# **Government**

### 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 super-imposed 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. Most of the legislation passed by the parliament during 1950-1967 is still in force. In Gaza, most Ottoman and British laws remained in force with only few reforms launched; in 1955, Egypt issued a Basic Law for Gaza, and in 1962, a Constitutional Order.

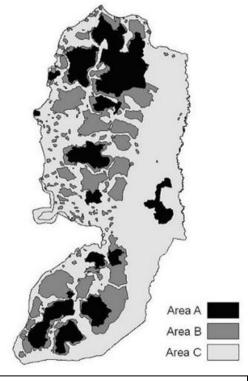
**1967-1993**: In the course of the 1967 June War, Israel occupied the Palestinian territories, annexed 70 km² (mainly East Jerusalem area), abolished the West Bank court system, assumed legislative, executive and judicial powers, imposed its military administration, and introduced over 2,000 military 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 Accords divided the West Bank into three zones: Areas A, B and C:

- In Area A (17.7% 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 (18.4%), the PA has civil authority and responsibility for public order, while Israel maintains a security presence and 'overriding security responsibility'.
- In Area C (59.6%), Israel is still under full control.
- The remaining 4.3% of the West Bank are nature reserves, annexed East Jerusalem, and Hebron's H2).

(PCBS, Press Release on the 71st Annual Commemoration of the Palestinian Nakba, 13 May 2019).

On 24 September **2019**, the State of Palestine has formally delineated its **maritime boundaries** – with the territorial sea extending to 12 NM from the Gazan coast baseline and the contiguous zone to 24 NM – as well as its **Exclusive Economic Zone**, which extends from the coastline to up to 200 NM.



As of 2022, the entire Palestinian territory remains under occupation and has not achieved independent statehood.

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.

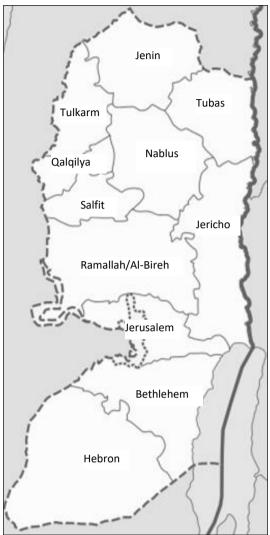
Municipal and village councils have existed in Palestine since the British Mandate. In June 1967, the Israeli occupation au-

thorities limited their powers and solidified their control over policies and budgets; the Arab Jerusalem Municipality Council was dissolved. Since the arrival of the PA, the municipal and village councils took over administrative responsibilities (e.g., electricity, waste disposal, planning and building control, maintenance, control of public markets, schools, roads). Prior to this, municipal elections were only held in Gaza in 1946, in the West Bank in 1976, and in Jerusalem in 1965. PA local

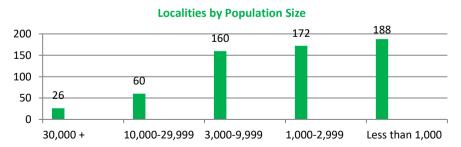


**PA elections** were held in 2004-05, 2012, May 2017, and the next are due in 11 December **2021** and 26 April **2022** (see 13.2. below for details).

#### **PA Governorates**



In total, there are **613 Palestinian localities**, 580 in the West Bank (including 21 in Israeli-annexed East Jerusalem), and 33 in Gaza (PCBS, *Migration Atlas*, May 2020). Of the total, 42 have 20,000 or more and 440 had less than 5,000 **inhabitants**. Almost one third - 31% - has less than 1,000 inhabitants (PCBS, *General Census 2017: Final Results Summary*).



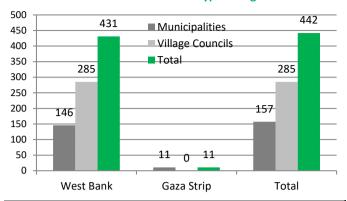
Source: PCBS, Population, Housing and Establishments Census 2017: Census Final Results Summary, May 2018.



The state of Palestine is divided into **442 Local Government Units - 172 municipalities** and **285 village councils** - all of which function according to the regulations of the Ministry of Local Government and the 1997 Law on Local Authorities (last amended in 2016).

In 2019, there were **4,240 members of local public sector institutions** (WB: 3,994, GS: 246), 20% of which were women (all West Bank, mostly in village councils) (PCBS, *Women in Decision-Making Positions*, September 2020).

### **Local Government Units - Type & Region**



Source: Central Election Commission, 2021 Local Elections.

### **■ Public Sector**

- Public Administration and Defense contributed 12.2% to the mid-2022 GDP (excl. East Jerusalem), making it the third largest contributor (after wholesale/trade/repair and services). In the West Bank, it was with 9.9% contribution to the GDP the fourth largest, in Gaza with 22.6% the second largest (PCBS, Quarterly National Accounts, Q2-2022).
- In 2021, **expenditures** for the **governance sector** totaled NIS 8,24 billion (=51.1% of the total PA budget), of which about 43.1% was for salaries and wages, and only 3.2% for development. Of the total, most was spent by the Ministry of Interior & National Security (43.1%), by Retirees Pension Allowances (25.8%), and PLO Institutions (10.6%) (Ministry of Finance, monthly report for December 2021).
- At 13% in 2021, the **public sector wage bill** in Palestine is much higher than the average for comparable economies in the region and grew by a further 13.2% since last year (The Portland Trust, *Palestinian Economic Bulletin No. 190*, June 2022).
- By June 2022, 19.3% of those employed worked in the **public sector** (WB: 14.9%, GS: 32.4%) as compared to 59.1% in the **private sector** (WB: 58.4%, GS: 61.1%). Calculated on the basis of PCBS figures (=1,099,200 full employed people by June 2021), the total **number of public sector employees** was 212,146 (PCBS, *Labor Force Survey*, Q2-2022).
- In Gaza, estimates put the number of Hamas civil servants at 40,000 in late 2021, about half of which were security personnel (Mughrabi, N. "Hamas official says Qatar enables fuel-to-cash scheme for Gaza civil servants," *Reuters*, 22 Nov. 2021).

# 2. Elections

# ■ Election framework

Eligible voters for PLC and presidential elections: must be residents of Palestine, including Jerusalem, aged 18+ years on polling day, have lived at least one year in the OPT, not hold Israeli citizenship, and be registered in the final voters' registry. Palestinians living overseas are not eligible to vote. As of 2021, the total number of eligible voters had reached 2.8 million people (CEC).

<u>Eligible PLC candidates</u>: must be at least 28 years old, permanent residents of the OPT, not convicted of a crime or felony, have resigned from potential ministerial, state, NGO or public body positions, and commit to the Amended

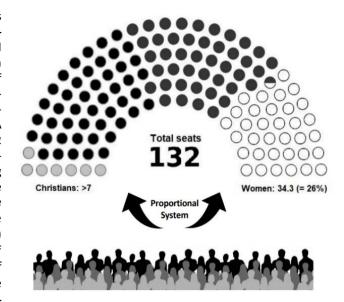


Basic Law of 2003. They must submit a list of 3,000 eligible voters and a \$20,000 bank deposit. In **2021**, 1,391 candidates were listed, 29% of them women.

<u>Eligible presidential candidates</u>: must be aged 35+ years old, submit a certificate of no criminal record, and have a list of 5,000 voters intending to support them.



Election Law & 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% guota of seats was allocated to women. On 2 September 2007. President 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. Currently, provisions for the holding of general (presidential and legislative) elections are laid down in Decree Law No. 1 of 2021, amending Decree Law No. 1 of 2007 of General Elections, and the Election Law by Decree of 2007. Main features are the closed list propor-



**tional representation** system for PLC elections (i.e., the share of seats a party wins matches the share of votes it receives) and the two-round system for presidential elections. For the PLC, there is a 1.5% entry **threshold**, a 26% quota for **female representation**, and at least 7 seats for **Christians**.

### ■ Past Election Results:

#### The 2005 Presidential Elections:

From the establishment of the PA until the death of President Yasser Arafat in November 2004, only one election took place in 1996. The next one, scheduled for 2000, was delayed due to the outbreak of the Al-Aqsa Intifada. After the death of Arafat, seven candidates contested in the presidential elections on 9 January 2005, which PLO leader Mahmoud Abbas won with 62.3% of the votes (Mustafa Barghouthi came second with 19.8%).

### The 2006 PLC Elections:

Elections for a new PLC took place on **25 January 2006**. The Central Elections Commission had registered **1,268,721 eligible voters** (WB: 775,640, GS: 493,081).

### ■ Next Elections:

**Presidential elections** were due in January **2009**, when according to the PA's Basic Law President Abbas' 4-year term finished; however, Abbas announced their postponement in November 2009, and on 16 December 2009, the PLO Central

Past Prime Ministers	s Tenure
Mahmoud Abbas	19 March-7 Oct. 2003
Ahmad Qrei'a	7 Oct. 2003-15 Dec. 2005
Nabil Sha'ath	15 Dec24 Dec. 2005
Ahmad Qrei'a	24 Dec. 2005-19 Feb. 2006
Ismail Haniyeh1	19 Feb. 2006-June 2007
Salam Fayyad	June 2007-June 2013
Rami Hamdallah	June 2013-January 2019
Doet Duccidente	

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

Dismissed from office by President Abbas on 14 June 2007 at the height of the Fatah-Hamas conflict.

<u>President</u>: Mahmoud <u>Prime Minister</u>: Mohammed Abbas (15 Jan. 2005-) Shtayyeh (April 2019-)





Council extended his term until new elections are held. On 22 January 2010, a Presidential Decree on the indefinite postponement was issued. On 12 December 2018, the PA's Constitutional Court dissolved the PLC and requested the President to call elections within six months. On 29 January 2019 the government of then Prime Minister Rami Hamdallah submitted its resignation and on 10 March Abbas named Fatah Central Committee member Mohammed Shtayyeh as new Prime Minister. On 24 June 2019, the PA's Supreme Constitutional Court (SCC) ruled that all decisions, decrees, actions, etc., that have been issued by Abbas since the 2009 expiry of his term are null and void. In September 2019 at the UN, President Abbas renewed his pledge to hold elections in 2020, but only issued a decree to this end on 15 January 2021, announcing the vote for PLC on 22 May, for Presidency on 31 July, and for the Palestinian National Council (PNC) on 31 August 2021. A quota for women was set at 26% (~ 34 of the 132 seats) and for Christians at "at

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least" 7 seats. Of the 2.8 million eligible **voters** 93% registered and there were 36 electoral **lists** (7 by political parties and 29 independent lists) and 1,391 **candidates**, 29% of whom female. However, on 29 April 2021, President Abbas announced the elections' **indefinite postponement**, citing Israel's refusal to allow them to be held in East Jerusalem.

### ■ Local Elections:

The **first** ever PA **municipal** elections took place in rounds between December **2004** and December **2005**. **Hamas** contested for the first time and scored high. The **second local elections** took place during October-December **2012** and the **third** on 13 May **2017**, both in the West Bank. Hamas, Islamic Jihad, and the PFLP boycotted the 2012 and 2017 polls. The PA decided to **re-run local elections** in 17 West Bank localities on 13 July **2019**; the total number of voters was 17,238, and 97% of the votes were valid. The **fourth** round of local elections took place in two phases on 11 December **2021** (376 authorities in Area C) and 26 March **2022** (11 Gaza and 55 West Bank Area A and B municipalities). In November 2021, 715,413 voters had registered and 765 electoral lists were accepted (488 independent lists and 277 from political parties). **Voter turnout** was 66.1%% in the first and 53.7% in the second phase, and 97% of the ballots were **valid**. **Independent lists** won 70.86% (of a total of 1,503 seats) in the first and 64.4% (of a total of 632 seats) in the second phase the (CEC).

# 3. Rule of Law

# ■ Legal Background/Legislation

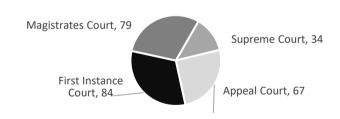
On 20 May 1994, then President Arafat issued his first decision providing that **legislation and laws** that were effective before 5 June 1967 in the West Bank and Gaza Strip would remain effective and the PA Council (and from 7 March 1996 the elected Palestinian Legislative Council) assumed the power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



Palestine's legal framework is based on a 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). The PLC has not had a regular sitting since 2007, adversely impacting the **law-making** process.

# Judiciary

• The PA court system consists of the Supreme Court, Appeal Courts, First Instance Courts and Magistrate Courts, as well as specialized courts (e.g., Anti-Corruption Court, Customs Court) and chambers within regular courts (e.g., for criminal, civil, or labor-related cases).

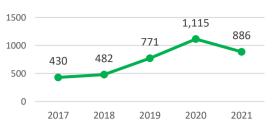


- In 2020, there were 265 **judges** in Palestine, 51 of them female. Besides the Chief
  - Justice (of the Supreme Court), they were distributed among the courts as follows (PCBS, Security and Justice Statistics):
- In 2020, there were 188 public prosecutors (WB: 154, GS: 34), 38 of them female (Ibid.).
- In 2021, there were 9,548 **practicing lawyers** in Palestine (WB: 7,022, GS: 2,436), 29.5% of them female, as well as 4,986 **lawyer trainees**, 41.8% of which female (*Ibid.*).



- In 2021, there were 74 Judges in the Islamic Sharia Courts (WB: 45, GS: 29), 4 of them female, and 6 legitimate Sharia Prosecutors in the West Bank, 4 of them female. Sharia Courts had to deal with a total of 38,849 court matters (WB: 21,024, GS: 17,825) (lbid.).
- In 2021, Anti-Corruption Commission received 1,115 complaints and reports on corruption (wasta, favoritism, breach of trust, abuse of power and abuse of position) a 20.5% decrease over 2020. Of the total, 53% were against the public sector, 34% against local

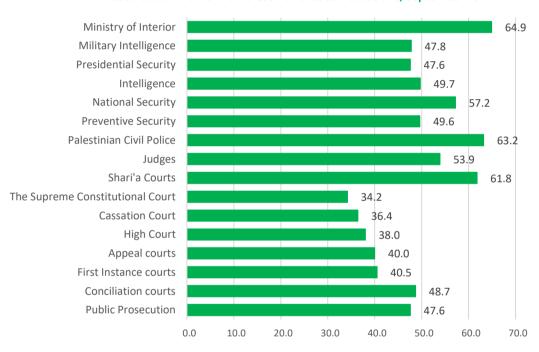
### **Corruption Complaints**



**government** units, and 13% against **others** (e.g., civil society organizations, private sector unions, etc.) (AMAN, *The State of Integrity and Combating Corruption in Palestine 2021*, March 2022; previous years).

- In 2021, the ICHR received 123 complaints against the High Court of Justice and 53 against public prosecution (ICHR, The Situation of Human Rights in Palestine, 27th Annual Report 2021, Ramallah, 2022).
- In 2021, there were 8,938 cases of **tribal justice** in Gaza, mostly dealing with quarrels (44.3%), followed by financial (20.3%) and family disputes (18%) PCBS, Security and Justice Statistics).

### Satisfaction with formal Palestinian Justice Institutions, September 2021



Source: PCBS, Rule of Law and Access to Justice Survey 2021 - Main Findings, January 2022

# ■ (Human) Rights Violations in the PA

- According to B'Tselem's database, 742 Palestinians were killed by Palestinians, mostly during hostilities (WB: 147, GS: 594, Israel: 1) between 28 Sept. 2000 and August 2022. An additional 135 were killed on suspicion of collaborating with Israel (WB: 109, GS: 26).
- Death penalty is regulated in the PA via six laws (3 penal codes, 3 procedural), four of which pre-date the formation of the PA in 1994. According to B'Tselem, as of mid-September 2021, PA courts had issued 72 death sentences since 1995, the last one in 2015. In total, 13 were executed, the last in 2005. Hamas in Gaza issued 143 death sentences since 2007 13 of them in 2022, of which 5 were carried out in September, bringing the total number of Hamas executions to 44 (B'Tselem, Database; https://www.timesofisrael.com/hamas-excuses-5-palestinians-in-gaza-including-2-for-collaboration-with-israel/).

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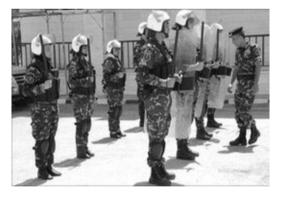
- In 2021, the ICHR received 2,592 **complaints** (WB: 1,602, GS: 990) from Palestinian citizens regarding rights violations, marking a 26.4% increase over 2020. Of the total, 1,030 were against **civil** and 1,562 against **security** entities, mainly (70%) against the police (PCBS, *Governance Statistics*).
- In 2021, the ICHR documented 2,531 **rights violations** in the WBGS, most of them violating the right to the due process of law (790) and the right to physical integrity (445), of which 65% involved torture and threats (ICHR, *The Situation of Human Rights in Palestine, 27<sup>th</sup> Annual Report 2021*, Ramallah, 2022).
- In 2021, the ICHR received 2,347 complaints against government bodies (WB: 1,463; GS: 884). Most were against the Civil Police (Investigations, Anti-Drugs) (969), followed by Police/Correction & Rehabilitation Centers (233), and the Ministry of the Interior (185) (*Ibid.*).
- The ICHR also received 376 complaints regarding **arbitrary arrest** and **unlawful detention** (WB: 279, GS: 97), 109 of them for exercising the freedom of expression. Of the total, 154 were detained without a legal warrant, 16 with no reason given, 58 without being brought before a competent court, 6 without chance to communicate with the outside world, and 41 were held in administrative detention. (*Ibid.*).

### Crimes

- In 2021, there were 1,392 **convicted criminal prisoners** in Rehabilitation Centers in the West Bank, 86 of them female. Main charges included financial obligations (42.3%), drug use or trading (16.9%), and theft (9%). In addition, there were 1,496 **detained persons** on criminal charges, including 108 women (PCBS, *Security and Justice Statistics*).
- In 2021, 45 cases of homicides (9 female victims) and 22 suicides (6 female) were reported (ibid).
- In 2020, 1,370 juvenile offenders entered reformatory institutions in Palestine (WB: 194, GS: 1,176), including 28 girls. The most common offense was burglary/theft (44%) (*Ibid.*).
- In 2021, the ICHR documented 151 cases of unnatural deaths (36 of them women), mostly for failure to implement public safety measures (42 cases) and in family feuds (32). Of the total, 16 were suicides (ICHR, The Situation of Human Rights in Palestine, 27th Annual Report 2021, Ramallah, 2022).

# 4. Police & Security

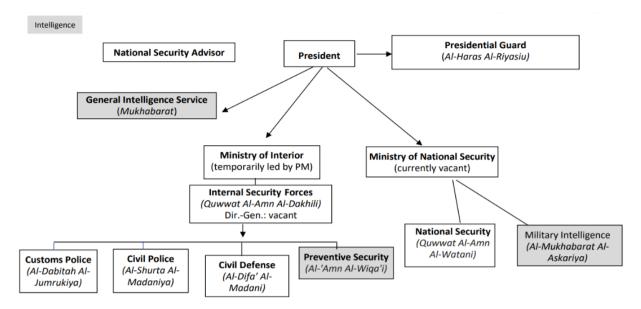
- The structure of the PA security apparatus was defined in the 1994 Cairo Agreement as a "strong police" that would exist for five years, by which time a final status was to have been negotiated. The number of this force was set at 9,000, of which 7,000 were recruited from the Palestine Liberation Army (Diaspora) and 2,000 from the OPT. All personnel required Israeli authorization.
- Oslo II (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), and increased the number of policemen to 30,000.



- In 2021, **expenditures** for the **governance sector** totaled NIS 8,3 billion (=51% of the total PA budget), of which 43% (or NIS 3,56 billion) was for the **Ministry of Interior and National Security**, mainly for salaries and wages (77.4%). In contrast: the Ministry of Justice only received 0.8% of the governance budget, the Foreign Ministry 0.85% (Ministry of Finance, monthly report for December 2021).
- Currently, the PA operates **several security forces** as illustrated below:

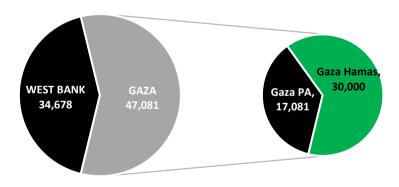


### Formal Command Structure of the Palestinian Authority Security Forces (PASF)



• As of February 2021, the **PASF** numbered over **51,759** personnel (Organization and Administration Commission), accounting for about half of the public sector employees and forming one of the highest ratios of security personnel to civilians worldwide. About one third of the forces are posted in **Gaza**, where they receive a salary but are not on active duty since the Hamas takeover in 2007. **Hamas** runs its own security apparatus divided into **internal security** (civil police, guards and protection), **internal intelligence**, **civil defense** and **national security** and estimated at **30,000 forces** ("Israeli commander says Hamas has amassed vast arsenal," *AP*, 11 Feb. 2021).

# Distribution of PA and Hamas Forces in the West Bank and Gaza, 2021

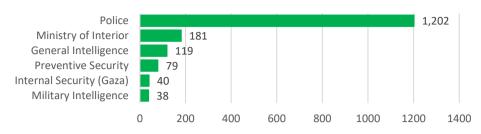


Source: Palestinian Security Forces, PASSIA Bulletin, 2021.

- In 2021, there were **9,213 police forces** in West Bank police stations, 71% of whom had 10+ years of experience and 7.2% less than a year. Of the total, 534 (5.8%) were **female** and 29.4% were 29 **years** old or younger (PCBS, *Security and Justice Statistics*, 2021).
- In 2021, Palestinians complaints with the ICHR against security forces increased by 36.4% over 2020 to a total of 1,562, distributed as follows:



# Citizen Complaints Submitted to the ICHR Against Security Forces, 2021



Source: Independent Commission for Human Rights (ICHR), Annual Report 2021.

A poll on citizens' perception of security sector governance showed a 14% decline in general satisfaction with the performance of the security sector over 2021 and of 18% over 2020, and a 12% and 10% decline regarding the security services respect for freedoms and human rights (Aman, The extent of citizens' satisfaction with security sector governance - West Bank, February 2022).

# 5. State of Palestine

Four days after the proclamation of the Palestinian Declaration of Independence at the 19th PNC session in Algiers on 15 November 1988, 46 countries had recognized the State of Palestine and by the end of that year 82. As of October 2022, 138 of



the 193 UN member states (most recently by Saint Kitts and Nevis in July 2019) 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 138:9 (= Canada, Czech Republic, Israel, Marshall Islands, Micronesia, Nauru, Palau, Panama & US) and 41 abstentions to grant Palestine non-member observer State status (Resolution 67/19). Since the Secretary-General's report on the "Status of Palestine in the United Nations" (A/67/738) of 8 March 2013, the designation "State of Palestine" was used in official documents, although this does not preclude the use of the term "occupied Palestinian territory". During a UN Security Council session on 26 July 2022, Palestine renewed its calls for full membership in the UN.

As of 2021, Palestine was a full member in 21 international organizations, including Arab League, Non-Aligned Movement, Organization of Islamic Cooperation, Group of 77, Interpol, and UN, and had signed over 98 international conventions and multilateral treaties (Ministry of Foreign Affairs and Expatriates).

### **Recommended Research Sources:**

http://www.aman-palestine.org

http://www.elections.ps (Election Commission)

http://www.mofa.ps (Foreign Affairs Ministry)

http://www.eupolcopps.eu

https://www.marsad.ps/en/ (Pal. security sector observatory) http://www.pal-plc.org (Pal. Legislative Council)

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