding of legislative development issues could continue to be improved. In a recent meeting that ARD hosted for NGOs to introduce them to the PLC2 project, there were a number of useful discussions about NGO interaction with the PLC. One theme that emerged from the discussions was a lack of appreciation for the degree of "back office support" that is necessary to run an effective legislative institution. In a 4-year period, the PLC has had to grow an organization of roughly 400 people, hiring and training lawyers, fiscal analysts, committee staff, policy analysts, journal and records clerks, librarians, etc. Given the lack of legislative experience in the West Bank and Gaza, it was impossible to hire people with experience for many of these positions. In addition, it has had to develop the physical infrastructure needed to hold sessions, prepare verbatim session transcripts and provide for videotaping and captioning of the sessions. Many of the structures for running an effective legislature needed to be assembled in both the West Bank and Gaza. However, much of these accomplishments in these areas are not transparent to civil society. There was frustration about the lack of the ability of the PLC to shift money away from the security forces toward health and education, but a lack of appreciation for the internal capacity to needed to effectively analyze a nearly budget with roughly $964 million in local revenues.

The PLC2 project can do a number of things to improve civil society's awareness of legislative development issues. One approach is to include selected representatives from civil society in legislative development conferences. We attempted this with the recent USAID Legislative Strengthening conference. Although this attempt was unsuccessful, we believe that we should continue this approach in the future. Additional briefings and meetings with civil society about our project would also be helpful. At different times, there has been talk of having an advisory committee for our project that includes representatives from civil society. In the absence of an active PLC liaison committee, there may be merit to reevaluating this approach.

Supporting a parliamentary watchdog function. Although civil society has been involved in issue advocacy at the PLC, NGOs have not focused on legislative development issues. Several civil society organizations in the US fulfill this function. A parliamentary watchdog organization could help to pressure the PLC for disclosure of voting records, agendas of sessions, notice of public hearings and workshops, etc. It may be that, given the level of interest in Palestinian democracy from the world academic community and from Palestinians in diaspora, that such an organization could easily become self-sustaining. Congressional Quarterly, Inc., the premier provider of information and reporting about Congress, is able to support a staff of 120 reporters, editors and researchers. Because of ARD's role in developing the PLC, there would be inherent problems and conflicts of interest with having the PLC2 project play a significant role in this area. However, USAID may wish to look at ways of supporting the ability of civil society to perform this watchdog role or of supporting local efforts to form a parliamentary watchdog group.

V. CONCLUSION

A legislature does not operate in a vacuum. In order to understand a particular legislative process, one must understand not only the internal mechanisms that a legislature uses to consider proposed laws, but also the role external actors play in the legislative process. Indeed, the "internal" legislative process, i.e., the process that the legislature uses to consider legislation, typically represents only a portion of the life of a given legislative proposal. Often civil society and the executive branch have been extensively involved in the preparation of an initial draft of the legislation. After passage by the legislature, the executive branch must determine whether the draft legislation should be enacted into law and must promulgate enacted laws.

Legislative strengthening projects tend to focus on the provision of technical assistance to the legislature -- appropriately so. However, even though the legislature is the most significant actor in the legislative process, external actors also make essential contributions to the legislative process. If the "external" legislative process is not functional, the entire legislative process is unlikely to be functional, no matter what the capacity of the legislature is. As is the case with the internal legislative process, parts of the external legislative process are highly political and do not lend themselves to the provision of technical assistance by a foreign donor. However, the converse is also true. There are a number of technical aspects of the external legislative process that require support if the entire legislative process is to develop.

In the West Bank and Gaza, there are a number of aspects to the external legislative process where the provision of technical assistance can help to improve the overall process. Palestinian civil society, particularly, the NGO community, has played a crucial role in democratization and state-building. In particular, the NGO community assisted in civic education, facilitated public involvement in the legislative process, and provided technical assistance on policy issues being considered by the legislature. The NGO community has not, however, become directly involved in legislative development issues. A lack of awareness about legislative development issues has contributed to a degree of frustration with respect to what is perceived as a lack of progress by the PLC. Similarly, to date, NGOs have not assumed a strong watchdog role over the PLC, in terms of demanding PLC voting records, modifications to the standing orders, disclosure of financial interests and conflicts of interest, etc.

The executive branch's involvement in the legislative process is even more problematic. There are a number of problems that may be beyond the reach of technical assistance, such as the executive branch's refusal to publish and implement laws which remain unsigned by the President for more than thirty days after PLC passage. There are however, several areas where technical assistance may be able improve executive branch involvement in the legislative process. First, there are aspects of the executive branch involvement in the process that could be institutionalized. Currently, the Ministry of Parliamentary Affairs does not really operate as an institution; the ministry staff supports the Minster, who intervenes personally on legislative-executive coordination issues. Both the Ministry of Parliamentary Affairs staff and the Diwan staff could play a role in monitoring amendments to executive-branch initiated legislation as it moves through the legislative process; with the Ministry of Parliamentary Affairs staff focusing

on policy aspects[24] and the Diwan staff focusing on legal aspects. Similarly, the function of coordinating policy within the executive branch could be formalized and institutionalized in the staff of the Council of Ministers. Although the PLC2 project is unlikely to be able to assist in strengthening policy coordination in the executive branch, it may be able to assist in the development of a legislative monitoring capacity in the Ministry of Parliamentary Affairs and the Diwan. Finally, the PLC2 project may also be able to promote executive and legislative branch technical cooperation with respect to legislative process, e.g., developing systems to avoid retyping of draft laws and bill-tracking data at multiple points in the legislative process.

[24] Realistically, given the limited staff of the Ministry of Parliamentary Affairs, its policy-monitoring role would probably need to be limited to passing on information regarding possible policy changes to the relevant executive branch agency. This would, nonetheless, provide a very useful service to the executive branch.