In January, 1996 there took place elections of the President (Chairman) of Palestinian national administration and of 88 members of the Palestinian national Council. Jasir Arafat elected the chairman of Palestinian national administration appointed the commission on development of the constitution headed by the British-Palestinian lawyer (barrister) Anis al-Kasem. By December, 2000 the first project of the constitution has been developed and was published in February, 2001. At the final stage the Head of the constitutional commission comprising 12 members was appointed minister of planning of Palestinian national administration Nabil Al-Shaat, the subcommittee on development of the project of the constitution was headed by Professor Ahmad Mubarak Al-Halidi, and as advisers were appointed professors Entoni Bradley and Kate Patchet (Great Britain), Pierre Villanova (Spain), Natan Brown (USA).

In July, 2002 J.Arafat signed the project of the constitution. According to the Minister of Justice of Palestinian national administration Ibragim Dahme, the given law determines the organization of authority in the Palestinian autonomy and will carry out the role of the constitution up to establishment of the Palestinian state. The initial text of the constitution comprised 112 articles, and after numerous processing its volume has increased almost twice.

Chapter One of the Constitution of Palestine contains the norms determining fundamentals of the constitutional system. Article 1 characterizes the State of Palestine as the independent sovereign republic. "Its territory shall be complete, shall not be subjected to division and shall be based on the borders of June 4, 1967, without infringement of the rights of Palestine guaranteed by decisions of the international community. All inhabitants of the given territory will submit only to the Palestinian constitution". The republican form of government was not the subject of discussions as against the problem of the Palestinian borders. In particular, on January 22, 2003 the newspaper "Al-Aiam" issued by the Palestinian national administration suggested in the given Article of the constitution not to specify the borders of 1967, and the position of the newspaper "Al-Haiat" issued on February 3, 2003 in London was similar. The constitutional fixing of the similar borders at once shall be the basis for territorial dispute with the neighboring Israel and confrontation with it.

Palestine is the constituent part of the Arabic nation. Article 2 says that the State of Palestine follows the charter of the League of the Arabian countries. "The Palestinian people are the part of Arabian and Islamic peoples. Uniting of Arabs is
the purpose whose achievement is aspired by the Palestinian people”. The constitution reflected ideology of the Arabic unity of the last fifty years, reflected in the constitutional establishments of times of the Egyptian President G.A. Naser (the United Arabian Republic), activities of the Party of the Arabian socialist revival – BAAS in the number of the Arabian countries, etc. In the researched fundamental law there have been shown the primate "Al -Umma" (the Arabian community) over the state sovereignty. Utopianism of the given constitutional idea is shown as in deep distinctions of the form of the state of the Arabian countries (Saudi Arabia, Egypt, Libyan, Algeria, etc.), and in contradictions of ethno religious plan of the Arabian world (Sunits, Shiites, etc.).

The fundamentals of foreign policy of the future state are stipulated in Article 3 in which Palestine is characterized as the state wishing peace and condemning terror, occupation and aggression, calling for the decision of regional and international problems peacefully and proclaims fidelity to the Charter of the United Nations Organization. The given norm has rather declarative character as the majority of the Palestinian organizations show unavailability to refuse terrorist methods of achievement of their purposes and inability to solve regional problems of Middle East peacefully. It refers to FATCH, "Brigades of martyrs Al-Aks", and HAMAS having at present the government of the autonomy.

Article 4 of the constitution proclaiming Jerusalem as the capital of Palestine and the residence of its authorities, directly contradicts Article 1 of the Fundamental Law of Israel about the capital of the state which says that Jerusalem shall be "the uniform and indivisible capital of Israel". Presence of claims for one and the same capital in the constitutional acts of the neighboring states comprises the basis of the future political and territorial conflicts. Extremely negotiations about the status of Jerusalem with participation of the "four" international intermediaries, including the Russian Federation, are capable to solve the problem on the capital of the future state adequately.

The Arabian language and Islam are recognized by the constitution as official Palestinian language and religion. Regulation of Article 5 saying that "it is necessary to respect equally Christianity and other monotheistic religions" contradicts stipulation of the given article that the constitution guarantees equality of rights and duties of all citizens irrespective of their belief. The respect of the right to freedom of belief, of extremely supporters monotheistic religions does not guarantee the constitutionally legal protection to polytheists, bahaists and other "religious minorities" of Middle East.

Article 7 of the constitution establishes the central source of the constitutional law "the principles of Sheriat (the Islamic law)", that gives the basis to doubt of secular character of the fundamental law of Palestine affirming, that civil and religious cases of believing monotheistic religions will be settled according to their religious doctrines and categories within the framework of the law, keeping unity and independence of the Palestinian people.

According to Article 8, the Palestinian political system is characterized as the democratic, with parliamentary representation of people of different political views, different sex and religion. Principles of activity of political parties are the
national sovereignty, democracy and transfer of powers peacefully on the basis of the constitution. The given regulations are generally the norms – ideals as practice of the major competing groupings in the Palestinian autonomy FATH and HAMAS, having own armed units, is far from following to the specified principles.

Articles 9-10 of the constitution as the bases of activity of the government specify the principles of the law and order; all authorities, agencies, departments, establishments and private persons should submit to the law; the whole activity of the Palestinian authorities should be carried out at the administrative, political and judicial control. The executive agencies of authority will not be outside of "the legal control". According the constitution the state has undertaken the duty of indemnification of the damage caused owing to mistakes and actions of officials of the government, carrying out the duties.

Article 11 of the Constitution proclaims independence and inviolability of the judicial system necessary for protection of the rights and freedoms, compulsion of judicial decisions for all physical and legal persons. There is provided punishment according to the law of any neglect of judicial system. The similar constitutional establishment, on the one hand, is aimed at strengthening in the Palestinian autonomy of authority for the judicial authority which is still rather weak. On the other hand, activity of the courts based on the principles of Sheri at, is obviously far from democratic and consecutive division of authorities.

The great place in the text of the constitution is occupied by the questions of citizenship. The Palestinian citizenship, according to Article 12, is given to all, "who has legally received it till May 10, 1948", and for residing "in Palestine before this date and who have been compelled to be since that time in exile. This right transfers from fathers and mothers to their descendants ". The establishment of citizenship for the date specified in the fundamental law is impossible as the citizenship in one mandate Palestine was determined by the English authorities, and the Palestinian state after termination of the term of the mandate was not created. Recognition the constitution of the right to return to the territories in the borders before the Arabian – Israeli war of 1967 for all Palestinian refugees and their descendants without recognition of the similar right for refugees – Israelis is disproportionate and is unable to lead to interstate compromise.

Besides the majority of the Arabian countries the right to reception of citizenship occurs is given according to father's origin, and the constitution of Palestine for the purpose of increase in number of persons having the right to return, recognizes father's and mother's origin. The given article specifies that getting the Palestinian citizenship or refusal of it, rights and duties of citizenship of a dual citizenship will be settled by the law.

Article13 especially emphasizes, that the Palestinians who have left Palestine during the war of 1948 and were forbidden to return, will be given the right to return in the Palestinian state and to reception of citizenship. The Palestinian state will aspire by means of negotiations, and by political and legal means to concede the right to return home for the Palestinian refugees and for reception by them of indemnification according to the resolution 194 by United Nations and fundamentals of international law.
Natural resources of Palestine according to the constitution are recognized the property of Palestinian people. Article 14 contains the duty of the state to protect natural resources and to order according to the law their optimum use alongside with protection of cultural and religious heritage of the Palestinian people and needs of environment. Protection and maintenance of monuments of antiquity and historical places are qualified as the public duty, and it is forbidden to destroy and to harm them. The punishment according to the law to infringers of the given interdiction is stipulated.

Chapter Two of the constitution of Palestine is devoted to the institute of rights and freedoms of a person. Article 19 stipulates the principle of equality of the Palestinians under the law, and equality of men and women. It is stipulated, that investment with political and cultural rights and public duties will be carried out without any discrimination. Article 20 contains the duty of observance of rights and freedoms of a person; and specifies that the state shall guarantee cultural, public, economic, political, civil and religious rights and freedoms to all citizens on the basis of equality and equal opportunities. Belittling of the fundamental rights and freedoms shall not be supposed on the basis of distinctions in political views.

Article 32 forbids giving out the political refugees who have received the political asylum according to the law. Questions of delivery of common foreigners should be solved on the basis of mutual agreements or international commission.

The constitution guaranteed the freedom of belief (Article 36). Thus the state guarantees the believers of extremely "all monotheistic religions" protection of all places sacred for them " according to the historical obligation of the Palestinian people and the international obligations of Palestine ".

According to Article 37 the constitution, guarantees freedom of thought. Each person is given the right to express his own opinion and to publish it in writing, orally, or by means of art and other lawful means. The law can establish extremely minimal restrictions to protect rights and freedoms of other persons.

The right of publication of newspapers and other mass media is recognized universal, guaranteed by the constitution (Articles 38-39); mass media carry out their tasks freely and express different opinions in the society, observing rights, freedoms, public duty and submitting to the law.

According to Article 52 of the constitution, the right to demonstration and strike will be carried out with restrictions stipulated by the law. The following article provides the right to access of citizens on reception of public posts on the basis of skill, abilities and equal opportunities according to the law.

The constitution stipulates some social guarantees. In particular, there is stipulated to order national insurance and pensions on disability and age, however article 45 specifies "support of families "of shakhids", prisoners, orphans, wounded in the national struggle and those who need special care. The state will guarantee them as far as possible; services on education, national insurance, insurance of health and according to the law shall give them preference in employment". The state support of the persons engaged in terrorist activity, directly contradicts article 3 of the constitution condemning terror. The social guarantees contained in the
constitution for "shakhids" should stimulate growth of terrorist activity which sooner or later is capable to be directed against administration of PNA.

In the constitution of Palestine the complex of articles devoted to the rights and freedoms, comes to an end with norm about impossibility of their abolition. However Article 58 mentions "ordering" of fundamental rights and freedoms which "can be temporarily limited in the extraordinary cases connected with safety of the society and for the purpose of national safety". Restriction of the rights and freedoms is mentioned in the fundamental laws of the number of states. Thus, item 3 Article 55 of the Constitution of the Russian Federation says that rights and freedoms of a person and a citizen can be limited by the federal law solely in that measure necessary in view of protection of bases of constitutional system, morality, health, rights and legitimate interests of other persons, maintenance of defense of the country and safety of the state.

The president of the Palestinian state on the consent of the head of the government and the speaker of parliament, according to Article 129, has the right to declare state of emergency in case of danger of war, natural disasters, threat of safety of the society and functioning of lawful authorities. Emergency measures are entered for restoration of the social order, functioning of authorities of the state, overcoming of natural disasters for the term of not more than thirty days which is possible for prolonging the majority of two third of votes of the deputies of parliament, except for the martial law. At the announcement of state of emergency the purpose for its introduction, there should be underlined the territory and the term of action.

However law enforcement practice of restriction of the rights and freedoms in conditions of state of emergency in the number of the states of Middle East testifies to rather wide scales of application of restrictions of the rights and freedoms in interests of the ruling political regimes. In Egypt, for example, state of emergency was kept within almost 20 years. On the other hand, introduction of state of emergency was frequently accompanied with infringements of the current legislation, abusing imperious powers. Probably, in this connection, Article 58 of the Palestinian constitution specifies that the law should stipulate punishment for abusing force and power. At the same time, articles about state emergency are in the text of the constitution directly in section One Chapter Two "The President of the state", that testifies to intention of authors of the constitution to give to the president wide powers connected with introduction of state emergency.

The organization of the government is made on the basis of the principle of division of the powers. According to article 67, one chamber Palestinian parliament should consist of 150 deputies, "representing the whole Palestinian nation". According to the text the voters at elections to the parliament will not only be the citizens of Palestine in which at present live about 3 million чел., but "the whole Palestinian nation" all the boundaries of the present autonomy, that at once will increase the number of voters almost twice. It is established, that election campaigns at elections to the parliament should be organized on the basis of the constitution and the law about elections. For candidates of the parliament the requirement is – "to be the Palestinians".
The right of the legislative initiative according to the constitution (article 78) belongs to the president according to the decision of the council of ministers, to the speaker of the House of Representatives or to the five deputies.

According to article 89 of the constitution, the president of the state or the chairman of the council of ministers can propose dissolution of the House of Representatives. The constitution does not concretize the possible grounds of dissolution, having specified, that it is possible "in case of necessity". The decision on dissolution is adopted by two thirds of members of the council of ministers and the president is obliged to issue the decree about dissolution of the parliament. In this case the government appoints new elections within 60 days according to the rules determined by the law. In case the new elections are not appointed, the working structure of the chambers continues to execute their functions up to election of the new parliament. The Palestinian Chamber of Deputies cannot be dismissed within one year from the moment of election, and in conditions of state emergency.

The president of the Palestinian state according to the constitutions (article 113) is obliged to provide observance of the constitution and unity of the nation. It shall be the guarantor of integrity of the state and national independence, appropriate functioning of the government. The executive authority outside powers of the president is the prerogative of the government. According to article 127, the president of the state shall be the commander-in-chief of the Palestinian national armed forces headed by the corresponding minister.

Besides on the ground of article 125 the president is assigned with the following competences:
- The president has the right to head the council of ministers in extreme cases and in conditions of state emergency;
- The president represents a nominee to the position of the head of the government, accepts resignation of the government. All other decisions require the joint signature of the head of the government and the minister or responsible ministers. The head of the government signs together with the president of the state decisions of statutory character, resolutions about change of laws and resolutions about convocation of extraordinary sessions of the parliament;
- The president has the right to address to the parliament which is not subjected to discussion;
- The president directs projects with decisions of the council of ministers to the parliament;
- The president makes decisions on amnesty or mitigation of verdicts of court;
- The president carries out ceremonial functions, gives state awards.

The candidate on the position of the president should have the Palestinian citizenship, should be not less than 40 years of age, and should enjoy in full the civil and political rights. According to article 115, the president should be elected for the term of five years with the opportunity of unitary re-election. The president is obliged to represent the financial report with indication of movable and real estate, monetary resources in Palestine and abroad, belonging to him, belonging to
his wife, belonging to his children under 18. The given report is represented to the constitutional court.

The executive authority on the ground of article 145 of the constitution is carried out by the council of ministers. After consultations of representatives of political parties the president represents a nominee to the position of the prime minister from the political party which has got the majority at the elections to the parliament. In case the formation of the government is impossible within three weeks, the president represents a nominee to the position of the prime minister from the political party which has got the second majority at elections.

The constitution does not provide voting of deputies on the nominee to the position of prime-minister, however article 135 contains the imperative norm that in case of expression by the House of Representatives of mistrust to the head of the government it is considered resigned, and the president renews consultations on formation of the government. Besides after reception of approval of the House of Representatives the prime minister and other members of the government take the oath in the parliament in the presence of the president according to article 139.

In article 162 the constitution proclaims independence of the judicial authority which, according to articles 167-175, is carried out by judges, by the court of cassations, by the military court. There is provided creation of the Supreme Court of validity for the sanction of administrative disputes and disciplinary offences. The last establishment is influenced by the Anglo-Saxon legal tradition, and the similar judicial establishment exists in Israel. For the sanction of organizational and personnel questions connected with functioning of the judicial system, there should be created the Supreme legal council.

The constitution of Palestine provides creation of the Constitutional court which, according to article 181, should realize justice independently, for the purpose of maintenance of legality in activity of the state institutes. It should comprise nine judges whose assignment is made by the president on the basis of representation of the council of ministers and after approval of the House of Representatives.

The constitutional court has the right to verify on conformity to the constitution of decisions and actions at request of the president of the state, of the prime minister, the speaker or ten members of the House of Representatives, of courts, of the public prosecutor or of each person who considers, that his rights infringed.

On the whole, the constitution of Palestine is an example of the constitutional act of the so-called "states in development" that is, being at the stage of development. The planned for the autumn of 2000 declaration of "the State the Palestine" has not taken place, however the constitution is considered working. According to the fundamental law Palestine is the parliamentary republic with rather extensive powers of the president, and is the unitary state.

At the same time the constitutional regulation of human rights does not correspond in full to the fundamental international acts about human rights as recognizes the significant number of rights and freedoms extremely for the citizens of Palestine, believers of monotheistic religions, etc. The fundamentals of a
democratic political regime fixed in the constitution (principles of the division of powers, independence of judicial authority, parliamentary), the peaceful foreign policy come into essential contradiction with confrontational political heritage of PNA (establishments about borders, capital of the state, state support of "shakhids"). All this allows making the conclusion, that the constitution of Palestine as the fundamental law "in the states of development" makes on this way a step forward and some steps back.

The literature
