



# Government

## 13.1 Administration

### ■ Historical Background

**Ottoman Period (until 1917):** Since the early 16<sup>th</sup> Century, Ottoman laws and legal system applied. By the mid-19<sup>th</sup> Century, some laws began to be influenced by legal developments in Europe (e.g., the Land Code of 1857, Civil Code). Few laws dating back to the Ottoman period are still in force.



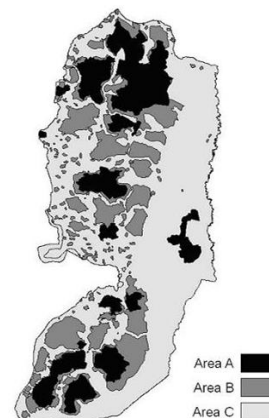
**British Mandate (1918-48):** In 1918, the British military administration assumed full responsibility for all laws, legislation and orders. In 1922, when Britain obtained the mandate over Palestine from the League of Nations, British Common Law and judicial structures were introduced in most legal areas. During 1923-48, the British legal system was superimposed on existing structures; some of the laws from this period are still in force.

**1948-1967:** Following the War of 1948, the West Bank (incl. East Jerusalem) became part of Jordan and Gaza was under Egyptian rule. In the West Bank, laws that did not contradict the Jordanian Defense Law remained in effect; in 1950, when the West Bank was united with the East Bank some laws applied to both banks and others to only one side. During 1950-1967, the common parliament passed much legislation, most of which is still in force. In Gaza, most Ottoman and British laws remained in force with only few reforms introduced; in 1955, Egypt issued a Basic Law for Gaza, and in 1962, a Constitutional Order.

**1967-1993:** In the course of the 1967 June War, Israel occupied the Palestinian territories, annexed 70 km<sup>2</sup> (mainly East Jerusalem area), abolished the West Bank court system, assumed legislative, executive and judicial powers, imposed its military administration, and introduced over 2,000 military orders, amending, changing or repealing virtually every piece of existing legislation. Until the 1988 Jordanian disengagement, the West Bank remained partly under Jordanian administration.

**Since Oslo:** The Oslo agreements divided the West Bank into three zones: Areas A, B and C:

- In **Area A** (17.2% of the West Bank), the PA has sole jurisdiction and security control, but Israel still retains authority over movement into and out of these areas, and repeatedly makes use of this 'right' during incursions and arrest raids.
- In **Area B** (21.8%), the PA has civil authority and responsibility for public order, while Israel maintains a security presence and 'over-riding security responsibility'.
- The remaining 61% of the West Bank, **Area C**, is still under total Israeli occupation.



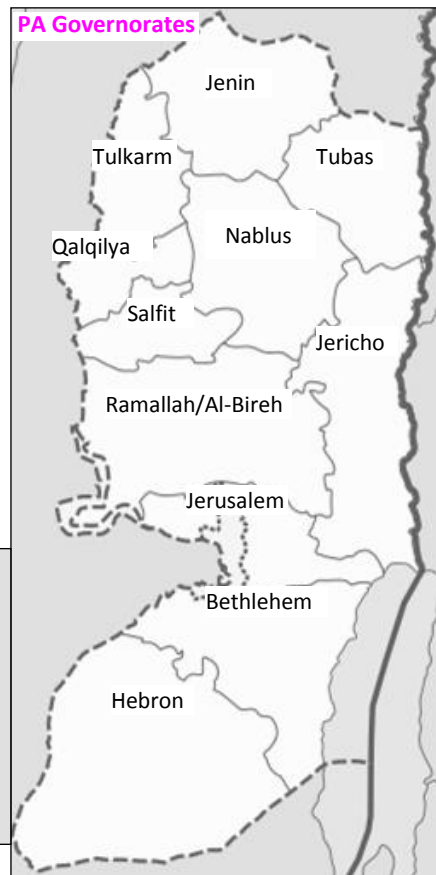
While the PA administers 39% of the West Bank (Areas A and B) as well as the Gaza Strip, the entire Palestinian territory remains **under occupation and has not accomplished the goal of independence and statehood, and Palestinians continue to be denied their right to self-determination according to international law.**

## ■ Central and Local Government

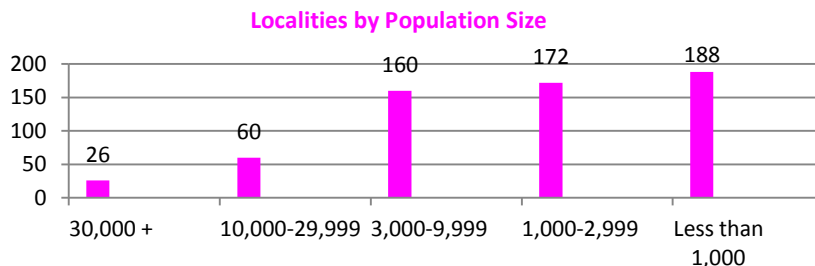
The **Palestinian National Authority (PNA or PA)** is an interim administrative organization that governs parts of the WBGS. It was established in 1994, pursuant to the Oslo Accords between the PLO and the government of Israel, as a five-year transitional body with **central government** functions during which final status negotiations between the two parties were to take place.

The Palestinian territory is divided into the West Bank and the Gaza Strip and into **16 Governorates** (11 in the WB: Jenin, Tubas, Tulkarem, Qalqilya, Salfit, Nablus, Ramallah, Jerusalem, Jericho, Bethlehem, Hebron and five in the GS: Jabalia, Gaza City, Deir Al-Balah, Khan Younis and Rafah). Each of these is headed by a governor appointed by the President. The governorates are subordinate to the Ministry of Local Government and cooperate with the mayors and heads of village councils in their respective districts.

**Municipal and village councils** have existed in Palestine since the British Mandate. In June 1967, the Israeli occupation authorities limited their powers and solidified their control over policies and budgets; the Arab Jerusalem Municipality Council was completely dissolved. Since the arrival of the PA, the municipal and village councils took over administrative responsibilities (e.g., water, electricity, waste disposal, roads, schools, planning and building control, maintenance, control of public markets). Prior to the last fully implemented round of local elections (2004-2005), municipal elections were only held in Gaza in 1946, in the West Bank in 1976, and in Jerusalem in 1965. The **second local PA elections** were held in late 2012 and the **third** in May 2017 (see 13.2. below for details).



In 2017, there were **606 Palestinian localities** of which 42 had 20,000 or more and 440 had less than 5,000 **inhabitants**. Almost one third - 31% - had less than 1,000 inhabitants (PCBS, *General Census 2017: Final Results Summary*).

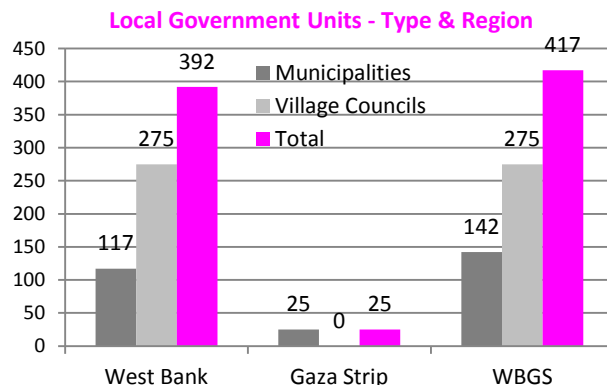


*Source:* PCBS, *Population, Housing and Establishments Census 2017: Census Final Results Summary*, May 2018.

In 2016, there were **417 Local Government Units**: **142 municipalities** and **275 village councils**. In addition, there were **86 joint-service councils** of two or more localities (State of Palestine, *Cities Report 2016*). All local government units function in accordance with the regulations of the Ministry of Local Government and the Law on Local Authorities (last amended in 2016).

### Public Sector

- The PA's 4<sup>th</sup> **National Policy Agenda**, launched in February 2017 for the years 2017-22, focuses on "Putting Citizens First" and outlines strategic directions for the end of occupation and the development of strong, citizen-centered public institutions. The **full text** is available at [http://palaestina.org/uploads/media/NPA\\_English\\_Final\\_Approved\\_20\\_2\\_2017\\_Printed.pdf](http://palaestina.org/uploads/media/NPA_English_Final_Approved_20_2_2017_Printed.pdf).
- **Public Administration and Defense** contributed **12.5%** to the 2<sup>nd</sup> Quarter 2018 **GDP** (excl. East Jerusalem), making it the largest single contributor. In the West Bank, the sector's GDP contribution is estimated at 8.3%, in Gaza at 36.3% (PCBS, *Quarterly National Accounts*, Q2-2018).
- The **total number of PA employees** dropped from 156,718 in **2016** to 137,114 by the end of **2017**; 18,941 employees exited the public service in Gaza and 667 in the West Bank (World Bank, *Economic Monitoring Report to the AHLC*, March 2018). Between April 2017 and June **2018**, the number of PA employees dropped by over 26,000 (WB: 4,000, GS: 22,000) (World Bank, *Economic Monitoring Report to the AHLC*, Sept. 2018).
- As of June 2018, 21% of the employed workforce worked in the **public sector** (WB: 15.7%, GS: 35.6%) as compared to 62.6% in the **private sector** (PCBS, *Labor Force Survey Report Series*, Q2-2018) (for more details on public sector employment see Chapter 8.4).
- In Gaza, Hamas currently has 20,466 **civil servants** (of which 17,267 were hired by Hamas after 2007, 2,463 were part of the PA before 2007 and joined Hamas' civil service afterwards, and 736 PA employees that reported back to duty after 2007 and have been receiving salaries from both the PA and Hamas) and an estimated equal number of **security personnel**, resulting in a total **monthly wage bill** of US\$20 million (much of which is no longer paid though). During **2018**, about 1,200 of the pre-2007 PA employees (mainly in health and education) returned to their jobs (World Bank, *Economic Monitoring Report to the AHLC*, September 2018).



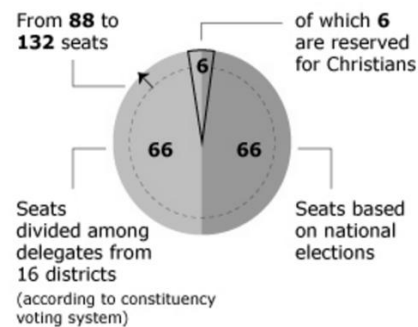
Source: World Bank, *The Performance of Palestinian Local Governments*, June 2017.

## 13.2 Elections

### Election framework

**Eligible voters and candidates:** **Eligible voters** are Palestinian WBGS residents incl. Jerusalem, aged 18 years or above on polling day, and registered in the voters' list of one of the 16 district electoral offices. **Eligible candidates** must be aged 30 (PLC) or 35 (President). Presidential candidates must submit a list of 5,000 voters intending to support them, PLC candidates a list of 500 supporters. **Palestinians living overseas are not eligible to vote.**

**Election Law and System:** The 1996 Election Law was **amended** on 18 June **2005**, providing for a **mixed electoral system** (majority *and* proportional systems) and increasing the **PLC seats** from 88 to 132, half of which are elected in the 16 electoral **districts** by a ballot of individual candidates (with six seats reserved for Christians), the other half by a ballot of closed **lists** of candidates put together by political parties or coalitions. A 20% quota of seats was allocated to women. On 2 Sept. **2007**, Pres. Abbas changed the electoral law, eliminating district voting (leaving only voting for party lists) and requiring candidates to recognize the PLO as the sole legitimate representative of the Palestinian people. Other changes are pending Fatah-Hamas talks and their agreement regarding future elections.



Source: Fanack, <https://chronicle.fanack.com/palestine/governance>

### ■ Past Election Results:

#### **The 2005 Presidential Elections:**

From the establishment of the PA until the death of Pres. Yasser Arafat in Nov. 2004, only one election for the President and the PLC took place in 1996. The next such elections were scheduled for 2000, but were delayed due to the outbreak of the Al-Aqsa Intifada. After the death of Arafat, presidential elections took place on 9 Jan. 2005. Seven candidates contested the election, which PLO leader Mahmoud Abbas won with 62.3% of the votes. Independent Mustafa Barghouti came second with 19.8%.

#### **The 2006 PLC Elections:**

Elections for a new PLC - scheduled for July 2005 - were postponed after major changes to the Election Law were enacted and eventually took place on **25 Jan. 2006**. The Central Elections Commission had registered **1,268,721 eligible voters** (WB: 775,640, GS: 493,081).

Past PMs	Tenure
Mahmoud Abbas	19 March-7 Oct. 2003
Ahmad Qre'i'a	7 Oct. 2003-15 Dec. 2005
Nabil Sha'ath	15 Dec.-24 Dec. 2005
Ahmad Qre'i'a	24 Dec. 2005-19 Feb. 2006
Ismail Haniyeh <sup>1</sup>	19 Feb. 2006-June 2007
Salam Fayyad	June 2007-June 2013

Past Presidents	Tenure
Yasser Arafat (died)	Jan.1996-11-Nov. 2004 ( <i>de facto</i> since July 1994)
Rawhi Fattuh (acting)	11 Nov. 2004-15 Jan. 2005

<sup>1</sup> Haniyeh was dismissed from office by President Abbas on 14 June 2007 at the height of the Fatah-Hamas conflict.

#### **Current Main Office Holders:**

**President:** Mahmoud Abbas (15 Jan. 2005-).

**Prime Minister:** Rami Hamdallah (June 2013-).



Abbas



Hamdallah

#### **Municipal Elections:**

The **first** ever PA **municipal** elections took place in rounds between Dec. **2004** and Dec. **2005**. **Hamas** contested for the first time and scored high. The **second local elections** took place during Oct.-Dec. **2012** in the West Bank; it was criticized for a lack of political competition as candidate lists in 181 locations – and thus 2,124 of the overall 3,487 seats – were elected by acclamation, while only 1,363 seats were elected by an actual vote. The most recent **third local elections** took place on 13 May **2017** across the West Bank. In the 181 municipalities in which lists ran unopposed, 74.9% of the total 1,683 local council seats went to Fatah, while 12.9% went to party coalition blocs, 11.6% to non-partisan lists, and 0.6% to the DFLP. In municipalities where elections took place, two-thirds of seats went to independents, while Fatah lists won 27.6%, the DFLP and party coalition lists each

won 2.77%, Palestinian National Initiative lists won 0.58%, the Palestinian Democratic Union 0.45%, the Democratic Alliance 0.32%, the Palestinian Popular Struggle Front 0.26%, and the Palestinian People's Party won 0.19% (<http://www.maannnews.com/Content.aspx?id=777079>). A number of political factions, including Hamas, Islamic Jihad, and the PFLP boycotted both the 2012 and 2017 polls.

### ■ Next Elections:

**Presidential elections** were due in January 2009, when according to the PA's Basic Law President Abbas' 4-year term finished. In November 2009, Abbas announced the **indefinite postponement** of the elections, and on 16 December 2009, the PLO Central Council extended Abbas' term until new elections are held. On 22 January 2010 a Presidential Decree on the indefinite postponement of presidential and legislative elections was issued. The **next elections** are currently a matter of debate between Hamas and Fatah.



## 13.3 Rule of Law

### ■ Legal Background/Legislation

On the legal level, the PA President issued his first decision on 20 May 1994, providing that **legislation and laws** that were effective before 5 June 1967 in the West Bank and Gaza Strip would remain effective and the PA Council (and then the Palestinian Legislative Council since 7 March 1996) assumed the power to promulgate legislation and Israeli military orders were annulled. Legislation is published in the Palestinian Official Gazette *Al-Waqae'*.

Palestine does not have a formal constitution; after decades of neglect under occupation, its legal framework is based on a confusing mixture of various historical **legal systems** (Ottoman, British Mandate, Egyptian, Jordanian, and Israeli), as well as **Shari'a law** and a **Basic Law**, which came into force on 7 July 2002 (amended in 2003 and 2005) and functions as a temporary constitution until the establishment of an independent State (for the various drafts of the Palestinian Constitution, see <http://www.palestinianbasiclaw.org>).

Due to Israel's imprisonment of PLC members (5, as of September 2018), the Fatah-Hamas conflict, and overdue elections, the **PLC** has been deficient since 2007. This - along with the fact that the **Palestinian National Council (PNC)** is virtually defunct (although it convened its 23<sup>rd</sup> session in Ramallah in 2018 after a 22-year lull, where Mahmoud Abbas was "re-elected" by proclamation as President of Palestine and Chairman of the PLO Executive Committee) - has adversely impacted the **law-making** process.

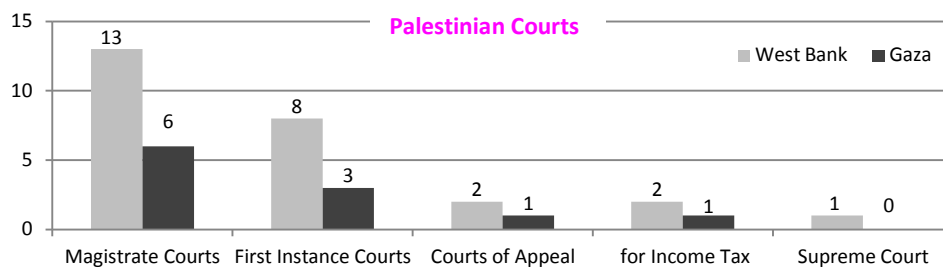
### ■ Judiciary

- The **PA court system** consists of the Supreme Court, Appeal Courts, First Instance Courts and Magistrate Courts. Specialized courts were established (e.g., the Anti-Corruption Court in 2010 and the Customs Court in 2011) as were specialized chambers within regular courts (e.g., for criminal, civil, or labor-related cases) (World Bank, *Sustaining Achievements in Palestinian Institution-Building and Economic Growth*, Sept. 2011). In 2010, a **High Judicial Council**, composed of senior judges, was established.
- In April 2016, President Abbas issued a Decree appointing nine judges to the **High Constitutional Court**, activating this court for the first time some ten years after its formal establishment by Law No. 3 of 2006. On 7 November 2016, the court ruled that President Abbas can revoke the parliamentary immunity of lawmakers, which will allow him to expel various political opponents.





- On 30 December 2017, President Abbas approved the **Law by Decree on the High Criminal Court** without being presented to the public for review. It has been criticized, *inter alia*, for interfering with the competences and independence of the Judicial Authority and violating provisions of the Basic Law. (For details see: <http://www.alhaq.org/images/thumbnails/images/stories/Images/1172.pdf>).
- There are currently the following courts in Palestine:



In addition, there is a corruption crimes court as well as a First Instance Court for Customs and a Court of Appeal for Customs. Source: PA High Judicial Council, 2015.

- In 2016, there were 197 **judges** in the West Bank (or 7.3 per 100,000 people), as well as 157 **public prosecutors** (5.7 per 100,000 people), 4,020 **registered lawyers** (150 per 100,000) and 2,200 **trainee lawyers** (*Justice and Security Monitor – A Review of Palestinian Justice and Security Sector Data 2011-2016*, Sawasya UNDP/UN Women Joint Programme, July 2018).
- Regular courts in the West Bank experienced a 33% increase in **incoming cases** between 2011 and 2016 and managed to maintain a **clearance rate** of incoming cases of 95% or above for the Court of Conciliation, the Court of First Instance and the Court of Appeal. However, there was a high **backlog of cases**: in 2016, the Court of Conciliation cleared only 62% of its cases, the Court of Appeal 73%, and the Court of First Instance 43% (or 33% of the criminal cases). With regard to Gaza, there is a lack of data. However, the Court of First Instance only cleared 10% of the total caseload (*Ibid.*).

### ■ (Human) Rights Violations in the PA

- According to B'Tselem, 698 **Palestinians** were **killed by Palestinians** (WB: 138, GS: 560) between 28 Sept. 2000 and Sept. 2018, 6 of them in 2018. Of the total, 134 were killed on suspicion of **collaborating** with Israel (WB: 109, GS: 25).
- Six laws regulate **death penalty** in the PA (3 penal codes, 3 procedural), four of which pre-date the formation of the PA in 1994. As of 5 August 2018 (since 1995), PA courts had issued 72 **death sentences** of which 13 were executed, and Hamas courts in Gaza had issued 97 death sentences (since 2007). The Hamas government executed 25 and Hamas military forces 14 (B'Tselem, [https://www.btselem.org/inter\\_palestinian\\_violations/death\\_penalty\\_statistics](https://www.btselem.org/inter_palestinian_violations/death_penalty_statistics)).
- The Independent Commission for Human Rights (ICHR) recorded 170 **non-natural deaths** (WB: 61, GS: 109) in 2017, including 46 children and 39 women. The recorded **female deaths** included 10 deaths due to not following public safety procedures, 5 deaths in household disputes, one death from suicide, 5 for medical negligence, and 18 unexplained deaths. The **children's deaths** included 8 unexplained deaths, 26 deaths due to not following public safety procedures, 8 deaths in household disputes, and one death in detention centers (ICHR, *Status of Human Rights in Palestine - 23<sup>rd</sup> Annual Report 2017*, December 2017).
- In 2017, the ICHR received **2,656 complaints** (WB: 1551, GS: 1,105), 28% of which were civil complaints and 72% security-related. There were 898 alleged **violations against the right to physical integrity** (WB: 351, GS: 547), including 155 cases of **physical or moral assaults** outside of detention centers (WB: 98, GS: 57), 571 cases of **physical torture** or threats **during custody** inside detention centers (WB: 203, GS: 368), and 172 cases of cruel, inhumane, and **degrading treatment** (WB: 50, GS: 122) (*Ibid.*).

- There were also 1,721 complaints on violating the right to **personal freedom and security** (WB: 887, GS: 834), including 808 cases of **arbitrary detention** (WB: 483, GS: 325), 72 cases of **house search** without a legal search warrant (WB: 35, GS: 37), 744 cases of **disrespect** of the rights of the detained persons (WB: 288, GS: 456), and 97 cases of **failure to enforce court orders** to immediately release the detained persons (WB: 81, GS: 16) (*Ibid.*).
- Another 67 complaints were on **violations against the freedom of opinion and expression** (WB: 37, GS: 30), 53 complaints on **violating the right to peaceful assembly** (WB: 16, GS: 37), 13 related to the **fair competition over employment** (WB: 10, GS: 3), 91 related to **administrative disputes** (promotion, retirement, financial entitlements) (WB: 76, GS: 15), and 15 complaints on **in-compliance with the legal norms** of suspension and dismissal, and firing from public posts in the West Bank, mostly on the grounds of political affiliation (*Ibid.*).
- During the first 8 months of 2018, the ICHR monitored at least 92 **unnatural mortality cases**, received 216 complaints on **torture and ill-treatment**, 101 complaints on the **violation of the right to proper legal procedures and fair trial**, 106 complaints on **extrajudicial arrest** on order of the governor, 32 complaints on **disrespect and non-implementation of court rulings**, 49 complaints on **violations of freedom of opinion, expression, media and peaceful assembly**, 12 complaints on **confiscating citizens' property** without a court order, as well as 21 complaints on **assault on public associations**, and documented 4 **death penalty rulings**.
- 2017 saw a **decline in the integrity of governance and public affairs management**. The number of PA employees decreased from 156,000 to 136,000 due to early retirement, which came within the framework of political rivalries. Complaints included that **tenders** were not subject to the Public Procurement Law or the Higher Procurement Council, that there was no transparency and competition in the **appointment of senior positions** or with regard to **public funds management** (e.g., rental, purchase and construction of new government premises, paying the salaries and allowances to the staff of a non-existent airline), and that the monitoring and accountability regarding **public service, public procurement, and medical errors** was weak (AMAN Coalition, *Tenth Annual Report "Integrity and Combating Corruption 2017"*, 2018).
- Of the **430 complaints and reports** to the Anti-Corruption Commission in 2017, only 38 cases (9%) were referred to the Prosecution, which in turn referred 21 cases to the Corruption Crime Court and dealt with 42 cases from previous years (*Ibid.*).
- Palestinian authorities have also been accused of **violating obligations** which Palestine had assumed in ratifying international treaties protecting free speech and other human rights. Human Rights Watch deplores the PA and Hamas' **suppression** of dissents, using arbitrary arrest, attacks on protesters, criminalization of criticism on social media, and **torture** to extract confessions and deter opposition (Human Rights Watch, *Two Authorities, One Way, Zero Dissent: Arbitrary Arrest and Torture Under the Palestinian Authority & Hamas*, 2018). The **Decree-Law No. 16** of 2017 on **cybercrimes** undermined the rights of human rights defenders; at least 29 mostly news-related websites were blocked and many activists were arrested for voicing their opinions via Facebook on account of "misuse of technology" (ICHR, *Status of Human Rights in Palestine - 23<sup>rd</sup> Annual Report 2017*, Dec. 2017). On 2 May 2018, the PA replaced the cybercrime-Law by Decree-Law No. 10, which omits some of the problematic provisions restricting freedom of expression, but is still being criticized.

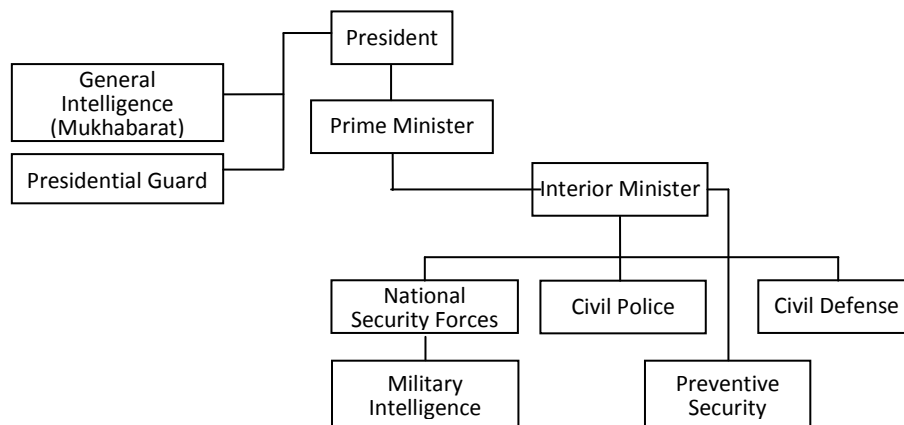
### 13.4 Police & Security

- The structure of the PA security apparatus was defined in the **Cairo Agreement** (4 May 1994) as a "strong police" that would exist for five years, by which time a final status would supposedly have been negotiated. The **number** of this force was set at 9,000, of which 7,000 were recruited from the Palestine Liberation Army (Diaspora) and 2,000 from the WBGS. All personnel required Israeli authorization and the PA police force was to be equipped with a maximum of 7,000 personal firearms, 120 medium and heavy machine guns, and 45 armored vehicles.



- **Oslo II** (28 Sept. 1995) added the task of preventing and combating violence and incitement of violence against Israel (Art. XII and XIV) and thus changed the structure of the PA security apparatus, to be composed of several branches (e.g., Civil Police, Public, Preventive and Presidential Security, Intelligence - Annex I, Art. II and IV). The number of policemen increased to 30,000, and eight official security services were created: Civil Police, Preventive Security, Civil Defense, National Security, Presidential Security, Military Intelligence, Naval Police and General Intelligence. Furthermore, four new security services were formed or put under formal control of an official agency while acting independently: the Special Security, the Military Police, the Border Police and the Special Forces.
- According to the ICHR, there were **65,527 PA security personnel** (=1,380 per 100,000 persons) in 2015, 31,752 of which in the West Bank (1,095 per 100,000 persons) and 33,775 in Gaza (1,825 per 100,000 persons) (ICHR, *The Status of Human Rights in Palestine*, 21<sup>st</sup> Annual Report 2015, 2016).
- According to the Geneva Centre for the Democratic Control of Armed Forces (DCAF), there were 83,276 **security personnel** in the WBGS in 2016, which is very high by international standards with a ratio of security personnel to the population of 1 to 48 (for comparison: in the US, the ratio is 260 policemen per 100,000 people and 4.6 active soldiers per 1,000 people). Of the total, 65,463 receive a **salary** from the **PA** (WB: 31,913, GS: 33,550) and 17,813 from the **Hamas** government in Gaza (quoted in Alaa Tartir, "How US security aid to PA sustains Israel's occupation", *Al-Jazeera*, 2 December 2016).

### Command Structure of the Palestinian Security Forces



- The **PA security** agencies are headquartered in Ramallah but have branches and detention/interrogation centers throughout the WBGS. On 26 Dec. 2017, President Abbas signed **Decree-Law No. 23 of 2017**, classifying the **police service** as a civil force, whose members would be held accountable before regular judiciary (ICHR, *Status of Human Rights in Palestine* - 23<sup>rd</sup> Annual Report 2017, Dec. 2017).
- Of the PA's total **budget** of 2017, 29% (or NIS 4,423,303) was spent for "**Security and Public Order**", of which 89% were expenditures of the **Ministry of Interior and National Security**, mainly for wages and salaries (80% of the Ministry's expenditures). In comparison: the Ministry of Local Government only received 5.6% of the budget for "Security and Public Order", the Supreme Judicial Council only 2.3%, and the Ministry of Justice only 1.3% (Ministry of Finance, <http://www.pmf.ps/documents/10180/961483/DEC+2017+ENG.pdf>).

### Crimes

- In 2016, there were 29,279 **recorded criminal offences** in the West Bank, including 33 cases of murder, 202 cases of attempted murder, 8 cases of rape, 112 cases of sexual assault and 7,515 cases of assault (738 of them of serious assault), and 5,039 cases of crimes relating to property. Some 86% of recorded criminal investigations were 'completed' (25,181) while 14% were under investigation (4,098) (*Justice and Security Monitor – A Review of Palestinian Justice and Security Sector Data 2011-2016*, Sawasya UNDP/UN Women Joint Programme, July 2018).



- In 2017, there were 32,647 reported crimes in the West Bank, including 948 **fraud offenses**, as well as 4,788 **thefts**, 1,444 **narcotic drugs offenses**, 7,100 **crimes against morality**, 8,460 **criminal assaults**, 3,143 **assaults on private and public properties**, 339 **murders** or attempted murders, 178 **kidnappings** or attempts, and 478 **arsons**. **Most crimes** were reported in the Hebron (18.1%) and Jenin (16%) governorates, the **least** in Tubas (2.4%) (PCBS, *Annual Crime Statistics*).
- In 2017, there were 3,845 **charges of persons in custody** (168 against women) and 3,559 of **convicted offenders** (129 against women). As of the end 2017, 563 **criminals** were in PA custody (29 of them women) (*Ibid.*).
- **Sexual and gender-based violence** remains a serious problem in Palestine, with 37% of women in the West Bank and 51% of women in Gaza experiencing violence. In 2016, 2,161 such cases involving women complainants were processed in the West Bank; of these, only 25% received a conviction (*Justice and Security Monitor – A Review of Palestinian Justice and Security Sector Data 2011-2016*, Sawasya UNDP/UN Women Joint Programme, July 2018).
- **Enforcement of civil cases** is overseen by the Civil Enforcement Department of the High Judicial Council. At the beginning of 2016, there was a backlog of approx. 153,000 cases in the West Bank. At the end of 2016, there were still 45,000 **pending criminal cases** (including traffic related cases) to be **enforced**. Some 81% of the incoming cases for civil enforcement concerned **debt-related issues**. In Gaza, there were approx. 68,000 pending enforcement cases from the Court of First Instance and the Court of Conciliation at the end of 2015 (*Justice and Security Monitor – A Review of Palestinian Justice and Security Sector Data 2011-2016*, Sawasya UNDP/UN Women Joint Programme, July 2018).

### 13.5 Negotiations

#### ■ Timeline

- The **Declaration of Principles** on Interim Self-Government Arrangements (DoP) of 13 **Sept. 1993** stipulated that negotiations would be conducted in two phases: a first 'transitional' or 'interim' period during which Israel would gradually withdraw from Palestinian areas in the WBGS in return for Palestinian guarantees, particularly on security-related issues, and a second phase to conclude a 'final status' agreement' by 4 May 1999. However, the date passed with no deal signed and, instead, a series of new agreements was drafted and signed, incl. the *Agreement on the Gaza Strip and the Jericho Area* (Oslo I, 4 **May 1994**), the *Palestinian-Israeli Interim Agreement on the West Bank and the Gaza Strip* (Oslo II, 28 **Sept. 1995**), the *Protocol Concerning the Redeployment in Hebron* (**Jan. 1997**), the *Wye River Memorandum* (Oct. 1998) and the *Sharm El-Sheikh Memorandum* (**Oct. 1998**).
- In **July 2000**, the US called for a three-way summit to achieve an agreement on final status issues. However, the **Camp David** Summit ended on 26 July 2000, after 15 days of talks, without success. To overcome the post-Camp David deadlock, a US '**Bridging Proposal**' in Nov. 2000 proposed Israeli withdrawal from 90% of the West Bank and several solutions for the final status issues, based on which talks were conducted in **Jan. 2001** in **Taba**. However, they failed to reach an agreement, as did the **June 2001 Ceasefire and Security Plan** proposed by CIA Dir. George **Tenet**.
- In **Feb. 2002**, Saudi Crown Prince Abdullah announced his proposal of "normal relations" with Israel for a full withdrawal of Israeli troops from the OPT, recognition of a Palestinian state and the refugees' right to return. The **Saudi initiative** was adopted by the Arab League in Beirut in **March 2002** and has been reiterated since then.
- In **Dec. 2002**, the so-called Quartet of mediators - the US, the UN, the EU and Russia - presented a new draft peace plan ('*Performance-based and Goal-driven Road Map*'), which - formally launched in **April 2003** - aimed at a "final and comprehensive settlement of the Israel-Palestinian conflict by 2005," based on a full two-state solution, starting with an end to Palestinian terrorism and a freeze on Israeli settlements and other steps to normalize conditions, but lacked a timetable.



- In late **2003**, the so-called **Geneva Accord**, an unofficial extra-governmental peace proposal, offering a draft permanent status agreement to solve the conflict, made headlines.
- In **2004**, then Israeli PM **Sharon** introduced Israel's **unilateral disengagement plan** ending effectively the era of talks and attempts to negotiate a solution. The Israeli cabinet passed a revised version of the plan on 6 June 2004 and it was enacted in **Aug./Sept. 2005** through the removal of all settlement/military installations in the Gaza Strip and of four settlements in the northern West Bank.
- With Hamas forming the PA unity government in **March 2006** - following the second PLC elections two months earlier - Israel suspended all remaining contacts with the PA. Meetings between Pres. Abbas and PM Olmert resumed after the Palestinian national unity government was dissolved following the near civil war and Hamas takeover of Gaza in June 2007, but with no results.
- The US-mediated **Annapolis conference** on 27 **November 2007** was meant to re-launch the direct talks but only produced a "joint understanding" regarding further negotiations, the (unrealistic) goal of a peace treaty by the end of 2008, and a commitment to implement Road Map obligations.
- The Arab summit in Damascus in **March 2008** renewed the 2002 **Arab Peace Initiative**. On 27 **Dec. 2008**, the PA halted all negotiations in protest of Israel's massive 'Operation Cast Lead' in Gaza.
- Taking office in **January 2009**, new US President Obama made the peace process one of his top priorities. Netanyahu, returned to power in Israeli elections in **March**, stressed his conditions, including a demilitarized Palestinian state and recognition of Israel as the homeland of the Jewish people, while the PA insisted on a complete settlement freeze. In November, Netanyahu announced a partial 10-month freeze and Abbas - under US pressure - agreed to **resume talks**.
- On 3 **March 2010**, the Arab League's Follow-Up Committee on the Arab Peace Initiative endorsed four months of "**proximity talks**" with Israel, which allowed Pres. Abbas to resume negotiations without his demands on settlements being met. Talks began on 9 May and on 29 July, the Committee agreed to support **direct Palestinian-Israeli talks**, which resumed in September. However, the end of Israel's settlement moratorium on 26 September brought all activity to a halt.
- After a round of meetings in Tel Aviv and Ramallah, the Middle East Quartet declared In **March 2011**, that they held little hope for the resumption of talks as the differences between the two sides were far too wide and the Arab Spring as well as the Iran issue came to dominate.
- In early **January 2012**, Israeli and Palestinian negotiators met for the first time in over a year in Amman, but failed to revive peace talks. In May, Israeli Defense Minister Barak suggested bypassing the stagnant talks with "an interim agreement, maybe even unilateral action" by imposing the borders of a future Palestinian state. Despite Israeli and US opposition, the Palestinians distributed a draft resolution to the UN on 8 November seeking 'non-member state' status. Israel warned that it would consider partial or full cancellation of the Oslo Accords if the resolution was adopted.
- On 31 **July 2013** renewed peace talks were launched in Washington D.C. with an initial time-frame of 6-9 months to discuss all the final status issues. US Sec. of State Kerry held a first meeting on 13 August and talks continued in the following months but with no progress.
- Despite US efforts in early **2014**, the parties failed to achieve a guiding framework for continued negotiations, *inter alia* due to ongoing settlement expansion and Israel's failure to release the agreed fourth tranche of prisoners. An outline for an agreement was envisioned by 29 April 2014, but Israel suspended negotiations after Hamas and the PLO signed their unity accord a week earlier, stating that it would not negotiate with any Palestinian government "backed by" Hamas. Throughout the year, Palestine has acceded to 15 international treaties and conventions. The only talks held were those on an Egypt-brokered ceasefire following the Gaza War, which came into force on 26 August 2014.



- During **2015**, the Israeli-Palestinian negotiations remained **stalled** amid a fragile security situation, in which the PLO decided in March 2015 to suspend all forms of security coordination with Israel over unsuccessful talks on the PA's security control over Area A. Israel's settlement policy remained an impediment to overcoming the current impasse.
- **2016** has seen some international efforts to advance talks. On 17 May, **Egyptian** President Al-Sisi called on regional leaders to take historic steps for peace, and on 3 June, **France** hosted a meeting of 28 delegations which reaffirmed support for a two-state solution and discussed ways how to contribute to it. On 1 July, the **Middle East Quartet** issued a report outlining key threats to the two-state solution and urging the parties to make progress towards a two-state reality.
- On 15 January **2017**, over 40 foreign ministers and senior diplomats from 75 countries gathered in **Paris** for an **international conference** convoked by France in yet another attempt to mobilize the international community in support of the peace process. Neither Israelis nor Palestinians participated. At the close, a Joint Declaration reaffirmed once more the two-state solution as the only way to achieve enduring peace was issued.
- For a **list on outstanding negotiation issues** and the respective Palestinian and Israeli positions, see the factsheets section on PASSIA's website (<http://passia.org/publications/257>).

### ■ **Palestinian Unity (Talks)**

Since the Hamas takeover of the Gaza Strip in **2007**, a series of reconciliation agreements have attempted to rebuild a unified Palestinian political system, but so far unsuccessfully. On 4 May **2011**, after four years of bloody infighting and numerous rounds of talks mediated mainly by Egypt, Fatah and Hamas signed, along with other main factions, a reconciliation agreement in Cairo. The deal provided, *inter alia*, for the creation of a joint caretaker government and elections within a year, but other key issues, such as reforming the security forces, remained unsolved. In Doha in February **2012**, President Abbas and Hamas politburo chief Khaled Ma-shaal agreed to form an interim government of independent technocrats to be headed by Abbas (as Prime Minister) and oversee elections and Gaza's restoration. However, some Hamas leaders rejected the agreement. Further talks reached "a deadlock" after Hamas prevented the Central Elections Commission from updating the Gaza voter registry in July and boycotted the local elections in October. While the November 2012 Israeli military operation in Gaza, the growth of Israeli extremism, and the successful UN bid seemed to increase the prospects for unification, with both factions announcing reciprocal amnesty of political prisoners and the rapid resumption of unity talks, events in the region dealt a sharp blow to rapprochement, with Hamas and Fatah adopting starkly opposite stands *vis-à-vis* the military coup in Egypt.



Talks nevertheless continued and on 23 April **2014**, the PLO and Hamas signed a unification accord in Gaza, providing for an interim government of national consensus and the holding of elections. On 2 June 2014, President Abbas swore in a new government headed by Prime Minister Rami Hamdallah. However, due to the Israeli assault on Gaza that summer, no further steps were taken. The rift deepened with Hamas' objection to the PA's appointment of four new ministers in the July **2015** "consensus government". Reconciliation talks continued in Qatar in February and May **2016**, but achieved no progress on forming a national unity government and organizing new elections.

Talks resumed on 15-17 January **2017** in Moscow, where both sides agreed to establish a unity government, to include Hamas and the Islamic Jihad in the PLO, and to form a new Palestinian National Council accordingly. In May, Hamas announced its **new charter**, *inter alia* accepting a Palestinian state along the 1967 border, and its Shura Council elected Ismail Haniya as new head of the politburo. After more talks in Cairo, Hamas announced on 17 September 2017 its readiness to dissolve its administration in Gaza, hold general elections and direct reconciliation talks with Fatah, and on 12 October 2017 an Egyptian brokered agreement was reached to this end.

During **2018**, discussions were renewed in successive rounds of talks, but implementation of the agreement remains stalled and the PA has not taken steps to resume its responsibilities in Gaza. The **key unresolved issues** are: the PA's insistence on having a monopoly on force in Gaza (i.e., disarming Hamas), return of the public land in Gaza that Hamas confiscated from the PA; restoring Fatah members to the public-sector jobs they held before Hamas seized power in 2007, and to reinstate the PA legal system in Gaza instead of the religious legislation Hamas introduced.



### 13.6 State of Palestine

Four days after the proclamation of the Palestinian Declaration of Independence at the 19<sup>th</sup> PNC session in Algiers on 15 November 1988, 46 countries had recognized the State of Palestine and by the end of that year the number had reached 82. As of August 2018, **137 of the 193 UN member states** (most recently by Colombia in August 2018) as well as two non-member states (the Holy See and the Sahrawi Arab Democratic Republic) have **recognized** the State of Palestine.

On 29 November 2012, the UN General Assembly voted with 138 in favor, 9 against (=Canada, Czech Republic, Israel, Marshall Islands, Micronesia, Nauru, Palau, Panama & US) and 41 abstentions to "accord to Palestine non-member observer State status in the United Nations" (Resolution 67/19). On 12 December 2012, Palestine informed the UN Secretary-General that the designation "State of Palestine" should be used in all official documents, although this does not preclude the use of the term "occupied Palestinian territory". This has been the case since the Secretary-General's report on the "Status of Palestine in the United Nations" (A/67/738) of 8 March 2013.

In 2017, Palestine joined the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 2002 (ICHR, *Status of Human Rights in Palestine* - 23<sup>rd</sup> Annual Report 2017, December 2017).

In July 2018, the Asian Group at the UN unanimously endorsed Palestine to be the next **chair** for the **Group of 77** (the largest bloc of 135 developing nations), starting in January 2019. On 15 October, the UN General Assembly formally voted in favor of Palestine as head of the G77 and China, thereby allowing it to act more like a full UN member state during meetings in 2019.

Palestine is a **full member** in the following **regional** or **international bodies**: Arab League, Non-Aligned Movement (NAM), Organization of Islamic Cooperation (OIC), Group of 77, Interpol, and UNESCO.

To date, the State of Palestine has signed some over 60 **international conventions** and **multilateral treaties** (for a full list see <http://passia.org/publications/257>).

#### Recommended Research Sources:

<a href="http://www.courts.gov.ps">http://www.courts.gov.ps</a>	<a href="http://www.nad.ps">http://www.nad.ps</a> (Negotiations Dept.)
<a href="http://www.mofa.ps">http://www.mofa.ps</a> (Foreign Affairs Ministry)	<a href="http://www.palestinianbasiclaw.org">http://www.palestinianbasiclaw.org</a>
<a href="http://lawcenter.birzeit.edu">http://lawcenter.birzeit.edu</a> (BZU, Law Center)	<a href="http://www.elections.ps">http://www.elections.ps</a> (Election Commission)
<a href="http://www.ichr.ps">http://www.ichr.ps</a> (Indep. Commission f. Human Rights)	<a href="http://www.nsf.ps">http://www.nsf.ps</a> (National Security Forces)
<a href="http://www.eupolcoppes.eu">http://www.eupolcoppes.eu</a>	<a href="http://www.aman-palestine.org">http://www.aman-palestine.org</a>
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UNDP/UN Women Joint Programme, July 2018.