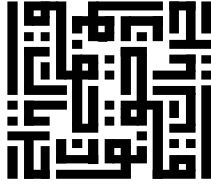


**The Status of Human Rights
in Palestine**

The Thirteenth Annual Report

Executive Summary

1 January 2007 -31 December 2007



**THE INDEPENDENT
COMMISSION FOR HUMAN RIGHTS**

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Executive Summary

Addressing various aspects of the status of human rights in Palestine (herein after Palestinian-controlled territory), the Thirteenth Annual Report of 2007, released by the Independent Commission for Human Rights (ICHR), is comprised of three parts and three annexes. Part I presents an overview of the political environment and changes introduced to the status of human rights in the PNA-controlled territory, including effects on the performance of the Executive, Legislative and Judicial Authorities, as well as the impact of Israeli violations. Part II addresses the status of certain rights and freedoms by monitoring relevant violations. Finally, Part III sheds light on the ICHR's role and activities in consolidating the protection of human rights and freedoms by following up on complaints and observing conditions of prisons and detention facilities.

Below is a summary of major issues addressed in the three parts, as well as a brief description of the three annexes under the ICHR's Thirteenth Annual 2007 Report:

Part I: Political Environment and Changes in the Status of Human Rights in the PNA-Controlled Territory

Part I consists of two chapters: (1) The Political Environment and Associated Impact on Human Rights; and (2): Performance of the Palestinian National Authority (PNA), the Three Authorities and Relevant Impact on Human Rights. Below is an abstract of major issues highlighted in these chapters:

Chapter (1): Political Developments and Associated Impact on Human Rights

In this Chapter, ICHR elaborates on political developments throughout 2007 and their consequences on the fundamental rights and freedoms of citizens. The Chapter overviews internal developments throughout the PNA-controlled territory in 2007, the legal status of the state of emergency, responsibility of both the PNA and *de facto* authority in the Gaza Strip since mid-June 2007, and the impact of Israeli human rights violations on PNA performance.

In 2007, ICHR noted that the Palestinian political scene was affected by three main variables. Due to political instability, regional and international interventions and Israeli occupation authority practices, the Palestinian political system was subject to major fluctuations and

frequent changes in the subsequent Palestinian governments. Secondly, internal fragmentation intensified and efforts made to achieve national unity between Palestinian factions receded. Once more, internal disputes have been settled by the use of force and armed confrontations. Thirdly, political and territorial fragmentation between the West Bank and Gaza Strip has further solidified. A *de facto* authority, led by the Islamic Resistance Movement (Hamas), has seized control of, and now exercises powers over, the Gaza Strip. Continuing to operate in the West Bank, the PNA also carries out some of its due responsibilities in Gaza, including administrative decision-making and allocation of a portion of the PNA's Public Budget for delivery of services and disbursement of public servants' salaries. The most prominent consequences of the above changes are as follows:

- Culminating in June 2007, internal infighting, severe political polarisation and use of force in settling political disputes took place between Palestinian factions, negatively impacting the overall status of Palestinian human rights.
- The PNA has tended to militarize its regime and give priority to security considerations over the principles of the rule of law and respect of public rights and freedoms.
- Rival factions – Fatah and Hamas – have attempted to use relevant legal provisions as a tool to justify the practices and policies each uses in confronting the other.
- The *de facto* authority in Gaza has seized control of the judiciary and established an alternative body to the 'High Justice Council'
- Due to unprecedented political polarisation, administrative decision-making has expanded a great deal, thereby jeopardising many public servants' right to work. Such decisions ruled for a suspension of salaries, termination of work contracts and dismissal of servants on political grounds.
- "Security" measures were also in place. Security agencies of the PNA in the West Bank and the *de facto* authority in Gaza have detained enumerable persons on arbitrary grounds.

ICHR believes that the PNA and the *de facto* authority in Gaza are responsible for protecting human rights as well as individual and collective freedoms in the PNA-controlled territory. Both are also accountable for delivering services to citizens, sustaining operation of civilian and judicial facilities and institutions, as well as respecting and enforcing Palestinian laws and regulations. According to the Amended Basic Law, which safeguards human rights and freedoms and the relevant international conventions on human rights, all parties shall be held accountable for any transgressions against human rights and freedoms, which are committed by their respective civilian or security agencies.

ICHR further concludes that the protection of human rights and freedoms in 2007 in the PNA-controlled territories declined significantly and human rights violations rose sharply. Consequently, neither the PNA President and Government nor the *de facto* authority in the Gaza Strip can disown responsibility for these infringements.

ICHR has also monitored Israeli violations to clarify their impact on the PNA's performance and Palestinian citizens' fundamental rights. During 2007, Israeli occupation authorities continued to maintain hegemony over the PNA and paralyse the PNA's capacity to manage the operation of its official institutions and ability to provide basic services to Palestinian citizens in the West Bank and Gaza Strip. Moreover, the PNA remained incapable of exercising efficient control over its primary resources, including land, water, territorial contiguity, full jurisdiction of its legal and administrative systems over the Palestinian people and free access to external markets. In 2007, hostile Israeli policies and measures persisted; Israeli authorities continued to create "facts on the ground", which effectively hinder the establishment of an independent, viable Palestinian State. Israel, as the occupying power, has also violated its due obligations; it continues to maintain control over the Palestinian economy, impose a siege over Palestinian territory, fragment the West Bank and Gaza Strip, build the Annexation Wall, confiscate citizens' land, construct settlements, and impose restrictions on all Palestinian walks of life. Having declared it a "hostile entity", Israel's transgressions against citizens in the Gaza Strip rose remarkably. Israel also continued to constrain the Palestinian security forces' ability to preserve public order and security and establish the rule of law.

In this context, ICHR recommends that the PNA appeals to the High Contracting Parties to the 1949 Fourth Geneva Convention to compel Israel to respect and apply relevant provisions of the Convention and international humanitarian law to the occupied Palestinian territories (OPT). Additionally, the PNA should implement the respective legal instruments to put an end to collective punishments exercised by the Israeli occupation army, as well as eliminate massive killings, assassinations, indiscriminate attacks, house demolitions, destruction of property, collective detentions, forcible transfer, land confiscation, road blockage, isolation of civilian residential compounds, and construction of the Wall. The PNA should also adopt a clear position as to denounce the Israeli siege imposed on the Palestinian population throughout the OPT and make all expedient efforts to terminate it. In addition, the PNA must appeal to the international community, including the United Nations, to bear its due legal responsibility for enforcing the International Bill of Human Rights and lift economic sanctions against the PNA.

Chapter (2): Performance of the Three Authorities and its Relevant Impact on Human Rights

This Chapter examines performance of the PNA Executive, Legislative and Judicial Authorities under recent political developments and transformations. The Chapter also highlights the status of human rights throughout the PNA-controlled territory.

In respect to the Legislative Authority, operation of the Palestinian Legislative Council (PLC) was suspended in 2007, thereby negatively impacting the PLC's role in enacting laws and regulations in all aspects of citizens' life and rights. Furthermore, the PLC has not exercised its role in overseeing the PNA's financial and administrative functions by holding parties accountable, making votes of and/or of no confidence or impeaching government officials. Furthermore, the PLC did not investigate grave breaches and violations against human rights during 2007.

Despite huge predicaments and challenges resulting from internal and external factors, ICHR believes that the PLC failed to play its respective role on the legislative and monitoring levels. It was incapable of addressing transgressions against public rights and freedoms, which rose in 2007, by its failure to enact legislations that curb such infringements or by exercising its monitoring of the executive authority's practices and holding it accountable for them.

Major Recommendations:

1. Given that the PLC is the most important constitutional framework in the PNA, the state of fragmentation of the Legislative Authority should be rectified and the PLC reunited in terms of parliamentary, administrative and technical functions.
2. The PLC must convene on a regular basis in line with the Amended Basic Law and PLC Standing Orders so that all PLC members meet under a single parliamentary umbrella. In light of its indispensable legislative and monitoring role in protecting and safeguarding human rights in Palestinian society, obstacles to convening PLC sessions must be overcome immediately.
3. Within the framework of its powers and in pursuance of the Law and Order, PLC should play an effective monitoring role over the Executive Authority, including all its respective civilian and security agencies and regardless of whether these are affiliated with the *de facto* authority in Gaza or the Provisional Government in the West Bank. Oversight should be equally applicable to all relevant parties, without regard to their status or responsibility.

4. The PLC (along with its respective committees) must hold legal sessions to put the legislative process into operation. Taking into consideration that the West Bank and Gaza Strip are one integral territorial unit, enacted legislation should not be applicable in a certain territory, but in both.
5. Again, the PLC must act like a democratic forum for political debates between various parliamentary parties. As such, the PLC shall restore and promote its due and earnest role as a representative of the people and source of powers. In its status as the house of the Palestinian people, the PLC must also call for national reconciliation that culminates in restoring unity and integration within Palestinian society, including all political entities, as well as coming to the aid of those citizens who were affected by security instability and infighting.
6. The PLC must review all presidential decisions and laws promulgated by the PNA President since June 2007.

In 2007, the Executive Authority was divided by default into two executive authorities, one operating in the West Bank by the PNA President and Dr. Salam Fayyadh's Provisional Government on the grounds of a single political platform; the other was functioning in the Gaza Strip by the *de facto* authority under Mr. Isma'il Haniyyeh's "deposed" government. Each of these Executive powers has its own separate policies and decisions, which are not heeded by the other. Due to contradicting policies, decisions and practices, the status of human rights has been adversely impacted in many areas. In this Chapter, ICHR elaborates on the Executive Authority's major security, financial, administrative and legislative policies and their consequential impact on human rights.

Major Recommendations:

1. The state of fragmentation in the Executive Authority should be reversed. The PNA Executive authority should be consolidated and grounded on a single political platform represented in a President and Prime Minister without further conflict or disagreement. Duality, which may produce policies and measures infringing on human rights and freedoms, must also be eliminated.

2. In respect to security policies, security plans that safeguard citizens' security and public safety, establish the rule of law and promote the judiciary and justice system need to be developed. In addition, security personnel should receive intensive training and rehabilitation. Security agencies also need to be restructured on professional grounds. To promote public trust, security forces must respect laws, safeguard human rights, avoid persecution or oppression in the use of powers, or the use of excessive force against citizens.
3. A transparent financial policy that ensures citizens' right to access financial information should be implemented and publicised. All financial policies should aim to promote and protect human rights.
4. In regard to administrative policies, the Executive Authority must ensure sustainable functioning of governmental departments and public institutions to secure proper service delivery to citizens. Policies of dismissal from the civil service or termination of contracts on political grounds should not prevail.
5. At the level of legislative policies, the Executive authority must adopt legislative policies in consistence with its respective legislative powers. These policies should seek to protect human rights and freedoms safeguarded by the Palestinian Basic Law and international standards on human rights. The dual system of legislation in the PNA-controlled territory should also come to an end.

Throughout 2007, the Palestinian Judicial Authority also encountered several problems and challenges that effectively prevented a complete and smooth implementation of judicial functions. At the forefront of these obstacles was that the *de facto* authority in Gaza seized control of the High Judicial Council and constituted the 'High Justice Council', thereby adversely impacting citizens' right to litigation, limiting guarantees for a fair trial and limiting citizens' ability to attain their rights in due course. Due to attacks on judicial facilities, courts activities and the adjudication of cases have all been interrupted, especially in Gaza. All of these abnormal conditions combined impacted the Judicial Authority itself, infringing on its independence and diminished its development at the legislative and structural levels.

ICHR should note that all relevant parties have dealt with the Judicial Authority in a politicised manner, thereby substantially prejudicing the judiciary's integrity, creating substitute judicial bodies and diminishing the power of the justice system in Palestine. Politicisation has deprived the judiciary of its due and necessary integrity and significance. This also

stripped the judiciary of its power to effectively carry out its duties as a consolidated third authority in respect to protecting fundamental human rights and freedoms. With the political conflict between the Legislative and Executive authorities which has escalated over the past two years, neither has 2007 ended well on the part of the judiciary. Likewise, the judicial authority was similarly subjected to political conflicts and polarisations.

Major Recommendations:

1. Dual justice systems and judicial authorities, including both components of the judiciary and public prosecution must immediately end. In its capacity as the third pillar of authority, the judiciary must be reunited, consolidated and able to perform its duties in accordance with provisions of the Basic Law and other judiciary-related legislation throughout the PNA-controlled territories as one single territorial unit.
2. All procedures, decisions, and measures that may further result in the fragmentation in the body of the Judicial Authority between the West Bank and Gaza Strip and create a vacuum in the justice sector should be ceased. Former decisions, particularly those establishing substitute judicial bodies or suspending the activities of judiciary-related institutions, such as the Police and Public Prosecution, should be made null and void.
3. All forms of intervention in the judiciary's functions by the executive authority, security agencies or armed groups, should be halted. This should also be the case for assaults against courts, judges, members of the public prosecution and lawyers – all which intrinsically target the independence of the judiciary. The judiciary must also be protected and equipped with all necessary material and moral support to safeguard the security of courts and public prosecution facilities as well as its staff.
4. The Judicial Authority's role should be kept neutral in partisan disputes. The judiciary should also be granted all facilitations necessary to fulfil its role in the investigation of criminal offences committed during incidents of infighting, including murders, physical assaults, destruction of public and private properties, and bringing offenders to justice. Furthermore, the judiciary must assume its role in adjudicating all criminal offences and imposing legally prescribed penalties on those convicted in fair trials. Jurisdiction of the civilian judiciary should not be hijacked in the interest of any other authority.

Based on its interest in consolidating, safeguarding and developing the powers of the judiciary as well as promoting the role of the judiciary in society and adjudicating disputes, **ICHR recommends the following:**

1. Inactivity of the PLC must be reversed. Following consultation with the High Judicial Council, the PLC can introduce amendments to judicial-related laws so as to facilitate litigation proceedings and remove defects in operative legislation that obstruct quick adjudication of disputes brought to courts.
2. Both the High Judicial Council and the Public Prosecution must operate their respective Judicial Inspection Departments in order to detect and overcome shortcomings and weaknesses. The executive authority must also provide the necessary requirements and equipment to operate these departments.
3. The High Judicial Council should focus judicial training on the management of actions so as to ensure effective functioning and summary settlements of cases on the part of judges. This should ultimately reduce backlog cases at Palestinian courts.
4. The Executive Authority and High Judicial Council must recruit more administrative staff members, including clerks and summon servers, as well as build their capacities to ensure effective operation of courts.
5. Taking into consideration the judiciary's needs as well as the revenues of courts and public prosecution, the Executive Authority must designate larger allocations in the PNA's general budget for the judiciary. They should also increase funds to cover court expenditures. Moreover, the Executive Authority must end the legislative conflict arising between the financial systems in PNA ministries and public institutions and Laws of Penal Procedure. Courts should also be vested with the power to disburse expenses for witnesses as well as lawyers' fees from their own treasuries.
6. Headed by the Ministry of Finance and Bureau of Public Personnel, the Executive Authority should be more attentive and deal privately with judges' transactions regarding their functional, financial and administrative affairs and avoid delaying them so as to preserve the independence and integrity of judges.
7. Due to the delayed adjudication of constitutional matters and applications, constitutional judges should be trained and the Supreme Constitutional Court formed in accordance with the relevant Law. This is particularly important due to the currently unstable political system in Palestine and the need to settle a number of constitutional cases pertaining to the interpretation of the Basic Law, as well as the interpretation and elimination of contradictions between parts of legislations.

8. The Public Prosecution and Executive and Judiciary Authorities should revitalize the overseeing of authorities authorized to arrest and investigate citizens so as to guarantee a fair trial for the accused persons. This includes refraining from arbitrary detention, denial of contact with the outside world and prevention of family visits. This measure also ensures that the accused be capable of consulting their lawyers, improving conditions of detention facilities and enforcing effective administrative and judicial action against cases of torture and cruel treatment. Relevant authorities should not underestimate any violations against the individual freedom of persons nor penalise offenders and compensate the aggrieved, either materially and morally.
9. Competent governmental departments should create a qualified judicial police force that protects courts and Public Prosecution facilities, as well as executes court judgements and orders. Well-equipped police laboratories and forensic medicine centres should also be established.

Part II: The Status of Human Rights and Freedoms in the PNA-Controlled Territories

Part II is comprised of five chapters: (1) The Right to Life and Physical Safety; (2) The Right to Personal Freedom; (3) Public Freedoms; (4) The Right to the Highest Attainable Standard of Health; and (5) The Right to Work and Social Security.

In this Part of the ICHR 2007 Annual Report, ICHR presents an overview of the general situation of certain fundamental human rights and freedoms. ICHR also monitors various forms of violations against these rights and freedoms, which at the same time breach safeguards provided by relevant international conventions and national legislation on human rights. Below is a summary of major themes addressed in the above chapters:

Chapter (1) Right to Life and Physical Safety

According to ICHR monitoring, grave breaches were committed against citizens' right to life and physical safety throughout 2007. Compared to past years, 2007 was the worst ever under PNA rule in terms of the regressive protection of the right to life and physical safety. In this year, a total of 585 citizens, including 503 in the Gaza Strip alone, were reported to have been killed. Of these, 346 citizens were killed in incidents of internal fighting. Most killings were reported during the month of June 2007, in which 190 citizens – approximately one third of the total number

of those killed – lost their lives. It should be noted that 529 of those killed died from the use of firearms or explosives. Among those killed were 87 children and 45 women, including 18 women in so-called 'honour killings' – a sharp rise in comparison with 2006. In 2007, citizens' right to physical safety also deteriorated. Constituting the highest number of complaints it has received since 1996, ICHR received approximately 491 complaints on violations of citizens' right to physical security. These included grievances on claims of torture or cruel treatment during detention and investigation. ICHR also noticed a sharp increase in deaths in 2007 due to unavailable conditions of public safety (41 cases).

Official procedures implemented in the investigation of murders committed throughout the PNA-controlled territories, the prosecution of offenders and holding them accountable remained ineffective. For example, 190 citizens were killed in incidents of political conflict between Fatah and Hamas in June 2007. However, not one person or authority was ever held accountable for these incidents. With the exception of certain positive but irregular administrative investigations conducted in 2007 by security agencies into a limited number of crimes where disciplinary penalties against the offenders were delivered, official investigations into crimes of torture were never seriously or effectively addressed.

The sharp deterioration in protecting citizens' right to life and physical safety indicates serious lacking in the performance of Palestinian institutions in safeguarding this right. These institutions include the Executive Authority and its security agencies, the judiciary in terms of its performance in courts and the Public Prosecution, and the legislature and its monitoring role.

Major Recommendations:

1. Competent authorities, particularly the Public Prosecution, should conduct efficient investigations in all criminal offences and violations prejudicing citizens' right to life and physical safety, as well as bring offenders to justice.
2. Establishing the rule of law, promoting the judiciary, and expediting the execution of court judgements of all types, especially those pertaining to murder and attacks on personal security, in order to diminish the evasion of penalties and allowing the law to be taken into individual hands.
3. Consolidating governmental efforts aimed at putting an end to the arms chaos in the PNA-controlled territories.

4. The PNA Ministry of Interior and other competent authorities should oblige members of the security forces to respect the law and halt transgressions, such as the excessive use of force, violating the right of citizens to their own physical safety and subjecting them to torture and cruel treatment.
5. The PLC must exercise its monitoring and legislative role and make the necessary decisions to put the internal security situation in order, thereby safeguarding citizens' right to life and reinforcing their sense of security. For example, the PLC may enact laws on the prohibition of torture as well as on the overseeing of security agencies in the course of implementing their assigned role in protecting the life and security of citizens.
6. The Palestinian Government should enforce procedures relative to preserving citizens' safety in public places as well as take preventive measures in this regard. The Government should also issue directives regarding the protection of citizens' lives on beaches, swimming pools, petrol stations, and in other public areas.
7. Formulating special standards and guidelines for opening fire by members of the various security forces in order to combat the excessive use of force in dealing with citizens.

Chapter (2): Right to Personal Freedom

In 2007, grave incidents severely prejudiced the right of citizens to personal freedom; violations committed against this right obviously illustrate regression in terms of protection throughout the PNA-controlled territories. Such transgressions were further exacerbated in the second half of 2007 due to the fragmentation within society and acts of revenge. The Palestinian citizen was, in reality, the primary victim of this state of affairs. In violation of the law, persons were arrested and denied their freedoms in unsuitable detention centres under harsh conditions. Incidents of the arbitrary detention of citizens on grounds of political affiliation reached unprecedented levels. Guarantees of a fair trial were not provided to detainees, especially following their arrest, search and detention. Relevant authorities also fell short of executing court verdicts. Furthermore, approximately 500 persons were abducted. In 2007, nearly 11 cases of disappearance remained unsolved.

ICHR has noted that major transgressions and contraventions perpetrated against the right to personal freedoms in 2007 were as follows:

- A. Arresting and detaining citizens by authorities or agencies that do not possess the authority and powers of the Police.
- B. Arresting persons without presenting arrest warrants or allowing these warrants to be served by incompetent authorities.
- C. Detaining persons for prolonged periods of time without being presented to judicial authorities, including the Public Prosecution and courts.
- D. Searching and entering places without a notice issued by a judicial authority, such as the civil prosecution.
- E. The ineffective and slow trial of some persons denied their freedom for a long period on grounds of criminal charges.
- F. Inefficient disciplinary accountability and penal prosecution by the Public Prosecution of persons who detained others in contravention of the relevant legal procedures, thereby also impeding means of rectifying illegal detention.
- G. Arresting civilian persons by military agencies and holding others in the custody of military judicial authorities, or in detention centres designated for military personnel in breach of the law.

Major Recommendations:

1. All forms of aggression against personal freedoms, particularly those perpetrated by law enforcement agencies in the West Bank and Gaza Strip, should come to an end. These include arbitrary arrests, including the detention of persons on grounds of political partisanship.
2. Security agencies that do not work within the capacity of Judicial Policing, may not arrest, hold in custody or investigate any persons. On the contrary, such agencies must comply with the provisions of applicable laws, particularly the Basic Law and Law of Penal Procedure, when they carry out these functions.
3. The Public Prosecution must shoulder the responsibility of overseeing and supervising the actions of Judicial Police officers. The Public Prosecution must also take note of places where the liberty of individuals is confined, including prisons, lock-up houses and detention centres, to ensure proper law enforcement as well as shut down any detention facilities that are not regulated by law.

4. All assurances for a fair trial must be provided throughout arrest, investigation and detention, as well as during and after trial, to all persons deprived of their freedom. Judicial authorities must also intensify judicial monitoring over breaches of such assurances. Furthermore, various authorities, individuals and officials must respect and execute court judgements as they are an embodiment of justice. All persons who either abstain from, or delay their implementation should be held accountable.
5. The right of persons who are victims of violations and offences against personal freedom, to receive fair material and moral compensation for damages, should be safeguarded by carrying out relevant action. The Public Prosecution should conduct serious investigations and prosecute offenders.
6. The PNA shall bear the responsibility for investigating cases of forced disappearances, which took place several years ago. It should also take necessary action to prevent further forced disappearances as it is an offence in violation of individuals' right to personal freedom and the right to life and security.
7. Promoting the competence of law enforcement officials, including members of the security agencies responsible for arrest, detention and searching detention centres, by attending intensive training courses to raise their awareness of laws and human rights.

Chapter (3): Public Freedoms

This Chapter exposes the real state of public freedoms and violations in 2007. The following freedoms are highlighted: freedom of opinion and expression, media freedoms, freedom of peaceful assembly and formation of associations, unions and parties, religious freedoms and religious sites, participation in public life, rotation of power, right to hold public functions, freedom of travel and transportation, and rights of human rights advocates.

In 2007, many violations were committed against the freedom of opinion, expression and media freedoms. Journalists were subjected to killing, physical assault, abduction and threats. Media agencies and journalists' properties were closed, plundered or attacked. Constraints were also imposed on the freedom of opinion and expression, as well as on journalists' freedom to carry out their duties. Furthermore, media outlets were used as a tool for incitement and for defaming public personalities and attacking academic freedoms. Academic institutions, internet cafés, commercial shops selling cassettes and CDs and cafeterias were also

destroyed with explosives. These transgressions put the PNA in 158th place in an index measuring the level of press freedoms in 169 countries throughout the world, published by Reporters Without Borders. In 2006, the PNA was in the 134th place.

In terms of the freedom of peaceful assembly and right to the formation of unions, associations and political parties, the following violations were committed: attacking peaceful assemblies and processions, raiding wedding parties, attacking associations, civil society organisations and unions, and attacking offices of political parties. Violations of the freedom of faith and religious sites throughout the PNA-controlled territories included assaulting mosques, churches, and worshippers, seizing control of certain mosques and violating some Muslim citizens' right to fulfil the religious duty of Al Hajj (pilgrimage to the Holy Shrine in the city of Mecca, Saudi Arabia). On the other hand, Israeli occupation authorities continued to prevent worshippers from the West Bank and Gaza Strip from accessing Al Aqsa Mosque or visiting holy shrines in the occupied city of Jerusalem.

With respect to the right to participate in public life and regarding the rotation of power, all stages of the local council elections in the PNA-controlled territories were not completed. It should be noted that these elections were to be held in 2006 and 2007 respectively. Certain individuals took control of some municipalities and reformed their local councils, which had been legally elected. A number of members on local councils were also abducted in a bid to compel them to resign their positions. In fact, 2007 clearly shows a decline of indicators regarding the participation in public life and the peaceful hand-over of power, not to mention a setback in the Palestinian democratic experience. Violations of the right to hold public functions were also prevalent throughout 2007. In blatant disregard of equal opportunities, public servants were dismissed, appointed on grounds of political affiliation, or had their service terminated not according to the law, but due to partisan considerations. Moreover, some appointments in the public service were suspended, salaries of some functionaries withheld and contracted functionaries dismissed, with their financial entitlements postponed.

In terms of violating the freedom of travel and transportation, major infringements resulted from indiscriminate Israeli practices. Israeli authorities continued to close civilian and commercial crossing points, prevented thousands of citizens from travelling abroad, returning home or moving between the West Bank and Gaza Strip. Israeli troops positioned at hundreds of checkpoints within West Bank cities, towns and villages impeded Palestinian civilian access. Moreover, the

Apartheid Wall is the major impediment that precludes the movement of persons and goods, effectively creating serious adverse ramifications on citizens' various rights, including their right to education, health care and movement. Regarding the internal situation, the infighting that raged on between Hamas and Fatah in Gaza has greatly limited citizens' right to free movement due to checkpoints set up on several streets.

A number of human rights advocates, including individuals and human rights organisations, were subjected to various forms of harassment, threat of dismissal and confiscation of their equipment, files or personal identity cards. Based on their activities, fabricated charges were also made against human rights advocates. Visits to persons held in detention centres on grounds of political opinion or freedom of expression were impeded. Moreover, a number of organisations, including ICHR, were subject to threats and suspicions cast on their neutrality and independence due to the publication of fact finding reports.

Major Recommendations:

1. Ensure respect for public freedoms and halt ongoing violations thereof; respect press freedom and provide legal protection, facilities and guarantees to journalists.
2. Neutralise press activity and avoiding the involvement of journalists in political conflicts. At the same time, journalists must adhere to media ethics in the performance of their duties.
3. Various authorities in the West Bank and Gaza Strip must bear their due responsibility in safeguarding press freedoms by reopening press offices and organisations closed over the past months. They should also revoke the ban on the printing and distribution of newspapers.
4. The Police and Public Prosecution must conduct serious investigations into all cases of attacks on press freedoms and associations, as well as bring those indicted to justice and take necessary actions to curb such attacks in the future.
5. Reverse procedures and actions pertaining to associations, which were in place under the state of emergency, taking into account that the state of emergency expired a month after it was declared according to the Basic Law. Meanwhile, relevant authorities should abide by provisions of the Law on Charitable Associations and Civil Society Organisations of 2000 as they review the status of associations.

6. Respect the Basic Law and enacted laws in the PNA-controlled territories, particularly laws related to public rights and freedoms, including the Law on Charitable Associations and Civil Society Organisations and the Law of Civil Service, which provides conditions for holding and terminating public functions in the civil and public service.
7. Offices of professional and civil institutions, unions, civil society organisations and political parties, which were expropriated and controlled, must be evacuated. Any contents seized from these offices should also be restored so that relevant organisations can carry out their respective activities.
8. As part of the activities to enforce the right to participation in public life and the rotation of power, effective action should take place in regards to local elections, particularly in local councils where elections were never held.
9. All policies regarding the halt of salaries and arbitrary dismissal from public service on grounds of political affiliation or for political considerations should be ceased. At the same time, all public servants who were dismissed on these grounds should resume their functions.
10. Official diplomatic authorities in the PNA must implement effective measures aimed at lifting the siege imposed by the Israeli occupation authorities, as well as removing checkpoints which impede freedom of movement for civilians along with alleviating the negative impact of these measures, especially in the Gaza Strip.
11. Implement provisions under the Declaration on the Protection of Human Rights Advocates and provide all available guarantees to ensure their protection in performing their activities and missions on the ground free of harassment, threats or impediments that hinder their work.

Chapter (4): Right to the Highest Attainable Standard of Health

Due to the harsh Israeli siege on the Gaza Strip since mid-June 2007, the right to health care witnessed a major setback throughout that year. From mid-June towards the end of 2007, approximately 100 citizens died after Israeli occupation authorities prevented them from travelling abroad to receive medical treatment. Moreover, health care facilities deteriorated due to denied access of construction materials, medicines and medical equipment. The health sector in the PNA-controlled territories also declined due to the denied entry of spare parts for medical equipment and the cutting off of electricity and fuel supplies.

Internally, the Palestinian health sector suffered a major setback due to the public servants' strike and enforced dual supervisory authorities following Hamas' takeover of the Gaza Strip. Because of the decreased level of functional security, health care practitioners could not perform their duties and deliver an acceptable level of health care service. This situation also impacted patients' rights to receive medical treatment far removed from the political conflict. Moreover, the PNA Ministry of Health's addressing of medical malpractices has been lacking in several aspects. Most importantly, the Ministry of Health did not investigate the cases of medical malpractice in private health care facilities. On the other hand, the Public Prosecution still does not properly address issues of medical malpractice. Forensic medicine reports on certain aspects of medical malpractice are still ineffective and indecisive as to determine the primary causes of death. Throughout 2007, not a single judicial conviction was reported in relation to medical malpractice, nor was there any judicial precedent reported on compensating the affected patients for medical mistakes.

In respect to the referral of patients for surgeries, the Ministry of Health did not follow efficient measures to recruit qualified and competent medical personnel to perform these operations in government hospitals, as well as limit the number of patients sent abroad. In general, 2007 did not see any change in the number of operating hospitals, the addition of new beds, or an increase in medical staff – particularly specialised physicians and hospital technicians; nor was there any improvement in medical services delivered by first aid health centres throughout the PNA-controlled territories.

Major Recommendations:

1. Not to involve the health care sector in any political, administrative or professional conflict. The Ministry of Health should also develop a strategic plan in light of the Palestinian situation and any prospective developments in a manner that ensures the enhancement of the level of health care services delivered to citizens throughout the PNA-controlled territories.
2. Build integrated hospitals that deliver health care services to citizens throughout the Palestinian governorates. Such hospitals should be able to offer services in line with citizens' own needs, taking into account the geographical distribution of these facilities.

3. Establish several health care centres. In particular, first aid health care units need be set up in isolated areas of the West Bank and in marginalized areas in the Gaza Strip. Such centres could definitely help to alleviate citizens' suffering resulting from the lack of health care services.
4. Develop clear mechanisms and standards related to referrals abroad. Meanwhile, specialised medical centres need to be established to limit these referrals.
5. Offer incentives to specialised physicians and build specialised medical centres so as to limit the referral of patients abroad.
6. Rehabilitate health care centres so that they meet the needs of disabled citizens.
7. In the international and regional arenas, the PNA should place pressure on Israel to lift the siege and alleviate human suffering in the Gaza Strip. In specific, the PNA must take proper action to enable patients to access health care facilities outside of Gaza, as well as allow the transportation of medicine, medial supplies, medical instruments and medical spare parts, and provide electricity to various health care facilities in the Gaza Strip as soon as possible.
8. While recognising the right of health care workers to strike, the health sector should be given special attention in order to avoid a complete disruption of their work while practicing their union rights. The health sector is indeed indispensable in providing citizens with urgent medical services as well as saving their life and safeguarding their safety.
9. In its capacity as the primary PNA agency that safeguards the right to the highest attainable standard of health, the Ministry of Health must investigate all incidents of medical malpractice, including those taking place in government-run medical institutions and centres or in private health care facilities.

Chapter (5): Right to Work and Social Security

In 2007, the private sector was the most affected field of economic activity. Compared to 2006, the public sector was the most jeopardised. Over the period of reporting, chances of receiving appropriate work opportunities, social security and a decent standard of living decreased due to rising unemployment, poverty and prices of basic consumer goods, as well as the declining exchange rates of the US dollar and Jordanian Dinar (the currencies of salaries at a large number of organisations) versus the Israeli shekel in addition to the regressing

purchasing power. As a result, protection against unemployment declined. There was a rise in the number of citizens who lost the right to work and live at a decent standard of living. Moreover, many families were no longer capable of providing a minimum standard of living and proper nutrition, which otherwise guarantees a reasonable level of physical growth, especially in children and women. Due to the absence of governmental plans and policies, risks and losses incurred by citizens have intensified. Furthermore, the lack of any governmental subsidies for essential consumer goods further aggravated the setbacks in protecting this right. Furthermore, the Israeli siege over the Gaza Strip played a major role in the paralysis of entire sectors and deprived workers of their primary source of income. In respect to public sector strikes, no new actions were put in place to legally regulate the right to strike, especially in public institutions.

Major Recommendations:

1. Develop an urgent mechanism to create adequate job opportunities to reduce unemployment, alleviate poverty, and revitalize the Palestinian economy, including preparing the ground for a conducive investment environment.
2. Lift the siege, reopen crossing points and permit transportation to and from the Gaza Strip since this constitutes the cornerstone of economy and development.
3. Review temporary employment programmes and examine the extent to which they can propel development and permanent work opportunities generated by these programmes in a sustainable manner.
4. Adhere to legal provisions related to the percentage of employed citizens with special needs in accordance with the Labour Law and its respective bylaws.
5. Develop transitional programmes that secure a minimum level of social assistance that meet the minimum standard of decent living for affected categories.
6. Invest grants offered to the PNA in the form of economic projects which provide target groups with permanent work opportunities instead of the disbursement of temporary subsidies that do not develop the local economy.

7. The Palestinian Government must play an effective monitoring role over prices in order to provide consumer protection. In pursuance of the relevant enacted laws, the Government must also put in place a minimum wage for employees in the private sector so as to protect them in light of the current hard economic situation. Moreover, it should review public servants' salaries in light of the rising prices and retreating value of salaries.

Part III

ICHR's Role and Activities in Promoting and Protecting Human Rights (Following up on Complaints and Observing Status of Prisons and Detention Facilities)

This section is comprised of two chapters: (1) Complaints on human rights violations; and (2) Observation of the status of prisons, detention facilities and social centres.

In this part, ICHR highlights its role as an 'ombudsman' given that it receives and follows up on citizens' complaints on human rights violations and transgressions against their public freedoms by the PNA civilian and security agencies. Reporting also covers violations by the de facto authority's agencies in the Gaza Strip since mid-June 2007. ICHR also sheds light on its role in observing correction and rehabilitation centres or "prisons" and detention facilities belonging to the security forces in both the West Bank and Gaza Strip. In addition, it covers ICHR visits to social and mental health centres, which house vulnerable persons, including children and the elderly. Below is an overview of the chapters under this section.

Chapter (1): Complaints on Human Rights Violations

Unlike previous years, 2007 witnessed exceptional circumstances. ICHR received approximately 2007 complaints, a rise of 106% compared to 2006. In 2007, the complaints received by ICHR varied according to the relevant public authorities: there were a total of 1,387 complaints against civilian departments – 69.1% of the total number of complaints. In addition, 620 (30.9%) complaints were lodged with the ICHR against security agencies.

Overall, complaints on claims of torture and cruel treatment were 20.9%, whereas complaints related to PNA personnel were 32.6%. In regards to

the geographic distribution of complaints, a total of 1,381 (68.8%) complaints were sent to ICHR's offices in West Bank governorates, and 626 (31.2%) complaints were filed in the Gaza Strip.

Compared to previous years, ICHR statistics indicate that complaints lodged against the PNA Ministries of Interior and Finance largely increased in 2007. 396 complaints were made against the Ministry of Interior, a major portion of which were against the deposed Ministry of Interior in Gaza. On the other hand, ICHR received 269 complaints, the majority of which were against the Ministry of Finance in the PNA's Provisional Government.

Following up on grievances, ICHR dispatched 800 letters to various authorities during 2007. In contrast, ICHR received 313 written responses to its correspondence, as well as dozens of verbal replies during ICHR staff members' field monitoring of the lodged complaints. Despite certain obstacles, ICHR was managed to address and close approximately 32.5% of the complaints. Meanwhile, 67.5% of the filed complaints have been held for further follow-up in the coming year.

Chapter (2): Monitoring Conditions of Prisons, Detention Facilities and Social Care Centres

In 2007, ICHR made around 439 field visits, including 109 visits to prisons and detention centres in the West Bank and Gaza Strip. ICHR notes that 2007 witnessed a sharp rise in the number of citizens held in custody in detention centres operated by security agencies in the West Bank and Gaza Strip. During the armed confrontations of June 2007, all 500 prisoners held in the Gaza Central Prison escaped. Furthermore, ICHR reported 5 deaths in detention facilities belonging to security services in the West Bank and Gaza Strip, including two incidents suspected to have resulted from torture and cruel treatment in the Gaza Strip.

ICHR confirms that the majority of prisons and detention facilities do not meet proper health, living, psychological and rehabilitative needs and conditions. Major transgressions were also committed in 2007: respective legal procedures were not in place in the confinement of persons in detention facilities of security agencies in the West Bank and Gaza Strip. In general, those facilities lacked legal regulation, which puts forth rules and provisions related to the detention of persons.

Furthermore, ICHR monitored official authorities' failure to provide necessary supplies to social supervision centres, particularly those caring for children and the elderly. Proper buildings are not available, nor is a clear system of division and categorisation in place. Permanent medical clinics are also lacking in these centres.

Major Recommendations:

1. All public civilian and security authorities must fully cooperate with ICHR when the latter conducts any investigation into citizens' complaints; they should facilitate its mission by providing relevant information or access to designated facilities and sites and when meeting with witnesses. Government officials and heads of security agencies should also request that all relevant persons pay attention to, monitor and address citizens' complaints.
2. Competent authorities should issue clear directives that enable ICHR to conduct spot visits to all civilian and military prisons and detention facilities so as to carry out its monitoring role in its capacity as a national human rights institution in the PNA-controlled territories.
3. All forms of violations of rights and freedoms safeguarded by the Basic Law, national legislation and international human rights conventions must cease, including acts or transgressions committed by various public authorities in contravention of the law. As such, arrests and releases on political grounds and all forms of torture and cruel treatment should be terminated and persons responsible for these actions brought to justice.
4. Serious and impartial administrative and judicial investigation is to be conducted in human rights violations reported in the PNA-controlled territories, with particular reference to infringements on the right to life, personal security, individual freedom, and public freedoms. These crimes shall be punishable by law.
5. Politicisation of the public service, which results in the violation of the public servants' rights due to changing governments and government policies, should come to an end. In addition, all decisions and measures that have gravely affected public servants should cease. These include the illegal suspension of salaries, dismissal from service, and unpaid financial entitlements and remunerations of contracted functionaries.
6. Living, health, psychological and legal conditions of detention should be enhanced by building prisons in line with specifications that truly render them centres of correction and rehabilitation. Furthermore, women's prisons and centres for the rehabilitation of minors should be established in various areas.

7. Conditions in detention facilities should be improved, including police lock-up houses and military prisons. Clear legal regulations must be put in place so as to govern the detention of persons; they should also state the competent authorities in this regard, and the appropriate and necessary financial resources to enhance the living, health and legal conditions of confinement. Persons may not be held in centres not declared as detention facilities.
8. All competent authorities must play their assigned roles in the overseeing, supervision and inspection of all prisons and detention facilities to ensure the suitable status of such facilities, enforcement of the law and respect of detainees' rights. Competent authorities shall be represented by judges, members of the Public Prosecution, the Ministries of Justice and Social Affairs, and the Military Medical Services.
9. Appropriate social care centres and shelters should be established as well to improve the living conditions of persons living there, with particular emphasis on minors and the elderly. In this context, the Government should set necessary the budgets for this purpose and upgrade the supervision by the Ministry of Social Affairs.
10. The PLC must approve the ICHR-related Law, thereby making clear its relationship with official and public institutions and endorsing its jurisdiction in order to investigate citizens' grievances. The Law shall also oblige all official and public departments to respond to all ICHR's inquiries in a serious and exceptional manner and secure cooperation in addressing public complaints to ensure the maximum protection of human rights.
11. Social facilities for minors consistent with the concept of rehabilitation of minors should be established in each governorate in line with relevant international standards and national laws. Such facilities should be able to receive all minors as well as enable the role of behaviourist counsellors in their treatment.
12. Medical clinics should be established in all prisons and detention facilities; they should be equipped with all necessary medical supplies. Medical laboratories for preliminary examinations, blood work and all necessary equipments should also be provided. All medicines necessary for prisoners with chronic diseases must also be made available.
13. Bylaws related to the Law on Correction and Rehabilitation Centres should be developed and enacted. In conformity with the regulations safeguarding equality and indiscrimination, regulations that govern prisoner discharges, releases after serving two thirds of their sentence and determining relevant persons must also be in place.

14. A Palestinian law on the prohibition of torture, independent of other laws, should be promulgated. Such a law shall address all issues related to torture, including its definition, liability and penalties to be imposed on the involved persons. In addition, the Law should feature provisions that compel the State to remedy victims of torture, both materially and morally.

Annexes to the ICHR Thirteenth Annual Report

ICHR Annual Report includes three annexes: (1) Tables attached to Part II on the Status of Human Rights and Freedoms; (2) Tables enclosed with Part III on the ICHR Role in Promoting the Protection of Human Rights (Complaints and Monitoring of the Status of Prisons and Detention Facilities); and (3) ICHR's 2007 Annual Budget. Below is an abstract on the three annexes:

In five tables, **Annex One** presents statistical data on killings resulting from incidents of internal fighting and security instability: (1) Data on the Number of Circumstances of Killings; (2) Statistics of Killings Distributed over Months, Areas and Category; (2) Table on Incidents of Killings by Type of Used Weapons; (4) Statistics on Killings by Age of Killed Citizens; and (5) Statistics on Killing Incidents by Grounds of Killings

Annex Two features statistical data on complaints and violations in 8 tables: Table (1) on the Number of Complaints over 2007 according to ICHR Offices' Categorisation and Geographical Areas; Table (2) on the Number of Complaints in 2007 according to the Manner of Receipt; Table (3) on the Distribution of Complaints by Relevant Authorities and Assessment of their Cooperation in 2007; Table (4) on the Number of Violations as Derived from Complaints Received during 2007; (5) Comparative Table on the Number of Complaints by Relevant Authorities between 2007 and 2006; (6) Comparative Table on the Number of Violations in Line with Complaints between 2007 and 2006; (7) Table on the Status of Complaints Retained from 2006; and (8) Table on Prisons, Detention Facilities and Social Care Centres which ICHR Visited in 2007.

Annexes Three presents the ICHR 2007 Annual Budget. Total expenses amounted to USD 1.354.768. These expenses were allocated to carry out its activities as a national institution with the function of an ombudsman. The activities include complaints handling, awareness-building and

training on human rights and the monitoring of legislation and national policies and the production of legal studies and special reports. It should be noted that the ICHR received a total revenue of USD 1.329.033 from the union of donors. The 2007 Annual Budget is published to further promote ICHR's financial transparency.

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