

# Palestine

Palestinian-Israeli political negotiations for a permanent solution to the conflict came to a complete standstill as Israel took and continues to take unilateral action, as the occupying force, to change the facts on the ground in the occupied Palestinian territory (OPT), amid modest attempts by the Palestinian leadership to respond to these major shifts. In fact, successive Israeli governments, in the West Bank and particularly in East Jerusalem, have followed the same policy of annexing land and creating demographic changes aimed at moving Israeli civilians into planned residential areas to facilitate the appropriation of more Palestinian land and resources. Land appropriation has been accompanied by the forced removal of Palestinian communities, in the service of this same expansionist policy. The settlement enterprise is secured through various channels for oppressing the Palestinian population, including the use of military law to suppress any organized protest activity through collective arrests, closure orders, checkpoints, and the separation barrier. These policies seriously erode the fundamental rights of Palestinians.<sup>1</sup>

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<sup>1</sup> See the report of the independent international fact-finding mission on Israeli settlement activity, <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/FFM/FFMSettlements.pdf>.

Meanwhile, the Gaza Strip remained under siege for the eighth year in a row, completely cut off from all directions. The siege has catastrophic humanitarian implications and forestalled the possibility of reconstruction after the attack on Gaza in 2014.<sup>2</sup> Some urban centers in the West Bank, especially Ramallah, the de facto capital of the Palestinian Authority (PA), continue to maintain a sort of ersatz economy thanks to funds from international donors, which finance an important part of public services, and the network of civil society organizations. Amid this, the most vulnerable communities in Palestine, especially in Area C<sup>3</sup> and in cities and villages around the separation barrier and settlements, continue to face daily provocations and insults from settlers and occupation soldiers, including restrictions on movement and threats to life and safety, which gravely infringe basic human rights.

Although officially a Palestinian national unity government was formed, internal divisions between the West Bank and Gaza continue to shape the political landscape. Government bodies in the West Bank and Gaza, especially the security apparatus, operate independently in these two regions. Opposition political activists and human rights defenders in Palestine are subject to all manner of restrictions and violations, especially those related to expression of opinion, detention, freedom of assembly and protest, freedom of association, and judicial independence,<sup>4</sup> as well as torture and ill treatment in prisons.<sup>5</sup> Another wave of popular anger erupted in the OPT in October 2015, highlighting three features of the status quo on the OPT: divisions within the PA, increasing violations of Palestinian human rights and humanitarian law by Israel and the PA, and the absence of a vision to resolve the crisis for the foreseeable future. This report will examine each of these features.

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<sup>2</sup> See <http://gaza.ochaopt.org/2015/07/the-gaza-strip-the-humanitarian-impact-of-the-blockade/>.

<sup>3</sup> Area C falls completely under Israeli security and administrative control.

<sup>4</sup> Annual report of the Independent Commission for Human Rights (ICHR).

<sup>5</sup> Report from the Palestinian Center for Human Rights.

## **Internal political divisions and the ramifications for human rights:**

Since October 2015, the OPT has seen a wave of unrest. One proximate cause could be the public shock at extremist settlers setting fire to the home of the Dawabshe family in July 2015.<sup>6</sup> In the wake of the attack, settlers were shot in Nablus in retaliation.<sup>7</sup> Another driver of the unrest could be celebrations of the Jewish new year, which saw wide-scale incursions in the Aqsa Mosque complex, heightening fears of the Judaicization of Jerusalem.<sup>8</sup> A third possible spark for the unrest is the Palestinian President Mahmoud Abbas's speech to the UN General Assembly in September, in which he suggested that the PA was no longer bound by the Oslo Accords.<sup>9</sup>

Regardless of the cause, the fact is that the intifada and wave of anger is largely being driven by the post-Oslo generation. The average age of casualties in this intifada is very low: thus far, adolescents have been both the primary agents and victims, in daily demonstrations, stone throwing, and knife attacks.<sup>10</sup> It is clear that desperation is what is driving Palestinian youth to violence, largely due to their loss of faith that their elders will do anything. Palestinians have been repeatedly disappointed by leaders and institutions that have proven incapable of action—political parties, unions, civic associations, even notable families. Historically, the first intifada that began on December 8, 1987 was largely led by the Palestinian Liberation Organization (PLO), then based in Tunis.<sup>11</sup> In the second intifada, Palestinian society was sharply divided into two primary factions, Fatah and Hamas.<sup>12</sup> Now, the latest poll shows that the Palestinian leader with the most public trust is President Mahmoud Abbas, with

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<sup>6</sup> See, for example, <http://www.aljazeera.com/news/2015/07/palestinian-baby-burned-death-extremist-attack-150731035331224.html>.

<sup>7</sup> See, for example, <https://www.maannnews.com/Content.aspx?id=767914>.

<sup>8</sup> See, for example, <http://www.al-monitor.com/pulse/originals/2015/09/jordan-israel-relations-ties-temple-mount-violence.html>.

<sup>9</sup> For the full text of the speech, see <http://www.timesofisrael.com/full-text-of-abbas-2015-address-to-the-un-general-assembly>.

<sup>10</sup> See, for example, [www.ibtimes.com/rising-death-toll-palestinians-west-bank-call-third-intifada-against-israel-2137292](http://www.ibtimes.com/rising-death-toll-palestinians-west-bank-call-third-intifada-against-israel-2137292).

<sup>11</sup> <http://www.arij.org/atlas40/chapter2.5.html>.

<sup>12</sup> [www.medeabe.be/en/themes/arab-israeli-conflict/second-intifada/](http://www.medeabe.be/en/themes/arab-israeli-conflict/second-intifada/).

just 16.1 percent approval, followed by former Prime Minister and Hamas leader Ismail Haniyeh with 12.5 percent.<sup>13</sup>

Palestinians in the West Bank are exhausted by the lack of a political vision and the steady encroachment of Israeli settlers on their homes. They have no real economy and suffer from high rates of unemployment, especially young people with a higher education. They feel that the current leadership is enfeebled and incapable of realizing their aspirations for a normal, dignified life free of restrictions on movement, land confiscations, and settler violence.

In the Gaza Strip, Palestinians have been sapped by the ongoing siege, the lack of any reconstruction more than a year after the attack, and the failure to meet their fundamental needs like electricity and clean water. In East Jerusalem, which was illegally annexed by Israel, Palestinians feel everyone has abandoned them and left them without political representation while their national institutions have been shut down. Since the Oslo Accords were signed in 1993, Jerusalem has been ignored by Palestinian politicians, the city's population left to fend for itself in the face of multiple Israeli government policies designed to force them out of the city.<sup>14</sup>

All over the OPT, anger is rising at corruption, favoritism, and the lack of transparency in administrative affairs on the part of PA institutions. The continued internal division between Hamas and Fatah is one of the major causes of the general frustration among Palestinians. In fact, despite the official formation of a national unity government led by technocratic Prime Minister Rami Hamdallah in June 2014,<sup>15</sup> any progress toward Palestinian reconciliation is solely on paper. The most contentious sector, the Interior Ministry, is still deeply divided. In addition, the crisis of some 50,000 civil servants hired by Hamas to replace those that went on strike following the coup of 2007 remains unresolved, and they have not been paid for months.

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<sup>13</sup> [www.qudsn.net/article/74173](http://www.qudsn.net/article/74173).

<sup>14</sup> For more information, see <http://www.acri.org.il/en/wp-content/uploads/2015/05/EJ-Facts-and-Figures-2015.pdf>.

<sup>15</sup> See, for example, <https://www.theguardian.com/world/2014/jun/02/palestinian-unity-government-sworn-in-fatah-hamas>.

## PA's violations of human rights:

Palestinian security forces and the executive, in both the West Bank and Gaza Strip, routinely violate human rights.<sup>16</sup> Most of these violations involve restrictions on freedom of expression of opinion, committed through the arrest of activists, journalists, academics, and human rights defenders in the broadest sense,<sup>17</sup> as well as through the suppression of freedom of assembly, protest, and association.<sup>18</sup> This increasingly oppressive climate is supplemented by executive restrictions on judicial independence,<sup>19</sup> as well as torture and ill treatment in prisons.<sup>20</sup>

A major issue in legal and procedural practices in Palestine concerns prolonged pretrial detention, as the public prosecutor has broad latitude to extend terms of detention pending investigation. Prisoners of conscience can be detained by the public prosecutor for 45 days pending investigation, while magistrates who consider requests for extension rarely deny such requests and typically grant the full 15-day extension.

During detention pending investigation, detained persons are often forced to confess or sign documents that can be used against them to extend their detention. In some cases, this may be accompanied by harsh interrogations that amount to torture. Under the legal system, the security apparatus can hold an individual for at least two months without evidence or an effective means of appeal and in extremely harsh conditions.

According to a Human Rights Watch report issued in 2014, Palestinian courts “did not find any West Bank security officers

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<sup>16</sup> See

[http://www.pchrgaza.org/files/2015/annual\\_pchr\\_eng\\_2014.pdf](http://www.pchrgaza.org/files/2015/annual_pchr_eng_2014.pdf).

<sup>17</sup> See

<http://www.ichr.ps/ar/1/6/1359/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-2014-%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-2014.htm>.

<sup>18</sup> See

[http://www.alhaq.org/arabic/index.php?option=com\\_content&view=article&id=773:2016-02-17-10-22-59&catid=91:2012-07-14-11-00-24&Itemid=231](http://www.alhaq.org/arabic/index.php?option=com_content&view=article&id=773:2016-02-17-10-22-59&catid=91:2012-07-14-11-00-24&Itemid=231).

<sup>19</sup> ICHR annual report.

<sup>20</sup> Report of the Palestinian Center for Human Rights, observation 14.

responsible for torture, arbitrary detention, or prior cases of unlawful deaths in custody...[or] prosecute officers for beating demonstrators...” As a result, the security apparatus feels it can violate the right of assembly and protest with impunity.<sup>21</sup> In its 2013 report, the Euro-Mediterranean Human Rights Monitor documented 723 cases of arbitrary detention and 1,137 cases in which individuals were interrogated by Palestinian security actual charges, court orders, or arrest warrants. Of these cases, 56 were in relation to persons detained for publications on Facebook, including 19 journalists and several cartoonists and writers. The report also documented 117 cases of severe torture.<sup>22</sup>

One consequence of domestic divisions is that the Palestinian Legislative Council is not operational. All laws and regulations adopted since the split are thus unconstitutional since they have not passed through the legislative process set forth in the Basic Law.<sup>23</sup> This situation has only deepened internal legal divisions and impeded efforts to create a uniform, consistent legal framework governing both Palestinian regions. Many violations are also linked with the lack of parliamentary oversight.

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<sup>21</sup>Human Rights Watch, World Report 2014: Israel and Palestine, <https://www.hrw.org/world-report/2014/country-chapters/israel/palestine?page=3>; See also, Sabrien Amrov and Alaa Tartir, “After Gaza, What Price Palestine’s Security Sector?” al-Shabaka, Oct. 8, 2014, <https://al-shabaka.org/briefs/after-gaza-what-price-palestines-security-sector/>.

<sup>22</sup><http://www.euromid.org/ar/article/497/%D8%B1%D8%B5%D8%AF-800-%D8%AD%D8%A7%D9%84%D8%A9-%D8%A7%D8%B9%D8%AA%D9%82%D8%A7%D9%84-%D8%AA%D8%B9%D8%B3%D9%81%D9%8A-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D8%B1%D8%A7%D8%B6%D9%8A-%D8%A7%D9%84%D9%81%D9%84%D8%B3%D8%B7%D9%8A%D9%86%D9%8A%D8%A9#sthash.qXhF9jQi.dpbs>.

<sup>23</sup> In the West Bank, the president invokes Article 43 of the Basic Law, which allows him to pass decrees with the force of law in the temporary absence of a legislature, in a state of emergency, or in between legislative sessions. In the Gaza Strip, the Legislative Council, without a quorum, meets and votes on bills drafted by the resigned government and issues them as laws without presidential ratifications. These laws are applied only in the Gaza Strip.

One of the best protections for human rights remains an independent judiciary. Reforms of the judiciary must therefore be undertaken to guarantee its independence from political considerations and executive interference. Currently, the judicial system in both the West Bank and Gaza Strip is subordinate to the ruling political authority, the president in the West Bank and the ruling authority in Gaza. The weakness of the judiciary is primarily due to legal regulation and operation of the Supreme Judicial Council and the method by which its president is appointed, namely, by executive decree. The Independent Commission for Human Rights (ICHR) has expressed its concern about “the ambiguous relationship between judicial institutions and bodies, especially in light of various interpretations on the nature and specificities of the relationship between [state] authorities.” It was also concerned by “the increasing case load in the courts, which reinforces the status quo of the judicial system.”<sup>24</sup>

Other violations encountered by youth activists include the confiscation of their travel documents and the denial of work through pressure on employers, either by the executive or security authorities.

### **Escalation of Israeli violations against Palestinians:**

Israel has long employed a system of military detention to target child stone throwers. In cities where settlement activity is particularly intense, especially in the West Bank, Israel begins targeting the local population from a very young age.<sup>25</sup> East Jerusalem and Hebron have the highest rates of child arrests. Under this system of wide-scale detention, children are subjected to all manner of violations, from abductions from their parents’ homes to poor conditions in detention facilities.

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<sup>24</sup> In some cases, judges have been punished for deviating from politically acceptable conduct. See the ICHR report of 2008.

<sup>25</sup> See, for example, <http://www.alhaq.org/publications/Special.Focus.on.children.pdf>, and [http://www.dci-palestine.org/israel\\_targets\\_palestinian\\_children\\_in\\_east\\_jerusalem\\_with\\_harsh\\_policies](http://www.dci-palestine.org/israel_targets_palestinian_children_in_east_jerusalem_with_harsh_policies).

The detention system cannot be separated from the larger enterprise of land appropriation and colonization. The Israeli judicial system has proven to be an extremely effective tool for continued expansionist, apartheid policies. Israel uses both military and civilian courts, with jurisdiction over East Jerusalem residents and Palestinians inside the Green Line, to target children. It also makes liberal use of old laws from the British Mandate period, the same laws that inspire military orders applied to Palestinians in the rest of the OPT.<sup>26</sup> A system that allows the criminalization of any Palestinian political activity has made political detention a routine part of daily life in the OPT throughout the 48 years of military occupation.<sup>27</sup> Israel's detention system entails numerous violations of international humanitarian law and human rights law, which have been condemned and spotlighted in various international forums. Since October, Palestinians have also come under increasing collective punishment by Israel, manifested in restrictions on travel, forced displacement, and ever more frequent cases of extrajudicial killing.

House demolitions are the most common punitive measure used by the occupation authorities against Palestinians. Israeli law has permitted the demolition of Palestinian homes as punishment for "security attacks" since the second intifada. Although the measure became less frequent over the last decade, it has returned in response to the most recent intifada. The Israeli prime minister issued a decree mandating the immediate demolition of the homes of suspected attackers.<sup>28</sup> Homes are demolished even when the offender is killed or convicted, regardless of his age or social status, and demolitions are implemented without a judicial ruling establishing the guilt of the suspected attacker. The measure targets the family of attackers as a means of creating deterrence within the community, although international customary law officially prohibits collective punishment, which can amount to a war crime under the Fourth Geneva Convention and The Hague Regulations.<sup>29</sup> In response to this measure, Palestinian civil society collects funds to rebuild the homes of the targeted families. In any case, it appears that collective

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<sup>26</sup> <http://www.adalah.org/en/content/view/8652>.

<sup>27</sup> [https://www.icrc.org/eng/assets/files/other/irrc\\_866\\_weill.pdf](https://www.icrc.org/eng/assets/files/other/irrc_866_weill.pdf).

<sup>28</sup> <http://www.un.org/apps/news/story.asp?NewsID=52567#.VpaEQvnhDIU>.

<sup>29</sup> [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule103](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule103).



punishment has the opposite of the desired impact and is stoking much popular anger.<sup>30</sup>

Another form of collective punishment involves the cancellation of permanent residency status for Palestinians in East Jerusalem. The legal status of Jerusalemites is exemplary of the administrative labyrinths in which Israel contains Palestinians to conceal its policy of forced displacement and land appropriation, ostensibly carried out pursuant to formal legal frameworks. When East Jerusalem came under military occupation, with the rest of the West Bank and the Gaza Strip, Israel conducted a census and distributed identity cards to the population in the OPT. The population of East Jerusalem received blue identity cards, similar to those given to Israeli citizens, since East Jerusalem was illegally annexed by Israel as “the unified capital of the state of Israel.” When the Oslo Accords were signed, the status of Jerusalem was set aside for final negotiations. As a result, Palestinians elsewhere in the OPT are subject to the PA’s administrative rules, while East Jerusalemites are still subject to the same laws in force since 1967.

A shift took place in 1991, which coincided with the beginning of the Madrid talks: Israel revoked the general permit for all residents of the OPT to move freely to Israel, including East Jerusalem, marking the beginning of restrictions on movement in the city. In 1992, a ruling issued by the Israeli High Court affirmed the applicability of the 1952 law on entry to Israel for East Jerusalem residents, thus giving such residents the status of recent Israeli immigrants. East Jerusalemites were subsequently required to prove that the “center of their lives” was in the city to maintain residency. The requirement ultimately led to the expulsion of thousands of Palestinians from Jerusalem and denied them their right to live in the city of their birth.<sup>31</sup>

The 1952 law also gives the Israeli interior minister broad discretionary power to strip any person of the right of Jerusalem residency. The interior minister used this authority to strip residency from three members of the Palestinian Legislative Council elected in

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<sup>30</sup> <http://www.alternativenews.org/english/index.php/news/1213-palestinians-unite-to-rebuild-houses>.

<sup>31</sup> <http://www.palestine-studies.org/jq/fulltext/78127>.

2006.<sup>32</sup> In response to the latest intifada, the prime minister issued a decree in October allowing the revocation of residency permits for families suspected of involvement in “security acts” against the state.<sup>33</sup> This is yet another form of collective punishment which has led to displacement of more Palestinians from the city. An appeal challenging the decree is still pending before the Israeli High Court.<sup>34</sup>

An additional measure constituting collective punishment is the refusal of the occupation authorities to turn over the bodies of alleged perpetrators of stabbing attacks of Israelis after they have been killed by Israeli soldiers. Thus far, Israel has held 54 bodies in “numbered graves,” refusing to turn the remains over to the families for burial. Several demonstrations have been staged in the West Bank to protest this unjustifiable measure.

In the face of crimes by the Israeli occupation authorities, Palestinian rights organizations continue to be internationally active to bring justice and accountability. Efforts are currently focused on supporting the preliminary investigations being carried out by the Office of the Prosecutor at the International Criminal Court, launched in January 2015 pursuant to Palestine’s declaration that it accepts the court’s retroactive jurisdiction. A number of human rights defenders in Palestine face smear campaigns, death threats, and increasing pressure as a result of their work on this issue and their cooperation with the ICC.<sup>35</sup>

As the military occupation becomes more entrenched and with the presence of a half million Israeli settlers in the OPT, the two-state solution faces growing challenges and is increasingly complicated by Israeli policies of settlement and annexation. The Israeli left, which supports the two-state solution, has been thoroughly enfeebled by successive right-wing governments that include settlers and their defenders, of the likes of Justice Minister Ayelet Shaked and

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<sup>32</sup><http://www.adalah.org/en/content/view/6713>.

<sup>33</sup><http://www.timesofisrael.com/pm-to-forward-bill-allowing-state-to-revoke-residency-of-terrorists>.

<sup>34</sup><http://www.cac.alquds.edu/images/pdf/recommended-studies/punitivereport.pdf>.

<sup>35</sup><http://www.alhaq.org/advocacy/topics/human-rights-defenders/1026-al-haq-under-attack-staff-members-life-threatened>.

Education Minister Naftali Bennett, both of whom publicly advocate the annexation of the West Bank.<sup>36</sup>

The Israeli left and Israeli human rights organizations that call for an end to the occupation are currently targeted by a crackdown and treated as potential traitors by the media, indicating the present public mood in Israel, which is utterly opposed to the rights of the Palestinian people and a withdrawal from the OPT.<sup>37</sup> At a speech given to the Saban Forum in December 2015, US Secretary of State John Kerry sparked reactions when he said, “The status quo is simply not sustainable. And the fact is that current trends including violence, settlement activity, demolitions, are imperiling the viability of a two-state solution. And that trend has to be reversed in order to prevent this untenable one-state reality from taking hold. I can’t stress this enough.”<sup>38</sup>

There is also a clear shift among Palestinian attitudes to a two-state solution. A recent poll found for the first time since negotiations with Israel began that most Palestinians no longer support a two-state solution.<sup>39</sup> It has become clear that the slow but sure cementing of the military occupation is burying the possibility of a negotiated two-state settlement. The future looks extremely dim for Palestinians if the current situation continues and should sound an alarm. Amid the unrest in the region, the right-wing Israeli government could very well succeed in extinguishing Palestinian aspirations for freedom by permanently annexing the West Bank and maintaining the Gaza Strip as a separate, closed entity. If that happens, it will utterly forestall any chance for Palestinians to exercise their right of self-determination.

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<sup>36</sup><http://www.thenational.ae/world/middle-east/new-israeli-justice-minister-expected-to-crack-down-on-palestinians>; <http://www.timesofisrael.com/bennett-urges-israeli-annexation-of-west-bank/>.

<sup>37</sup> <http://www.washingtontimes.com/news/2015/dec/20/dovish-israeli-groups-say-they-face-harsh-crackdown/>.

<sup>38</sup> <http://mondoweiss.net/2015/12/untenable-reality-supporters/>.

<sup>39</sup> <http://www.reuters.com/article/us-palestinians-israel-survey-idUSKCN0RL1DF20150921>

