



NATIONAL
DEMOCRATIC
INSTITUTE
FOR INTERNATIONAL AFFAIRS

**The Role of Committees
in the Legislature**

*A Workshop for the Members of the
Palestinian Legislative Council*

*Gaza City
December 14-15, 1996*

The Role of Committees in the Legislature

A National Democratic Institute for International Affairs Workshop

**Shawwa Center
Gaza City, Gaza**

December 14-15, 1996

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Introduction

On December 14-15, 1996 the National Democratic Institute for International Affairs (NDI) convened a workshop at the Shawwa Center in Gaza City on "The Role of Committees in drafting legislation, in encouraging public participation in the policy making process, and in oversight of the executive." This document is a report of the workshop deliberations.

The Palestinian Legislative Council (PLC) has been meeting regularly since its inaugural session on March 7, 1996. It is clear that the Council committees are a significant institution within the PLC; the committees meet regularly, the committee chairs are serious about their tasks, and significant time is spent in the Council meetings to address committee reports. This workshop evolved out of an interest voiced by Council members in learning about how committees function in other legislatures--particularly in how they relate to the executive, conduct executive oversight, and participate in the law-making process.

Rationale and Program Goals

This workshop followed previous work undertaken by NDI and the PLC, which included an assessment and report of the first two months of the Council, and a workshop held in May, 1996 on constitutional issues and the Basic Law. NDI's current work with the Council, including this workshop, is part of a 16-month legislative development project that is funded by the United States Agency for International Development. NDI's program is designed around a series of workshops led by international participants on different components of legislative development, including plenary procedures, legislative-executive relations, transparency, the budgetary process, and the role of committees. For these workshops, comparative legislative materials in Arabic will be distributed to Council members.

In addition to the workshop series, two study missions will be organized whereby a select group of PLC members will visit other transitional legislatures to see sessions first-hand. To supplement these activities, NDI will disseminate legislative materials in Arabic, and will provide on-going consultations with Council members, including responding to requests for information about legislative issues in comparative contexts.

The goal of the Committees Workshop was to bring together a select group of legislators from other countries with PLC committee chairs and rapporteurs, as well as other interested members, to discuss the various functions of committees, and to begin to address ways to build on the work of committees to date to strengthen their role in the legislative process. The workshop also helped NDI in developing a baseline assessment with which the future work of the PLC committees can be compared.

Approximately 25 Members, including committee chairs, rapporteurs, and other

interested PLC members attended the workshop. The cross sectional representation of committee members allowed for discussions that were engaging and also afforded the opportunity for Members to see both similarities and differences in the work of the various PLC committees.

To facilitate discussion and present models from other legislatures, NDI invited three international participants from the United States, Canada and South Africa. They were: Mr. James Shannon, a former member of the United States Congress; Ms. Myrna Phillips, a former representative and speaker of the Manitoba Legislative Assembly, and the current director of NDI's program with the PLC; and Mr. Aubrey Dundeubela Mokoena, a member and Chairman of the Committees of the South African Parliament. Ms. Susan Benda, NDI's Senior Program Officer for Legislative Programs, served as chairperson of the workshop.

NDI is thankful to all those who participated in the workshop, and is hopeful that this report, including its recommendations and evaluation, will be beneficial to the development of democratic norms and procedures in the Palestinian Legislative Council.

Background

NDI held the workshop in Gaza City, one of the meeting places of the PLC, although the Council has been convening most of its sessions in the West Bank (mainly Ramallah) since the summer. More than one-third of the Members represent Gaza. Moreover, as the headquarters of the Palestinian Authority, Gaza is a central point of Palestinian political life.

The political and economic situation in Gaza is quite different from that in the West Bank--while the Gaza Strip is under Palestinian autonomous rule, there remain difficult travel restrictions that prevent most Gazans from leaving, even to travel to the West Bank. Even Council members from Gaza have experienced difficulty in traveling to the PLC sessions in Ramallah. Moreover, the economic situation in Gaza remains strained in comparison to the West Bank: the economic isolation rendered by Ottoman, Egyptian and Israeli occupation of Gaza, as well as current trade restrictions and other hindrances towards creating autonomous economic policy, continues to create many obstacles to economic development, and influences the political environment as well.

Executive Summary

The agenda for the workshop on committees was organized to cover the following questions:

- * What is the role of committees in the legislative process?
- * How can committees encourage and benefit from public participation in the policy-making process?
- * How do committees conduct oversight of the executive?

Through plenary sessions, delegates discussed the questions listed above with the international participants. The day after the workshop, internationals met with committee staff in Gaza, to discuss some of the same issues.

One of the themes that emerged from the workshop was the need for the committees to develop the capacity to consult civic organizations and the general public on legislative policy issues. It was suggested that committees should facilitate this process by holding public hearings, in the Council, and, when possible, in the field.

The members are very aware that they are in the legislature to "serve the people," and realize the importance of Palestinians understanding the work of the Council. To this end, the role of the media is seen as very important, as is the development of stronger constituency relations, for example, through district offices.

The participants discussed the mechanisms that can be utilized by the committees to conduct oversight of the executive, particularly as it pertains to the implementation of laws. Delegates also emphasized that greater coordination with the cabinet would be mutually beneficial, particularly on issues such as the budget, and would enhance the overall relationship between the legislature and the executive.

Participants recognized the importance of information for conducting an effective legislative process. Members need to aggressively seek information from cabinet members and from other sources as well.

Introductory Remarks

The Honorable Jim Shannon
Former Member, U.S. House of Representatives

Thank you for allowing us to be here today. We believe that the developments in the Palestinian Legislative Council are deemed very important to the rest of the world. We have come today not to tell you how to run your legislature, but to share our different experiences. It is important to emphasize that none of us here believe that there is a right or a wrong ways to do things--each country is different. And the model which will work best for Palestine is a Palestinian model.

It is very important in the early stages of a legislature to pay attention to how things are done, because much of how a legislature functions is due to custom and tradition, not only due to the law. So, the relationships you establish with each other, with the executive, with the speaker, will have a strong influence on your work in the future. It is important, therefore, at this stage to decide the role you want to play, even though this is hampered by the lack of a Basic Law.

One thing on which all the panelists will agree is the important role of committees in any system. Woodrow Wilson wrote a dissertation about the Congress in which he said that the work of the Congress is done by committees. This is truer today than when it was written, as constituents have become more demanding and voice their problems and want quick answers. It is often difficult to explain how the system works, and how it takes time to get things done. Committees, through their work on specific issues, alleviate some of the political pressure from the Council in general.

On a certain issue that is of concern to a large group of constituents, for example, a committee member can conduct hearings. This would entail inviting community experts (academics, NGOs, etc.), to discuss the issue at length. It is essential that this be done in a public way, and that the media attends. Then, the committee would work on legislation to solve the issue. At the same time, the executive authority would realize that there is a lot of public support for this problem. Holding a public hearing can be more effective than presenting the problem to the entire Council--people in governments throughout the world have realized the importance of working through committees to solve a particular issue.

Once a hearing has been held, the committee can work to develop legislation to be presented to the entire Council. When the issue is debated in the entire Council, the committee members will take the lead in the debate, not all of the members need to be--nor can be--experts on every topic. This way, members can learn from each other and can learn to rely on each other's judgement.

The chairman of the committee will present a bill and the committee members will lead the debate. There is no requirement for "collective responsibility," that is the committee members do not need to be united support of the majority's decision, so committee members can speak out against the pending legislation that the committee is recommending. In the United States, the Republicans, as the majority party, lead the debate and the Democratic (minority) party leads the opposition. This is a very effective mechanism.

Once a bill is passed, it is the job of the committee to ensure that it is implemented. This job of oversight is a critical function, because it establishes the balance between the legislature and the executive. Without this accountability mechanism, there is no way that legislation can be effective. This function of oversight and accountability is also important regarding the relationships between committees and ministries, and is particularly effective when committees relate to ministries (in the United States, for example, the Education Committee oversees the Department of Education). With this system, the committee learns how a particular ministry functions, and can develop important knowledge and relationships. This familiarity facilitates the job of the committee to keep track of the ministry.

Another type of committee are special ad hoc temporary committees which are established for emergencies, for a short-term crisis, or for an issue to be investigated. This type of committee supersedes all other committees; the "Watergate" committee was one of

these. These type of investigations differ from oversight investigations because they do not focus on a particular piece of legislation.

In closing, I want to reiterate that I have given the American experience, but there is the trend in the rest of the world's legislatures to become more dependent on committees, because of the efficiency in addressing constituents and in oversight of the executive. I hope that you will see the importance of committees in the Palestinian Legislative Council.

Views from Members of the Palestinian Legislative Council on the Role of PLC Committees

This session enabled the participants to present their views and observations of the role of the PLC committees, and provided an opportunity for the international participants to learn more about the particular issues with which the Council is dealing.

The PLC members addressed the issue of the Council's committees by first establishing the context of the PLC's work. One recurring theme articulated by many of the Council members related to the extraordinary challenges, both external and internal, that the PLC faces. The members cited the continued Israeli occupation, the slow pace and the overall shortcomings of the Oslo process, the severe discrepancies (economic, social, political) between the West Bank and Gaza, and the logistical challenges associated with convening the Council, as among the macro factors that severely constrain the work of the Council. Moreover, the lack of a unified body of law in the West Bank and Gaza, which have a mixture of Ottoman, Egyptian, Jordanian, British Mandate and Israeli laws, poses a significant obstacle to the task of legal reform.

In addition to these overarching circumstances, the Council members pointed to many internal issues that hinder the Council's development. For one, the unclear division of power between the legislative and executive branches, in the absence of a Basic Law, limits the ability of the committees to oversee the executive. In addition, there is not always effective coordination between the committees and government ministries on pending legislation and related policy issues.

In addition, that this is a new Council means that most of the members lack legislative experience, and there is no precedent from which to draw experience and knowledge. Like the Council, the Palestinian Authority (PA) lacks experience, and this makes the transition from a revolutionary movement to a well-functioning government difficult.

Members repeatedly stated that the committees spend virtually all of their time reviewing and responding to constituents' complaints, which leave the committees little time to focus on larger, policy issues. The Council's Standing Orders provide that the public can send complaints to the Council, and the Speaker refers complaints to the committee with relevant jurisdiction (Article 92). The committees have therefore become accustomed to being reactive rather than proactive. In addition, the Council members voiced their frustration

with their inability to provide answers to constituents' concerns, often because the issues of concern to the constituents are not within their control.

Questions and Answers

Presenting Legislation

One member asked if the minority (opposition) party could present bills. Mr. Shannon responded by stating that in the United States Congress, in order for a bill to reach the floor (plenary), it has to be reported by, reviewed and voted on by a committee. The typical situation is that the majority party presents a bill which the minority party generally opposes. The debate is led by one member of the majority and one member of the minority; usually, both are members of the relevant committee. Members of the committee that presented the bill are free to speak in favor or against it.

Special Committees

A member asked if special committees are standing (permanent) or ad-hoc (temporary). Mr. Shannon explained that special committees are ad hoc--created for a specific purpose and dissolved when the issue is resolved.

Committee Appointments

A Council member asked how committee membership is determined, whether it is based on qualifications. Mr. Shannon stated that in general, members of Congress seek membership on a committee where they have expertise. In Congress, seats in the committee are distributed proportionally between the majority and minority parties and membership is determined by party, through the party caucus. In addition to expertise, regional considerations are also taken into account when determining committee membership, in order to ensure that there is adequate geographical representation within the committees.

Committees and Constituent Complaints

Ms. Benda made reference to Members' discussion of the PLC committees as preoccupied with dealing with complaints, and asked how unique this was in comparison to the American, Canadian and South Africa models. She asked the internationals to explain how complaints are handled in their respective systems.

Ms. Phillips stated that the committee system in Canada is very different from the American model. Constituent complaints are handled by the ministries that deal with that specific area, while the committees would focus on legislation. A member of the majority party may bring up constituents' complaints in the party caucus, then they would be directed to a minister.

Mr. Shannon also emphasized that committees in the US system are not the first and foremost outlet for constituent complaints. In the US system, it is not the job of the committees to address individual complaints, but rather, to address problems that affect a community at large. The U.S. committees, therefore, address large policy questions. Mr. Shannon also stated that in his view, it is important for constituents to register their complaints with their individual representatives, who will represent them in the Council. This helps to ensure the accountability of the elected officials. This process is also good for the Council members, because it helps them establish support among constituents, who will feel that their problems are being addressed.

One member responded by noting that when a complaint reaches the PLC, it is dealt with as a general policy matter, regardless of who introduces it. As Members, he stated, we are responsible to specific committee areas, as well as to the Council as a whole.

Mr. Shannon commented that in the United States, most complaints do not require a complete change in policy, so committees need only be involved when there is a need to change policy.

Ms. Phillips noted that in Canada, legislators call ministers' offices on behalf of constituents to help obtain responses to complaints. The daily "Question Period," however, serves as another mechanism to address complaints. During this time, ministers attend the plenary session, and are asked difficult questions about their policies by opposition leaders. The press documents what is said.

The Role of Committees in the Legislative Process and in Encouraging Public Participation

Afternoon Session

Myrna Phillips

Former Member and Speaker of the Manitoba Legislative Assembly

In Canada, the government follows the party system, and there are several parties. After an election, the majority party forms the government and its leader becomes the prime minister. The second largest party becomes the "Official Opposition." The Government is empowered to enact legislation and to raise and spend money. An election platform is presented during the campaign, so the elected party has the mandate to enact its platform. Policies are implemented by passing laws or raising money, etc. Ministers are chosen by the prime minister (or by the premier at the provincial level) from the ruling party, and are in charge of one department or several small ones. The speaker, deputy speaker and chairs of committees are nominated by the prime minister or the premier, but are approved by a vote of the entire parliament. All decisions made in the House and in committees are made by a

motion; nothing can be discussed without a motion being made. A motion is simply a member being recognized by the speaker as "moving" a certain proposal for consideration of the full body; in general, a motion must be "seconded" by another member.

There are two types of committees in the Canadian system, both of which are decision-making bodies. The government, through a minister, puts forth a bill which is presented to the House for first reading, which represents the introduction of the bill. At second reading, the bill is in draft form, and every member may debate the bill for up to 20 minutes. After this reading, the bill is referred to a standing committee, of which there are eleven. Committee members are chosen from parties on a proportional basis. Committees meet as the need arises (e.g. as a group of bills have passed second reading), and they convene while the House is in session. The minister who presented the bill is at the committee meeting to answer specific questions about the bill, and the discussion is led by the committee chair. At this point, any citizen, academic expert, or NGO representative can voice his or her opinion, in an oral or written presentation, to the committee. Knowledge of the pending legislation can be found in public notices, as well as in the daily press coverage of the legislature. This also allows opposition members an opportunity to voice their opinions about the bill, or even to delay its passage. Committees often meet late into the night and on weekends in order to complete public hearings.

When the hearings are completed, the committee reads through the draft bill line by line, clause by clause and can make any amendments. The bill then comes back to the House and is presented by the committee chair for the third (final) reading. As Canada is a constitutional monarchy, bills do not become laws until they have Royal Assent, meaning the signature of the Queen. Upon the bill being signed into law, the cabinet adopts regulations (as needed) and then provides funds for the implementation of the legislation.

Aubrey Mokoena

Member of the South African Parliament and Chairman of Committees

As Chairman of the Committees in the South African Parliament, I have three specific functions: assisting the Speaker in presiding over the Parliament; handling the scheduling of committees; and, handling the functions of committees (e.g. visits abroad, bringing in guest speakers, etc.). The Parliament created my position because it felt the need to devolve some of the powers away from the Speaker, an important step for a transitional Parliament.

Committees are the valve that regulates the pressure from the public. They also have a critical function of overseeing the executive. In South Africa, there are four types of committees, including standing (permanent) committees, joint committees, ad-hoc special committees, and commissions organized to investigate a particular issue. After the cabinet is formed, the parliamentary leader calls for the formation of committees, of which there are 25, each with approximately 25 members. When committees first convene, they choose a chairman, who is usually from the majority party, except in the case of the Public Accounts

Committee, which is chaired by a member of the Opposition.

The first stage of the legislative process entails the creation of a Green Paper, the document which reflects the opinions and proposed policy of a certain ministry. The next stage is the development of a White Paper, which represents presents a proposed law, based on input from the committees in response to the proposal of the Green Paper. When the bill is ready to be presented in Parliament, the minister will present it, then the speaker asks each party if there are people who wish to speak about the legislation. The speaker then puts the bill to vote, and if there is popular support, and the bill is approved by a vote of the Parliament, it is sent to the president for a signature.

Questions and Answers

Adoption of Laws

One Council Member asked if in the United States, the President can refuse to adopt a law. Mr. Shannon stated that the President does have a veto power, but his veto can be overridden with a two-thirds majority from the Congress. With this majority, a bill does not need the president's signature to become law.

Another member asked about what happens if the President neither signs nor vetoes a bill after a certain time, and Mr. Shannon noted that it becomes law (within ten days, Sundays excluded) if the President fails to sign it.

Ms. Benda commented that in the United States, lobbying groups, including NGOs, have strong influence on legislation at all stages of the process. These groups can meet with all committee members, and can have a significant influence in helping or in preventing bills from being passed. One reason lobbyists are influential is that they can contact and mobilize constituents to support or oppose legislation; this tactic is particularly effective when implemented while a bill is before a committee, where individual committee members can both be influenced, and influential. Moreover, these outside groups have the opportunity to draft bills for members of Congress to consider introducing, a role for NGOs that may well be unique to the American system.

Nomination of the Speaker

A PLC member asked about the process of electing the speaker. Ms. Phillips responded that in Canada, the Prime Minister or Premier puts forth the nomination, and then the entire House votes on it. The chairs of committees are also nominated by the Government (executive). Mr. Shannon stated that, a very basic point on which everyone should focus, is that in the United States, the legislature and the executive are very separated, and the President has nothing to do with the election of the Speaker of the House of Representatives; the House elect their Speaker, without nomination or any role of the

executive.

Tenure of the Speaker

A question was asked about the duration of the speaker's term, and whether a speaker can be impeached. Mr. Mokoena responded by stating that in South Africa, Parliamentary terms last for five years. He added that recently, at the halfway point of the current parliament's term, an internal evaluation was conducted: all members received questionnaires and were asked to evaluate the performance of the speaker, committees, etc. As the South Africa legislature is new, and does not have a lot of experience in nation building, this evaluation, and being able to realistically assess ourselves, he said, was very important.

Ms. Phillips noted that the speaker in the Canadian system is in office for the duration of the legislature. If any member feels that the speaker is incompetent, he or she can put forward a motion of no confidence. Members can also oppose a particular ruling of the speaker, acting as chair of the plenary session, but that does not mean that they wish the speaker to resign.

Mr. Shannon commented that the Speaker of the House in the U.S. is elected at the beginning of the session, for the duration of two year session, but there can be a motion to have him removed. The speaker is very likely to be re-elected by a vote of the House if the same party remains in the majority after the election.

Drafting Legislation

A member asked how the Council, after submitting a bill, can summarize the discussions and put them into the final draft. Ms. Benda noted that in the US House of Representatives, a bill is presented on the floor, and if there are amendments supported by the majority, the bill is changed. Mr. Shannon added that the text of a bill comes from a committee. The committee is likely to have amended the bill before presenting it to the House, but if there are any additional proposed amendments, they are printed and presented to all members. The Congress then discusses potential amendments and votes on them. The bill is changed if an amendment receives a majority vote.

Another member asked how the PLC should deal with 20 different people presenting amendments in the plenary session. In contrast to other systems, the lack of a party structure in the PLC makes this process difficult. Mr. Shannon responded by stating that in the United States, a special committee, called the Rules Committee, determines which amendments can be discussed, as well as the duration of the discussion on each amendment or on the bill as a whole. Therefore, if more than one Member of Congress wishes to present the same amendment in a different way, it is the Rules Committee that will decide which of the amendments will be allowed for consideration. Sometimes, however, a bill will be presented

at the plenary (floor) without limitation on the number of amendments to be proposed.

Ms. Benda noted that most of the amendments on a bill occur during committee meetings, because committees are viewed as experts, and it is known that committees have taken the views of experts, NGOs, etc., into considerations in drafting the legislation. From a lobbyist's point of view, if you do not make known your position while the bill is still in committee, there is little chance of the position prevailing in the floor debate. In other words, the committees generally have the determinate voice in shaping legislation, as compared to the role of the full chamber in the plenary session.

Ms. Phillips commented that in Canada, once a bill is sent to committee, the government in charge of formulating legislation will often accept committee's amendments, which reflect the point of view of experts, etc. Thus, the committee stage, like in the United States, is the critical time for amending legislation.

The Role of Committees in Oversight of the Executive

Sunday, December 15, 1996

Morning Session

James Shannon

Former Member of the U.S. House of Representatives

The question of oversight is key for a parliament trying to establish its authority; in a system with a separation of legislative and executive branches, this balance is very important. The notion of the "struggle" between the executive and legislative branches of government in the United States is overstated; in reality, there needs to be cooperation and respect between the two branches, and oversight is a way to address this. In the United States, the oversight function is reinforced and strengthened by the budgetary power held by the legislative branch over the ministries: an agency must be responsive to committees, or it risks losing its funding.

Oversight is not limited to examining issues within a committee; rather, committees often bring in outside experts to answer questions regarding the policies and operation of the executive. With regard to this question of oversight, the executive will realize over time that it is accountable to the Council. This does not mean, however, that the executive is always cooperative with respect to oversight.

Effective oversight, however, requires significant resources (i.e. committee staff, research capabilities). In the United States, there is great reliance on outside groups--such as NGOs -- for gathering resources and assisting in this oversight process. As the PLC faces limited resources, in terms of staff and research capacity, it should call on the resources of Palestinian NGOs, academic research centers and civic groups for input in the legislative

process.

Finally, I want to emphasize that the relationship between the PLC and the executive should be characterized by respect and cooperation. But, in those cases where the executive fails to show adequate deference to the legislature, you must use the tools of oversight and outside resources to maintain accountability.

Aubrey Mokoena

Member of the South African Parliament and Chairman of Committees

Legislative committees are the eye that oversee the executive and the constituency. In South Africa, we have seven specific measures that committees employ to oversee the executive; these measures rely on the cooperation of the executive, but are backed by the need for the government to maintain support from the Parliament. Without the support of the "back-bencher," in other words, the government would fall.

The oversight functions in South Africa are as follows:

1. Parliament, not the executive, is the supreme governing body.
2. A committee has the power to reject a government introduced bill if it disapproves of it.
3. The appropriations process determines the funding amounts for each ministry; if a bill is not funded, the prime minister can be subject to a vote of no confidence from the president.
4. A committee has the right to invite any minister to a meeting to discuss pending legislation.
5. More forceful than an invitation, a committee holds the right to subpoena ministers to meetings.
6. The president and members of parliament are evaluated in a performance appraisal by other members of the parliament.
7. The party caucus within parliament provides an opportunity for any member of the party, regardless of his position in the parliament, to voice an opinion about legislation or about a minister.

Myrna Phillips

Former Member and Speaker of the Manitoba Legislative Assembly

For oversight of the budget in Canada, we have what is known as the "process of estimates," where the opposition poses verbal questions on each spending item. These proceedings of the legislature are recorded verbatim and made available to the public and the media--even those of the executive who meet privately. Also, all opposition parties receive copies of executive orders, including any regulations passed by the cabinet. These public documents, representing open information about the budget, means that members of the

Opposition can question the Government on any issue. An important component of oversight called "Question Period," a time allotted daily during which members can ask ministers questions about their policies and these "Orders in Council". The press attends every "Question Period" session, indicating that oversight is deemed important to the public as well.

Another mechanism of oversight is the Office of the Auditor General (or the Provincial Auditor at the provincial level). These offices are held in very high regard. While they technically report directly to the legislature, not to the executive, they function independently. These offices examine the financial records of all of the ministries and make recommendations to the legislature. If a minister is found by the Auditor not to be spending money in accordance with legislation or as directed by law, this is considered to be a very bad mark of confidence for the government. The independence and neutrality of the office of the auditor, therefore, is considered to be very important, and is a critical tool of executive oversight.

Questions and Answers

Overseeing the Executive

A member asked about the mechanism for oversight of the president (or the prime minister) in the various systems. Mr. Shannon commented that in the United States much more deference is shown to the president than a cabinet minister. The American president is protected by "Executive Privilege," which means that he can consult with advisors on decisions, and those deliberations are private--neither the President nor his advisors need to respond to Congressional inquiries about those discussions. However, this privilege does not fully protect the President--the Congress can hold hearings to inquire into the President's actions. In the event of such a hearing, however, although his top advisors might be called to do so, the President never testifies before Congress. Ms. Phillips noted that in Canada, the prime minister can be questioned every day during "Question Period." She also commented that in the Standing Orders of the PLC, there is the provision for a 30 minute question period each day. Mr. Mokoena stated that in South Africa, one hour every Wednesday is set aside for the Opposition to pose questions to the Deputy Speaker.

The "Rewording" Committee

A member asked whether other legislatures had "rewording committees." Mr. Shannon stated that in his opinion, the practice of the PLC's rewording committee is very dangerous, because it puts too much power in the hands of people who do not necessarily understand the legislation. In addition, it means that significant changes in legislation are made at the end of the process, by a very small number of members, and are not subject to serious consideration of the full membership. A better idea, he proposed, is to seek advice from a

legal staff as the legislation is being drafted and amended. This process would ensure that when the Council considered a bill, it is reviewing a draft that reflects the judgement of the legal experts. Ms. Benda commented that she was not aware of the existence of a rewording committee in any other legislature.

Presenting Legislation

A Council member asked if whether the speaker determines if and when bills are scheduled for plenary consideration in the three legislatures represented by the international panelists. Mr. Mokoena noted that in South Africa there is a program committee which determines the business of Parliament for the next week, and it is this committee that decides when legislation will be debated. The speaker keeps the order of the Parliament, while the Leader of the Houses the coordinator of the pending legislation.

Ms. Phillips stated that in Canada, it is the responsibility of the government's leader in the House (a member of the executive designated by the premier) to decide what legislation will be discussed, and it is the speaker's job only to abide by the agenda determined by the Government (executive branch). She also emphasized that the speaker, after his or her election, becomes politically neutral, retains party affiliation, but never attends party caucuses or cabinet meetings.

Mr. Shannon commented that in the U.S. system, the speaker schedules discussion of legislation and communicates with committee chairs as to when legislation will be discussed. As in Canada, the speaker would never attend a cabinet meeting; this would be a direct violation of the strict separation of powers set forth in the U.S. Constitution. However, if the President wants to discuss matters with members of Congress, he will invite them to the White House. The President does not have the right to tell the Congress to discuss certain issues on certain issues. If the President and the Congress have a similar interest, then Congress will address that right away, but the President cannot force consideration of a bill.

The Basic Law

One member asked if it is possible for the Council to adopt other laws before the Basic Law is adopted. Mr. Mokoena responded in the affirmative, commenting that during South Africa's transition, the constitution would take a year to draft and that it was agreed that the Parliament would be fully empowered to legislate during the interim. Thus, other legislation was necessarily passed before the new constitution was adopted. Mr. Mokoena also said that "natural law" and "common sense" supported the notion that an elected legislature should pass laws while the constitution was under consideration.

Separation of Powers

Noting the separation between the legislative, executive and judicial branches of

government, a member asked if it is possible for someone from the legislature to also serve in the executive. Mr. Shannon responded by stating that in the United States, there is strict separation, so no member of Congress can be in the cabinet. For the PLC, the situation is different because some of the Ministers are from the Council, which is more similar to the British system. In addition, members of Congress generally cannot serve in any capacity in the executive branch, as advisors, for example, because this would be a breach of the separation of the legislative and executive branches.

Ms. Phillips noted that in Canada all ministers are members of the legislature. As for other positions, legislators cannot serve in the civil service. However, there are some, narrow exceptions. For example, in some quasi-governmental agencies (e.g. the phone company), members of the legislature sit on the board of directors. In this case, the member looks out for the interests of the government, but would never serve as an employee of that company.

Oversight Responsibility

Another member commented that there are two mechanisms whose functions relate to oversight, and monitoring of the Government, one in the legislative branch and one within the executive branch, and asked whether their functions were redundant and/or needed to be coordinated. Ms. Benda responded by commenting that the PLC's Human Rights and Oversight Committee apparently has the responsibility to ensure that the Government spends money properly, and the government has its own mechanisms for internal accountability. In Ms. Benda's opinion, this should remain separated from the legislature. In the United States, in addition to Congressional oversight (provided by the committees), the executive has many of its own internal controls. For example, every government agency has an inspector general who is responsible for accounting the agency's spending and the proper behavior of its employees.

Mr. Mokoena noted that South Africa has an independent "Office of the Public Protector," serves the function of an ombudsman, or watchdog. The Public Protector is not chosen by the executive, but rather is elected through a parliamentary panel. He is independent of the government and has the authority to investigate complaints of government misconduct and government spending.

Foreign Relations

A Council member asked whether there exists a role for committees in reviewing and endorsing treaties, agreements, or contracts with foreign countries. Mr. Shannon responded by stating that in the United States, treaties and contracts are treated very differently. A treaty must be ratified by the Senate (not the House), but a contract would not require this-- private contractual relations are not regulated by the Congress. With respect to foreign relations, the President has more power in this area than in any other vis-a-vis the Congress.

Continuing with this issue, another member asked that whether the legislature can review and oversee the government's contractual relationship with an outside entity (e.g an agriculture trade agreement). Mr. Shannon noted that this will depend on how much power is given to the president in the Basic Law. Progress on treaties can be monitored through oversight. An important point to note, therefore, is that oversight is not just for investigation purposes, but is also used on a regular basis to track progress on laws and treaties.

Dissemination of Information from the PLC

A member asked about the types of procedures the PLC can implement to disseminate information from and about the Council. Mr. Shannon emphasized that making information available to the public through the press is important, particularly at this early stage of the PLC's development. Therefore, he argued that to the extent possible, everything -- including committee meetings -- should be open to the public. If you do not maintain public support, he warned, people will lose confidence in the Council. Mr. Shannon asked: "How will Palestinians think you are important if they do not know what you are doing?" Therefore, the Council needs to be as open to the media as much as possible, and for the media to have the information that tells them exactly what the Council is doing. For example, the Washington Post, has a box -- every day -- that lists all the Congressional committee hearings, including the topic of the hearing, and the room and time during which the hearing will be held.

Mr. Shannon also emphasized something he deemed particularly important to the Palestinian case, which is bringing the work of the PLC to the people. He noted that it would be very useful for committees to hold their meetings throughout the West Bank and Gaza, and to invite outsiders, members of the community, so that people have the opportunity to see the work of the Council first-hand.

Ms. Phillips further stressed the importance of dissemination of information, noting the critical importance of a daily verbatim record for the PLC. If a Council member gives a good speech, he/she should send copies of the speech to constituents, NGOs, etc., to show them that their issues are being addressed. She also noted that the this Record can be used to circulate a minister's response to a speech.

Ms. Benda noted that in the United States, the Congressional Record includes the record of votes, something very important to members and constituents. As there are not strict partisan lines regarding voting on particular issues, it is important for voters to know how representatives vote on different issues -- because the PLC does not have parties and disciplined voting, a record of votes would be useful for the PLC and the Palestinian electorate as well. Ms. Benda noted that the PLC Standing Orders require that all verbatim records of Council meetings be published daily, and that it might be in the interest of PLC members to ensure that this obligation is implemented.

Mr. Mokoena commented that there is a tendency for the public to distrust officials, so it is very important to maintain direct access with constituents. These published records, he noted, serve as supplements to direct access.

At an informal lunch gathering with several of the members, the topic of encouraging public participation in the legislative process was discussed further. Again, the point was stressed that committee members themselves do not have to be experts on every topic of legislation, and that the reliance on outside experts could prove extremely useful, as in other systems. The international participants strongly encouraged the committee members in attendance to push forward issues that could include the convening of a public hearing.

The members noted that the work of the committee staff is mostly clerical and administrative, so they are not involved in research or advisory tasks. The internationals emphasized that the work of the committees would be greatly facilitated if the staff developed these other capacities.

Meeting with Committee Staff in Gaza City

December 16, 1996

Ms. Benda began the discussion with a description of some of the types of legislative programs that NDI undertakes around the world, and what the project with the PLC will include over the next fifteen months. She summarized the workshop presentations and observations, as well as the discussions with the members. She noted that in the United States, the staff of the Congress and its committees really are "the engine behind the machine," and commented that the effectiveness of the PLC members may depend on how much they will utilize their staff. That the PLC staff does not have a cleanly defined role, she noted, can be seen as an opportunity or a challenge for the staff.

The staff described what their jobs entail, and noted that most, if not all of their work is on an administrative level. Tasks of the staff include the taking of minutes at committee meetings, which are then summarized for the speaker. At one of the earlier sessions of the PLC, the members decided to summarize minutes of plenary sessions, rather than publish verbatim transcripts. The staff reported that the summaries are distributed to PLC members, but transcripts are saved as well. When asked if votes were tracked, the staff said that they were.

Ms. Benda noted that in other legislatures, there is a daily record, the draft of which does not need to be cleared by the speaker. Minor changes can be made by members before these are published (e.g. grammar or stylistic changes, not changes of context or ideas), but these transcripts are not a summary. Responding to this, one staff member noted that there is a particular way by which the speaker can make any amendments to the notes, but that the content and context cannot be changed either.

When asked by the internationals if the work of the staff entails an advisory role to the members, the overwhelming response was “no,” and that their work was much more of a clerical nature. While the responsibilities of the staff differ to a certain extent depending on the committee, none of the staff work on policy issues with the members. When asked if they can make suggestions to members regarding policies or legislation, the staff answered that this is not in their realm. Some noted that in the beginning months of the PLC, they thought they would have these responsibilities, but they have come to the conclusion that their role is purely administrative.

Mr. Shannon asked if members ever ask the staff for more information about a topic before they make decisions. Some staffers responded affirmatively, while others feel that this will only happen once more time has passed, and once the PLC is more established.

The PLC staff expressed a keen interest in learning about the committee staff in other systems. Mr. Shannon described his experience as a member of Congress, commenting that the current responsibilities of the PLC staff, including the recording and filing of minutes, is a critical task. At the same time, however, he expressed his hope that the tasks of the staff would grow. Based on his experience, he noted that advice from staff can be very helpful to members, and that the PLC will be effective only if the committees and their staff are effective. As members have many responsibilities, and cannot spend a lot of time researching issues and contacting outside NGOs, universities and the like, this is an area in which the staff can work. In the United States, he noted that some committee chairs work closely with the staff, while others do not at all, and that building the trust of the members is critical. He suggested, however, that this will only happen if the staff themselves take the initiative and show the members that they can develop the capacity to be helpful to the member.

Ms. Benda noted that one of the themes that emerged from the workshop was the amount of time spent in the PLC committees handling complaints, and that this is not the case in other systems. Ms. Phillips commented that in the Canadian system, committees handle policy issues and legislation, and never focus on individual complaints within committees. Instead, individual complaints are handled by individual members and their offices. Mr. Mokoena commented that many of the challenges facing the PLC are similar to those faced by the Parliament in South Africa, another young legislative institution. He outlined the functions of the committee staff in South Africa, which include: assisting in the drafting of the agenda and taking the minutes of meetings; sending notices to members announcing the convening of meetings; overseeing all of the preparations for the holding of a hearing; handling outside correspondence, as well as conducting research.

Ms. Benda noted that the responsibilities of the committee staff in the US system differ greatly from the South African model. She commented that the primary responsibility of the staff is to produce research and substantial information, as well as design the agenda-- in other words, they really represent the substantive input within the committee. She

concluded by noting that in the discussions with PLC members, emphasis was placed on encouraging members to look to the staff and other members of the community for advice and support.

Evaluation

The enthusiasm of the Members was apparent from the questions asked and the discussions generated, and requests for further information. Questionnaires were distributed to the workshop participants at the end of the workshop, where, among other things, participants were asked to assess what they found most and least useful from the workshop, what other topics could have been addressed, as well as suggestions for future NDI workshop topics.

The comparative focus of the workshop was well received by Members. In terms of the relevance of other systems, Members responded very positively to the sessions that discussed the role of committees in the legislative process, and in oversight of the executive. Members also appreciated the discussion on the mechanisms of committee hearings and the investigative functions of committees.

In addition to what was covered in the workshop, Members expressed an interest in learning more about how committees can coordinate with each other, and in acquiring more information as to how committees can conduct oversight of the executive, particularly with respect to the implementation of laws. Also expressed was an interest in better overall methods of communication between the legislature and the executive. In planning on-going activities with committees, NDI is taking these suggestions into account.

When asked what future topics Council members would like to see in workshops, Members responded that they wish to learn more about experiences of other new legislatures, the relationship between the legislative and executive, constituency relations, how to draft legislation, time management, how Members can develop strategies and lobby around certain issues as well as pressure the executive, and how to organize and draft the PLC's agendas. NDI intends to address many of these issues through future workshop topics and other project activities.

Members were also asked about their views of NDI activities in general, for the purpose of helping to direct future activities in the PLC program. Many members expressed the desire to visit other parliaments, in order to gain comparative knowledge first-hand. Another idea mentioned was viewing videos of other legislatures, as part of the on-going consultations with members on workshop topics.

Many of the comments and suggestions raised by the Council members are consistent with the conclusions raised in our previous assessment and discussions with Members, and will continue to inform our activities with the PLC. Suggestions for future workshops included: plenary procedures, legislative--executive relations, executive oversight, and the

budget process. Another proposal was to convene a workshop for NGOs and the PLC. Plenary proceedings and legislative executive relations, for example, have already been designated as the next two workshop topics that are envisioned in NDI's program.

Follow-on Activities

In addition to continuing to respond to requests for information and consulting with Members, NDI will soon begin a pilot program with the Economics Committee, and hopefully one other committee as part of a follow-on activity designed to develop ways to implement some of the suggestions and recommendations generated by the workshop. In particular, this project will focus on how to convene public hearings, and to design effective mechanisms for handling constituent complaints. NDI staff will attend Economic Committee meetings, (now open to the public) due to a decision made by the committee immediately following the NDI workshop, in addition to the plenary sessions, to continue consultations with committee members.

In March 1997, NDI will hold a workshop on the plenary procedures, followed by a study mission in April, most likely to South Africa. It is envisioned that this study mission will focus in particular on the role of committees and plenary procedures, so as to reinforce issues discussed in the two workshops through the viewing of another transitional legislature first-hand.

APPENDIX A

Committees: Their Role in the Legislative Process, in Executive Oversight and in Encouraging Public Participation

Saturday, December 14, 1996

10:00 Introduction to Workshop

10:15 - 10:45 Keynote/Introductory Comment: Hon. Jim Shannon

Presentation examining how committees can create avenues for public access and input to legislative decision-making, organize the institution's legislative and oversight work and help legislators develop expertise in particular areas.

10:45 - 12:30 The View from the Palestinian Legislative Committee Chairs: Triumphs, Trials and Tribulations to Date

The Chairs, Rapporteurs (and other Council members) present their view of the successes of their committees as well as the obstacles they face. This is an opportunity for the PLC members to frame issues that will guide the discussion of international participants throughout the workshop.

12:45 - 2:15 The Role of Committees in the Legislative Process: Panel Discussion

Each of the international participants will make a brief presentation on the role of committees in the legislative process in their respective systems as well as some general comments. The topic will then be open to a question and answer and general discussion period.

Issues to be discussed will include: how committee obtains information about a draft bill, analyzes bill content, debates and amends legislation. In addition, the discussion will include how the committee works with the executive to develop legislation; other resources and experts; committee reports on legislation and the committee members' role in plenary debate.

2:15 - 3:30 Luncheon

3:30 - 5:00 The Role of Committees in Encouraging Public Participation: Hearings, NGOs, Experts and the Media

Each international panelist will address several ways in which the committee work in his or her legislature involves the public. The discussion will include: the purpose, scope and content of a public hearing; how it is organized; the role of the media; the development of an agenda and witness list (need for balance), the role of individual legislators during a hearing; questioning witnesses; field hearings and/or travelling committees; working effectively with NGOs, experts and the media. The short presentations will be followed by a question and answer and discussion period.

6:00 Reception at Palestine Hotel

December 15, 1996

9:30 - 11:00 The Role of Committees in Executive Oversight

Topics to be discussed include: developing a relationship with relevant executive ministries; respective roles of legislative and executive branches in developing and passing legislation; the rights of the legislature to inquire into operations of government ministries (and how to enforce them); how to monitor and measure the impact of legislation; how to ensure that regulations issued by executive are consistent with legislation. Short presentations by each international participant about executive oversight in his/her systems will be followed by one hour for general discussion.

Conclusion of Program

**1:00 - 2:30 Luncheon
Getting the Work Done (Optional Meeting)**

A round table discussion of how to set a committee agenda (over shorter and longer term); how to coordinate with other committees and the speaker; plenary and other issues of committee organization (establishment of subcommittees, size of committees, etc.) raised by Council members.

APPENDIX B

INTERNATIONAL PARTICIPANT BIOGRAPHIES

Aubrey Dundubela Mokoena is a member of the South African Parliament and holds a leadership position as the Chairperson of the Committees of the National Assembly. He has also served on the Public Enterprises and Environmental Affairs and Tourism Committees. He is a member of the Gauteng Provincial Executive Committee of the ANC, head of the ANC Provincial Economics Unit, former member of the National Executive Committee of the United Democratic front and former national coordinator of the Release Mandela Campaign.

Myrna A. Phillips served as a member of the Legislative Assembly of Manitoba, Canada from 1981 to 1988 and Speaker of the Assembly from 1986-1988. She was also chairperson of the Government Caucus from 1984 to 1986. She is an organizer, manager and communicator with advanced skills in negotiations, administration and training as well as over three decades of direct and indirect legislative experience.

James M. Shannon began his political career with his election to the United States House of Representatives in 1978. He was the youngest member of the 96th Congress and served in the House until 1985. A member of the House Ways and Means Committee for six years, he served on the Trade and Health and Social Security Subcommittees. Mr. Shannon has also served as a Senior Partner at the law firm of Hale & Dorr in Boston and as Attorney General of the Commonwealth of Massachusetts. Since 1991, Mr. Shannon has been Vice President and General Counsel of the National Fire Protection Association in Quincy, Massachusetts, and international organization which develops standards adopted throughout the United States and governments around the world.

NDI STAFF

Susan R. Benda is NDI's senior program officer for democratic governance. As such, Ms. Benda serves as NDI's in-house expert advisor and consultant for its programs with legislatures world wide. She has developed materials for use in NDI legislative programs and participated in such programs in Kazakstan, Latvia, Madagasoar, Malawi, Romania and the West Bank and Gaza. This past spring, Ms. Benda spent several months working out of NDI's Jerusalem office with the Palestinian Legislative Council. Ms. Benda is an attorney who joined NDI after practicing law at the law firm of Arnold and Porter for three years, and having served as legislative counsel for the American Civil Liberties Union from 1983 to 1989.



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The National Democratic Institute for International Affairs (NDI) is a nonprofit organization working to strengthen and expand democracy worldwide. Calling on a global network of volunteer experts, NDI provides practical assistance to civic and political leaders advancing democratic values, practices and institutions. The Institute works with courageous democrats who are struggling to promote peaceful political reform. It establishes partnerships with political leaders who have begun the difficult task of building stable pluralistic institutions and creating better lives for their citizens.

Democracy depends on: legislatures that represent citizens and oversee the executive; independent judiciaries that safeguard the rule of law; political parties that are open and accountable; and elections in which voters freely choose their representatives in government. Acting as a catalyst for democratic development, NDI bolsters the institutions and processes that allow democracy to flourish.

Since 1983, NDI has compiled a remarkable record of achievement. Strictly nonpartisan, the Institute supports the efforts of democrats in every region of the world to:

Build Political and Civic Organizations: NDI helps build the stable, broad-based and well-organized institutions that form the foundation of civil society. Democracy depends on these mediating institutions, which link citizens to their government and to one another by providing avenues for participation in public policy.

Safeguard Elections: NDI is the world leader in election monitoring, having organized international delegations to monitor elections in dozens of countries worldwide, helping to ensure that polling results reflect the will of the people.

Promote Openness and Accountability: NDI responds to requests from leaders of government, parliament, political parties and civic groups seeking advice on matters from legislative procedures to constituent service to the balance of civil-military relations in a democracy. NDI works to build legislatures and local governments that are professional, accountable, open and responsive to their citizens.

International cooperation is key to promoting democracy effectively and efficiently. It also conveys a deeper message to new and emerging democracies that while autocracies are inherently isolated and fearful of the outside world, democracies can count on international allies and an active support system. Headquartered in Washington D.C., with field offices in 38 countries, NDI leverages the skills of its highly committed staff by enlisting volunteer experts from around the world, many of whom are veterans of democratic struggles in their own countries and share valuable perspectives on democratic development.

