

Palestinian Security Sector Governance

Challenges and Prospects

Palestinian Academic Society for the Study of
International Affairs, Jerusalem (PASSIA)

Geneva Centre for the Democratic Control of
Armed Forces (DCAF)

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Workshop on Security Sector Reform Summary Report

Introduction

On 30 July 2005, the Palestinian Academic Society for the Study of International Affairs (PASSIA) and the Geneva Center for the Democratic Control of Armed Forces (DCAF) jointly organized a one-day workshop under the title “Security Sector Reform in the Palestinian Territories: Challenges and Prospects” in Ramallah. The workshop brought together more than 60 Palestinian security practitioners, politicians, representatives of civil society and academics to discuss the challenges of Palestinian security governance and the prospects for Security Sector Reform (SSR). Following up on a smaller PASSIA workshop in 2004, this was the first time that security sector governance and reform were discussed in Palestine, and probably even in the Arab world, with large participation from the civil society. The workshop built strongly on the participants’ input and gave rise to a rich discussion of the state and prospects of Palestinian security reforms.

The political transition process in the Palestinian Territories presents great challenges to all areas of Palestinian governance. However, security governance has become the priority issue for all parties involved. Palestinians suffer from a sharply deteriorating internal security situation as lawlessness and anarchy continue to rise. Despite increasing international support, the Palestinian National Authority (PNA) and its security agencies encounter serious difficulties as they try to impose law and order on the Palestinian street. In many areas, Hamas, the Islamic Resistance Movement, has effectively replaced the PNA as the holder of the monopoly of force. Security considerations are also a key concern for Israel as it plans to withdraw its settlers and troops from Gaza and parts of the northern West Bank. The International Community is trying to address the concerns of both sides by increased ground involvement in Palestinian security reform.

The workshop was divided into four sessions addressing key areas of reform: the development of a Palestinian National Security Policy, the institutional set-up of Palestinian security governance, legislative and public oversight mechanisms, and the role of international assistance.

Opening of the Workshop

The event was opened by welcome addresses from Dr. Mahdi Abdul Hadi, Chairman of PASSIA, and Mr. Arnold Luethold, Senior Fellow and Head of the Middle East North Africa Program at DCAF.

Dr. Mahdi Abdul Hadi greeted the participants and introduced the background of, as well as the expectations from, this workshop. He mentioned that to date very limited research has been conducted

with regard to the Palestinian security sector, although it constituted an area of both public and individual concern. While in the last four years a few foreign researchers have shown some interest in the more theoretical aspects of security governance and policy recommendations for reform, Palestinian experts were rather reluctant - not to say cautious - to publicly comment on security related issues, he added.

Dr. Abdul Hadi described the workshop as part of PASSIA's ongoing dialogue between representatives of civil society and government/ security sector and part of its efforts to provide an open forum for the discussion of important, topical and critical issues. The objective of this particular workshop, he said, is to contribute to a better understanding of Palestinian security governance and analyze its significance within the specific national context, which remains strongly influenced by the Israeli occupation, a perception of chaos in the security forces, and a widespread feeling of insecurity amongst the Palestinian population.

Dr. Abdul Hadi emphasized that while this workshop is seeking to take an in-depth look at the state of Palestinian security governance and assess the reform efforts, it was not its goal to accuse, attack, condemn or judge any person or group within the security apparatus or the government. The focus should rather be on the future and what is needed in Palestine to strengthen the security sector and make it more efficient. Ensuring a proper legal framework, a clear separation of powers and a delimitation of roles, Dr. Abdul Hadi said would be crucial for overcoming a governance system which was still influenced by the legacy of the former President. Late President Yasser Arafat had pursued a long-term policy of centralizing control and power in his person, establishing him as the sole arbiter and giving him discretionary powers to

appoint, pay and arm those loyal to him without referring to any coordination or consultation.

Dr. Abdul Hadi added that in recent months, as part of the ongoing reform efforts of the PNA and its new leadership, certain powers have been devolved. As a result, some responsibilities are now shared by the President, the Prime Minister, the Minister of Interior, the National Security Council and various security groups as well as political factions, mainly Fatah.

Dr. Abdul Hadi expressed the hope that this dialogue would mark the beginning of a constructive learning process and would help produce, over time, the sociopolitical changes needed within the Palestinian security sector. He said the workshop has the potential to open the door for a new strategic thinking process that could assist internal and external security reform. It eventually might also help to enhance the capability of Palestinian security forces to guarantee law and order and provide protection for the Palestinian population from Israeli attacks, internal violence and lawlessness.

In his welcome address, Mr. Luethold expressed appreciation for PASSIA's cooperation in preparing and convening this workshop. He also briefly introduced DCAF and its activities. He emphasized that SSR is a highly ambitious undertaking, challenging societies to rethink and reinvent their institutions and political processes. Not only countries in transition toward democracy, but established democracies as well have to define what price they are prepared to pay for what type of security. These hard choices, he said, require discussion and debate and inclusiveness to the greatest possible extent. The workshop was meant to provide one platform for a Palestinian debate.

Introduction to Security Sector Reform (SSR)

After the opening remarks, Mr. Arnold Luethold, Senior Fellow and Head of the Middle East North Africa section at DCAF, and Mr. Roland Friedrich, DCAF Consultant for SSR in Palestine, delivered an introduction to the concept of SSR.

In his presentation, Mr. Luethold gave a brief overview of the various actors of the security sector. He illustrated that the security sector involves not only a wide range of armed forces, but also a complex and multilayered governance structure: In a functioning security sector, executive and legislative authorities, the judiciary, civilian research and training institutions, civilian experts, the media, and eventually the public at large play an important role in controlling and overseeing the defense, security and intelligence organisations and prevent them from becoming a 'state within the state'. Serious deficiencies, he continued, occur when the forces are no longer capable of dealing with security threats (change of nature or level of threats; inadequate training, equipment, resources, structure or size of forces) or if the institutions and the society are too weak to exert effective control and oversight. SSR is the cure for a dysfunctioning security sector, with the aim of building effective forces and establishing a transparent and accountable governance structure, based on the rule of law.

SSR, Mr. Luethold explained, does not just target defense, police or intelligence services. Developing functioning ministries; strengthening the parliamentary role in defense and security; and establishing macro-policy frameworks, proper legal systems and processes for budget scrutiny are equally important components of a comprehensive SSR program. What makes SSR so complex is that it integrates responses to various challenges: building peace, building

institutions, building democracy and building economy. The definition of the reform content and the sequencing of activities is highly dependent on context, Mr. Luethold explained. To avoid the pitfalls of a mechanistic approach, he concluded, any reform at the force level should be matched and underpinned with proper reforms at the governance level.

Mr. Friedrich gave an overview of the general challenges faced by actors who engage in SSR. He underlined the importance of local ownership of the reform process and emphasized that SSR needs a broad consensus among all actors involved in order to succeed. Acknowledging the challenges of a substantive SSR program, Mr. Friedrich pointed out that SSR is not an end-point but a complex social process stretching over a prolonged period of time. 'Like democracy itself', he explained, 'SSR is an ongoing process in which no society will ever achieve perfection.' Therefore, he continued, the sequencing of reforms and the balancing of the reform components with regard to short-term and long-term objectives is key.

Mr. Friedrich explained that an exclusive concern for professionalizing forces without strengthening governance and oversight was highly risky as this might well lead to the consolidation of authoritarian rule instead of democratic progress. To avoid the risks and dangers associated with a piece-meal reform approach, it would be necessary to develop a comprehensive reform strategy that involves all actors of the security sector (force level and governance level) based on the political, economic and social conditions of the specific context: 'If the specific local conditions are not taken into account, reform is very likely to fail.' A useful and necessary instrument in this regard, he concluded, is an overarching policy framework, such as a National Security Policy, that constitutes the basis for comprehensive SSR, including the legal reform process.

1. The Challenge of Developing a National Security Policy in the Palestinian Context

In the first session, Mr. Mamduh Nofal, political analyst and member of the Palestinian National Council (PNC), addressed the needs and concerns related to the *formulation of a Palestinian National Security Policy* in the context of the Israeli occupation. He pointed out that SSR is a Palestinian national necessity and not merely a response to external pressure. Referring to what he described as an Israeli policy of consolidating the occupation of the West Bank, he said that the central policy objective should be to reduce further Palestinian losses, not to maximize gains.

Mr. Nofal underlined the central role of security in Israeli strategic thinking. Through the Oslo process, he said, Israel has basically accepted the notion that functioning Palestinian security forces are key for its own security. *Providing security to Israel*, Mr. Nofal continued, is a means of securing Palestinian national rights. Further Palestinian rights are therefore dependent on the performance of the Palestinian security forces.

Mr. Nofal recommended that the executive elaborate a National Security Policy and present it to the Palestinian Legislative Council (PLC) for approval. Emphasizing the difference between statehood and the Palestinian context of limited self-rule, Mr. Nofal admitted that the formulation of such a security policy would be difficult. In his assessment, the on-going *occupation* of Palestinian territory, combined with the uncertain outcome of the *Israeli pullout* from Gaza and strong *US support to Israel*, constrains the Palestinian National Authority's capability of assuming security responsibility. As internal constraints, he mentioned the *uncertain future of the Fatah movement*, the significant military *destruction of the Palestinian security infrastructure*, *Yasser Arafat's legacy* of militarizing the Second Intifada, as well as *lack of political will* on the side of the current Palestinian leadership. Mr. Nofal listed the *coordination of security measures with Israel and the improvement of the image* of the Palestinian security forces as main short-term priorities.

Discussion

Responding to Mr. Nofal's presentation, many participants differentiated between *internal and occupation-related security challenges*. Although the bulk of Palestinian security problems are perceived as a direct result of the Israeli occupation, participants widely shared the assessment that many other security problems are home-grown. Despite the emphasis which the discussion put on the detrimental effects of Israel's occupation, many participants made it clear that there was the possibility for a genuine Palestinian security reform process. In the words of one discussant, 'there are aspects of our lives that can be reformed. Regulating the traffic in central Ramallah has no relation to the occupation.'

Participants also agreed that the high degree of *external domination of the Palestinian polity* posed significant constraints to the formulation of both a National Security Policy and a broader political strategy vis-à-vis the peace process. In this context, discussants underscored the necessity to define as concretely as possible the scope and content of '*Palestinian security*'. Various participants said that there was an inherent contradiction between the provision of security for the Palestinians and the necessity of providing security to Israel according to the Oslo Agreements. "Do we define security in a national framework", one discussant asked, "or are we ultimately subcontracted for providing security to others?"

Most participants agreed that *human security* for Palestinians was to be considered the top priority and the objective of SSR. Several discussants also underscored the necessity to *link security reform to the broader Palestinian development agenda*. "The main goal of reform must be achieving security for the citizens and satisfying their basic needs", as one participant summarized it.

2. Challenges of Palestinian Security Governance – Legal Framework, Structures and Institutions

The second session dealt with structural and institutional dimensions of Palestinian security reform. Mr. Basel Jaber, Head of the Reform Coordination and Technical Support Unit in the Ministerial Committee for Reform (MCR), gave an overview over the Palestinian efforts to establish a legal basis for the Palestinian security sector. He said that the political decision to start comprehensive security reform had been taken. However, the *strategic planning* and the *specific research* required to undertake sound reform were still missing. Mr. Jaber warned against inflated expectations: 'At the moment, we are learning by doing.' He emphasized the need for a *clear legal framework* for Palestinian security governance as a prerequisite for successful reform and regretted that this was still missing.

Mr. Jaber said that the institutional role of the Prime Minister in the security domain remained still unclear. He called on the National Security Council (NSC) to define a *National Security Policy*. He also demanded the quick enactment of the *Basic Security Law* which was decided upon by the Cabinet but has not yet been passed to the PLC. The Basic Security Law is set to determine the general remits and responsibilities of the security forces and the general framework for security-related decision-making. Referring to the draft security laws currently under revision in the PLC, Mr. Jaber criticized many of these drafts for focusing only on the rights of the security forces and their members, yet neglecting their obligations. He demanded that the PLC put all work on security laws on hold until the approval of the Basic Security Law. Mr. Jaber also appealed to the Palestinian civil society to take a more active role in security governance issues.

Responding to the presentation, Dr. Khalil Shikaki, Director of the Palestinian Center for Policy Survey and Research (PSR), emphasized the *close linkage between Palestinian governance reform and the peace process*: 'If there is no peace process, there will be no successful reforms.'

In Dr. Shikaki's assessment, the *Palestinian political regime* constitutes a key problem. With the creation of the post of prime minister in 2003, constitutional responsibility for security lies with the cabinet. Despite this, he argued, the president still aims at controlling the security domain. He cited the direct negotiations between President Mahmoud Abbas and armed Palestinian factions as an example. In his interpretation, this role ambiguity leads to repeated clashes between the President and the Prime Minister, with the Minister of Interior often finding himself in the middle. He suggested that all three office incumbents sit down and formulate a coherent policy. Dr. Shikaki cautioned that PLC could only assume its role in security governance once the Palestinian Basic Law is effectively implemented and the cabinet obtains full security responsibility.

Dr. Shikaki also gave a grim assessment of the ongoing security reform process, saying the restructuring of forces has met with considerable *internal resistance*, and the presidential decree that called for the reorganization of all security forces into three agencies was not being seriously implemented. He also argued that there is no real interest in addressing the *corruption* and factional loyalties in the security forces. He was critical of the PNA policy of staffing the Palestinian internal security service almost exclusively with Fatah loyalists, as this in fact reduced the 'Palestine Preventive Security' to a militia of the PNA. "What would Fatah say of a Preventive Security composed only of Hamas members?", he asked.

Discussion

In the ensuing debate, many participants agreed that SSR had to begin with the establishment of a *legal-normative framework* for the Palestinian security sector and underlined the importance of parallel reform of the judicial system. As one participant emphasized, there is not even a legal framework for the National Security Council (NSC), which is supposed be the main body for conceptualizing security reforms.

Many participants saw in the *politicization of the security forces* one of the main obstacles to reform. In the words of one participant, “the Palestinian security forces essentially replicate the organisation of the ruling party in exile. And as Fatah focused on symbols instead of institutions, the security forces automatically followed the same model. This is why the loyalties of security personnel lie with the commanders and not with the organisation.” Various participants warned against the detrimental effects of an exclusively Fatah-dominated security sector. This “feudalization of institutions”, as one participant termed it, could have a very negative impact on the Palestinian democratic process. Referring to future legislative elections and hinting at the rising strength of the Islamic movement, participants pointed out that a future government might very well adopt the same strategy and put only its party members in key security positions. “If a new party comes to power”, one participant asked, “what will prevent them from copying the Fatah model and employing their own followers?” Successful reform, several said, would imply that official security agencies give up their partisan character and militia behavior and adopt an inclusive approach to recruitment.

Another key issue for reform in the eyes of many participants is the *fight against corruption*. Various discussants demanded that the government come up with a clear anti-corruption plan and share it

with the public. In addition to that, one participant suggested the creation of special financial audit departments in all security agencies with direct connection to the Palestinian State Controller and the Ministry of Finance.

Discussants also criticized the *lack of professionalism and low morale* of the security personnel which resulted in high absenteeism. One participant said that it was not unusual to visit a Palestinian police station and find it almost deserted of all staff. Another participant criticized the government's policy of recruiting security personnel amongst former prisoners. In the current *recruitment policy*, a past record of captivity in an Israeli detention facility is highly valued in the selection process and is often the only qualification that is looked at, he said. Following up on this point, various participants added the need for developing a *coherent strategy for DDR* (Demobilization, Disarmament and Re-integration) of combatants that would also integrate a component of *rehabilitating former prisoners*.

Various security officials said that some progress has been made. They consider the replacement of former chief security commanders by younger officers as a step in the right direction. "Reform will not come over night", they warned. Other officers perceive *the high turnover of personnel* in top command positions within both the security forces and the Ministries as problematic and concluded that reform would require greater stability and long-term commitment. Security officers see the main responsibility for reform as 'laying foremost with the political leadership'. A key concern for many officers remain the *salaries for security personnel*. An increase, they said, would be needed to adjust it to the level of salaries paid in the Civil Service and could help boost morale and prevent corruption.

3. Challenges of Palestinian Security Governance – Legislative Oversight and Public Control

The third session addressed the issue of legislative oversight and public control. Mr. Ma'mun Attali, Field Researcher for the Palestinian Independent Commission for Citizens Rights (PICCR), gave a critical summary of the PLC's oversight record. He pointed out that the degree of parliamentary oversight over the security sector is a key democracy-indicator and concluded that Arab countries could therefore not provide a suitable frame of reference. Mr. Attali also provided statistical data of the use of oversight instruments by PLC members, to illustrate that legislative control over the PNA was practically non-existent. As the main reasons for these shortcomings, Mr. Attali identified four factors:

1. the lack of *willingness* of the PLC to exercise oversight;
2. the nationalistic *political culture* in the Palestinian Territory;
3. the *lack of parliamentary expertise*, and
4. the *monolithic ideological structure* of the Council and its domination by Fatah.

Mr. Attali said that Palestinian *civil society* is weak and for the time being is unable to exert effective oversight.

Dr. Hassan Khreisheh, the First Deputy Speaker of the PLC, delivered an equally strong criticism of the PLC's oversight function and said that under the new Palestinian leadership the situation had become worse rather than better. Citing the absence of a basic *legal framework* for security, he explained that there were still 13 independent security agencies with different security philosophies and traditions, and reiterated that the key problem was that the *loyalty of security personnel* lies with their commanders and not with the institutions. Past attempts to replace some security commanders were met with threats of strike by security personnel loyal to them.

In theory, the PLC has many tools at its disposal, but in reality the Council's *oversight activities have very little impact*, Dr. Khreisheh admitted. When trying to question security commanders, he said, many of these individuals had simply refused to cooperate. When the PLC summoned an officer for hearing, the reaction was almost always: "You are not responsible for me, Abu 'Ammar [Yasser Arafat] is responsible for me". There had been regular parliamentary reports on corruption and human rights violations, but they had no real effect, Dr. Khreisheh added. He illustrated that some of the individuals who had been incriminated by these reports, instead of being persecuted, had been appointed to ministerial positions. In Dr. Khreisheh's assessment, the "only hope for change lies in *new legislative elections* and more *political pluralism*". He also called for the establishment of a local *PLC complaints mechanism* and demanded a general *change in the Palestinian political mindset*.

Following up on Mr. Attili's and Dr. Khreisheh's presentations, Mr. Azmi Shu'aibi, PLC Deputy for Ramallah, said that Palestinian security reforms must include much more than the mere rehabilitation of forces. Although he conceded that part of the work of the security forces was secret by nature, he affirmed that *secrecy* did not mean that there cannot be *strong parliamentary oversight mechanisms*. Mr. Shu'aibi also saw parliamentary elections as the "main way out of the current stalemate." Referring to the growing *lawlessness* in the Palestinian Territories, he said that if general elections were not held before the end of 2005, it was unlikely that there would be any elections for the near future: "If there are no elections, we will have a security chaos which none will be able to control." Mr. Shu'aibi also urged Fatah to set a date for its 6th General Conference, although he emphasized that the *internal reform of Fatah* should not be made a precondition for holding the elections. As to the security forces, Mr. Shu'aibi

said that it was far from clear whether they could actually still be reformed. He hinted that the *dissolution of the existing agencies* and the *creation of new security organisations* might be the more appropriate option.

Discussion

During the following discussion, many participants disapproved of what they perceived as the PLC's inability to issue proper legislation for the governance of the security sector. Discussants said there was a complete *absence of legislative policy* and asked why the Council had accepted individual draft laws on the security services, which were partly drafted by the security agencies themselves. "Why did the PLC not pressure the government to present security laws in package?", one participant asked, adding that it was unacceptable to have a situation where "rights and obligations of members of one agency are completely different from those of another". Various discussants reiterated the demand to put all legislative work on security on hold until the Basic Security Law is enacted. Responding to this criticism, representatives from the PLC said that the main responsibility for the lack of progress on the legal track was with the executive. They related that both the President and the Prime Minister had called for the approval of the *Basic Security Law* but had in fact presented different draft laws to the Council. "As long as the leadership of the Executive does not have a *common vision*, the PLC will be the arena of a power struggle. However, if the executive presented a clear vision, based on the rule of law, the PLC would approve it one day." Referring to the current deadlock, one participant suggested that the PLC and *civil society* jointly intervene and impose their vision of reform, if no substantial progress was being made by the government.

Many participants saw the lack of reform progress partly rooted in the Palestinian *political culture*, which one discussant described as

'part of the Third World experience of institutional development.' They said that the practice of *copying laws from neighboring Arab countries* was detrimental to Palestinian legal development, as legal practice in other Arab countries did not reflect the peculiarities of the Palestinian context and remained substantially below Palestinian expectations in democracy.

Relating to the strengthening of *public control*, many discussants criticized the lack of public knowledge about the security forces as well as their reform. Although the security reform debate has been going on for more than four years, they argued, it was still unclear what has been achieved and where reforms were going. Participants also suggested the enactment of legislation in order to define the relations between the *PICCR as the official PNA ombudsman* and the security agencies.

4. Palestinian SSR and the Role of External Assistance

In his presentation, Ambassador Dr. John Jenkins, the British Consul General in Jerusalem, delivered a critical analysis of the impact of international assistance on security sector governance. In his view, multilateral and bilateral aid channeled into security assistance had produced very limited results. Dr. Jenkins laid out that it was still unclear how the decisions on security were made and urged the Palestinians to define their *higher national interest* as well as their *security policy*. He said that Palestinians had to decide what kind of support they wished to receive. Dr. Jenkins also made it clear that *international assistance* must be channeled through *clear mechanisms* which had yet to be established. Dr. Jenkins said that it was still not clear if the Palestinian side preferred to receive security assistance via institutions or individuals.

Discussion

Discussants widely agreed that there was a need to establish consensus on Palestinian security interests. They also underlined the need to *link security reforms to the peace process* and urged the international community to bring Israel back to the negotiating table. 'It is not possible to improve the internal Palestinian situation without international pressure in order to reopen the channel for negotiations and dialogue', one participant said. Responding to this, Dr. Jenkins emphasized that any reform process had to include *coordination with Israel* but said that it was difficult for the international community to have tangible progress on the peace track without having *diplomatic leverage*. Real Palestinian security reforms could provide such leverage. With regard to the mechanisms of external support, many participants shared the assessment that there had to be a centralized process. As a remedy, one discussant suggested the exclusive channelling of aid to individual ministries through the Ministries of Foreign Affairs and Finance.

Conclusion

Reforming the security sector will be the key challenge for Palestinian governance for the years to come. It became evident during the workshop that the notion of 'security' cuts across all areas of governance and society. In this regard, Palestinian SSR is first of all a political challenge rather than a technical or organizational question. In other words, without creating and maintaining the necessary political conditions for reform, any structural or organizational changes in the Palestinian security sector are likely to be short-lived. Holistic Palestinian security reforms demand a comprehensive political process that involves stakeholders in security governance on all levels over an extended period of time. A serious dialogue between Palestinian policy-makers and society will be of critical importance here. The PASSIA-DCAF workshop was a step in this direction.