

Executive Summary

The Fifteenth Annual report on the Status of Human Rights in Palestine during 2009, is comprised of three parts and three annexes. Part I addresses the political environment and the variables indicative of the human rights situation in the Palestinian-controlled Territory, including the impact of Israeli violations on the rights of Palestinian citizens and on the performance of the Palestinian National Authority (PNA). Part II discusses in eight detailed chapters the status of public rights and freedoms through highlighting major patterns of human rights violations monitored during the year. Finally, part III briefly discusses types of complaints received by **ICHR** during 2009, and tackles the issue of accountability and internal monitoring mechanisms to ensure adherence to the law and human rights principles by government officials. It also addresses measures undertaken to avoid impunity through making those who have committed serious violations of human rights accountable for their acts.

Below is a summary of the major issues and patterns of human rights violations discussed in the three parts and annexes of **ICHR**'s fifteenth annual report for 2009:

Part I. The political environment and the variables indicative of the human rights situation in the Palestinian-controlled Territory.

Chapter 1. The political environment and its impact on human rights

First: The Political Environment During 2009

The political and legal changes in the Palestinian-controlled Territory in 2009 represented a complex reality. The common factors between these variables were the state of ongoing division between the two major political factions, Fateh and Hamas, and Israel's continuing oppressive measures and policies against Palestinian civilians in the Occupied Palestinian Territory (OPT), the most prevalent of those being the Israeli military aggression on the Gaza Strip, which led to the death of victims and a methodical and large-scale destruction of infrastructures, as well as destroying the basic general life facilities amidst the unrelenting military siege over the Gaza Strip. At the same time, the Israeli occupation carried on with its systematic policy in the West Bank represented in the unprecedented settlement expansion in East Jerusalem and the West Bank, the completion of the annexation wall, as well as its ongoing incursions into the Palestinian-controlled Territory, and the restrictions imposed on freedom of movement

between cities, villages and camps in the West Bank on one hand, and between the West Bank and the Gaza Strip on the other hand.

In 2009, the PNA stepped into yet another critical phase of its political history which has reflected itself negatively on rights and freedoms within the Palestinian-controlled Territory, and the arbitrary utilization of the provisions of the law resulting from the state of internal division and political tension between Fateh and Hamas. There was also a weakening of democratic legitimacy and the absence of parliamentary monitoring of the executive authority's activities, which came as a result of the disruption of the Palestinian Legislative Council (PLC) as well as a halt of negotiations between the Palestinians and Israelis since Israel declined to cease its settlement activities.

During 2009, the political division between Fateh and Hamas has further deepened, and efforts to bring national reconciliation among the two disputed parties has failed, and Hamas continued to rule over the Gaza Strip after seizing control of it by force in 2007. Meanwhile, the Palestinians living there are paying the heavy price of this control and all other measures that led to it.

To prevent these factors from occurring can only be attained through the restoration of democratic life, by holding Legislative and Presidential elections, and the restitution of basic freedoms and respect for human rights and the rule of law. **ICHR** strongly believes that these are prerequisites for a stable future for everyone living within the Palestinian-controlled Territory.

Political factors monitored by **ICHR** in 2009, which clearly had a negative effect on the protection of human rights and public freedoms in the Palestinian-controlled Territory, are as follows:

1- The Escalating Measures of the Israeli Occupation

Year 2009 witnessed an escalation in Israel's occupying policies and measures against the Palestinian civilian population of the OPT, and reached their peak with the brutal Israeli aggression against the Gaza Strip resulting in the high number of casualties among the Palestinian civilian population and a massive destruction of their properties. This was also combined with the systematic policies of the occupying authority in the West Bank including East Jerusalem, through the expansion of settlements, restrictions on movement, house demolitions and numerous other human rights violations.

Israel launched a large-scale military aggression against the Gaza Strip, which was accompanied by killings, destruction, displacement and serious violations of International Humanitarian Law (IHL). By targeting civilians, this military aggression reached to the level of war crimes. It also caused unprecedented destruction of the Gaza Strip's infrastructure, through the destruction of electricity, water and sanitation networks, as well as public and private property. In addition, damage of PNA-owned

buildings was evident as well as the targeting of relief warehouses belonging to the United Nations in an unprecedented manner.

In spite of the efforts aimed at rebuilding and rehabilitating the infrastructure of the Gaza Strip, the rebuilding process faced two main obstacles: Firstly, the siege imposed on Gaza by the Israeli occupying authorities and the prevention of entrance of construction materials; and secondly,, the ongoing state of internal political division. The Palestinian Caretaker government, headed by Dr. Salam Fayyad, presented a comprehensive plan during the Donors' Conference which was held in Sharm Al-Sheikh in March 2009, while the Deposed government prepared another plan for reconstructing the Gaza Strip. This has rendered the rebuilding process unattainable despite the presence of plans and international funding for that purpose. This has increased the sufferings of many Palestinians who remained without a shelter since the end of the aggression on the Gaza Strip on 18 January 2009.

On 12/1/2009, the United Nations Human Rights Council (HRC) set up a fact-finding committee headed by Judge Goldstone, to investigate violations committed in the Gaza Strip during what became known as the Cast Lead Operation in the Gaza Strip. The formation of the UN fact-finding mission came following the international mobilization towards ending the aggression on the Gaza Strip which has resulted in a large-scale destruction and killings among the Palestinian civilian population. The fact-finding committee conducted its investigations on violations committed during the Israeli war on Gaza and submitted its report to the Human Rights Council. The fact-finding report has taken into consideration: the deliberate murder crimes, intentional attacks on civil targets, the arbitrary attacks against civilians, the use of human shields, collective punishment against civilians through the continuation of the siege, and has concluded that Israel during Cast Lead Operation against the Gaza Strip has committed war crimes, some of which possibly amount to crimes against humanity. The report also provided detailed recommendations for the HRC, the Secretary General, the General Assembly, Israel, the PNA and to Gaza Authorities and Palestinian Armed Groups. The report requested from the PNA and the "competent authorities" in the Gaza Strip and Israel to carry out internal investigations in relation to human rights violations highlighted in the fact-finding report.

The voting on the report, originally scheduled for the 12th session of the HRC on 29/9/2009, was deferred for the 13th session of March 2010, upon the request of the Palestinian representatives via the Islamic and Arab Groups at the HRC. The decision to delay the voting on the Goldstone's report led to an intense popular mobilization led by civil society organizations and legal bodies working within the Palestinian-controlled Territory. As a result to the public pressure on the PNA, a special session of the HRC was requested and approved by the members of the HRC. The special session was held on 16/10/2009, and the report was fully endorsed by the HRC with the recommendations contained therein..

The Israeli forces continued to carry out incursions into what is called Area “A” which are considered as part of the Palestinian security controlled areas according to the Oslo Accords between Israel and the Palestinian Liberation Organization (PLO) and the subsequent security arrangements between the two parties. The incursions into Area “A” emanates from Israel’s attempts to undermine the PNA, and its efforts towards enforcing its sovereignty on areas under its full control. Israeli military activities during 2009 included targeted killings of Palestinian activists, and numerous campaigns of arrests and raiding into the Palestinian-controlled Territory. This was also combined with the continuation of Israeli systematic policies, such as the construction of the Annexation Wall in violation of international human rights and humanitarian law according to the International Court of Justice, in its ruling on 4/7/2004. Other Israeli measures include the expansion of settlements, restrictions on movement within the West Bank through the imposition of temporary and permanent checkpoints, resulting in the daily humiliation of Palestinians in various ways, leading to a situation of permanent siege on Palestinian cities, towns and villages.

As for East Jerusalem, the measures and practices of the Israeli occupation have intensified in 2009 to include both civil and political rights as well as social, economic, and cultural rights. This has caused hardships and tremendous pressure on Palestinian Jerusalemites, in an attempt to reduce the Palestinian presence in East Jerusalem to the lowest levels by pushing them towards voluntary leaving their city, thereby resulting in a demographic balance in favor of the Israelis. The policies adopted by the Israeli occupation forces include settlement expansion, house demolitions, property expropriation, burdensome taxation, the deprivation of citizens of their right to reside in their towns, and the confiscation of identity cards under ill-founded justifications. These measures are further exacerbated with the prohibition of PNA from carrying out any activities in the city, and the ongoing closure of Jerusalemite institutions in occupied East Jerusalem.

In addition, the disruption of the political negotiations on one hand, and the lack of clarity regarding the nature of security arrangements between the Palestinians and Israelis in the areas under Palestinian-controlled Territory on the other hand, have in turn affected the Palestinian public opinion negatively, and has resulted in the lack of confidence in the ability of the PNA in providing the right to safety and security to the ordinary Palestinian citizens, despite the efforts undertaken by the PNA and progress made during the past two years in implementing the security plan within the areas under its control.

2. The Ongoing Political Separation Between the West Bank and the Gaza Strip

Despite the ongoing efforts by the Arab Republic of Egypt to end the state of political and geographical division on the Palestinian front, no progress has been achieved during 2009, and efforts made for reconciliation between Fatah and Hamas have all failed. The initiative for ending the internal division has been manifested in what became known as the “Egyptian paper” that had specified the proposed grounds for ending the division and reuniting the West Bank and the Gaza Strip. It has been suggested to the two disputed parties that upon the signing of the agreement between Fatah and Hamas, its provisions will be implemented according to specified time-schedules, for the purpose of carrying out Legislative and Presidential elections, as well as administering issues in the Gaza Strip. Despite the hopes and aspirations of the Palestinians for reconciliation and the ending of the internal political division, the year 2009 ended without any substantive progress made in this regard.

3. The Call for Legislative and Presidential Elections

On 23/10/2009, and amidst the failed reconciliation attempts between Fatah and Hamas, President Mahmoud Abbas issued a Presidential decree indicating that both Presidential and Legislative elections shall be carried out in January 2010 in accordance with the provisions of the Palestinian Basic law. . However, the Central Elections Commission (CEC) declared on 12/11/2009 that it was incapable of holding the electoral process in a timely manner due to obstacles faced by the CEC in preparation for the elections. Among those obstacles were those imposed by the Deposed government in the Gaza Strip who has not allowed the CEC staff to complete the registration process and make the necessary technical and administrative preparations. This was accompanied by Israel not responding to the requests made by the CEC in preparation for the elections in East Jerusalem.

The ongoing internal Palestinian division and the lack of progress in attaining national reconciliation led to the failure of holding Presidential and Legislative elections on their specified dates as set down by the law. The Palestinian Central Council convened on 16/12/2009 and requested from the Palestinian President and the Palestinian Legislative Council (PLO) to remain in office until new elections are held.

4. The Formation of a New Palestinian Government

On 19/5/2009, President Mahmoud Abbas issued a decree calling for the formation of a new Palestinian government headed by Dr. Salam Fayyad, provided that it gets the Vote of Confidence from the PLC once it convenes. After the formation of the new government, Prime Minister Salam Fayyad declared the government plan entitled: “Ending Occupation and the Establishment of the Palestinian State”. The proposed plan is essentially based on a vision for a Palestinian state based on the respect for human

rights and the values of democracy, and the principle of the rule of law. The document considers the Declaration of Independence and the Basic Law as two vital references for ensuring equality of rights and freedoms among Palestinian citizens. It also focuses on developing the institutional structures of the state and its institutions by unifying the legal frameworks, modifying the government's *modus operandi* and organizational structures and bylaws, the use of IT systems for the purpose of institutional building and development. In order to attain that, the document has specified four major sectors to focus on: the Governance Sector, Social Sector, Economic Development Sector and the Infrastructure Sector. This was for the sake of institutional building based on the principle of respect for the rule of law, peaceful rotation of authority and the separation of powers.

ICHR sees that the aspirations for building a state are not sufficient unless the features of legal legitimacy have been specified. This means that all the actions of the government, institutions and security agencies are undertaken according to law, and within the legal frameworks applicable within the Palestinian-controlled Territory. Through monitoring the human rights situation on the ground, and the rule of law within the Palestinian-controlled Territory in 2009, it became evident to **ICHR** that the behavior of the executive authority has deviated from the principle of legitimacy in many of its decisions through the lack of proper legal procedures when undertaking arrests, house inspections and detention. It would be sufficient to recall among those improper legal procedures the “security clearance” approval by security agencies as a precondition for holding public office, which constitutes a deviation from the law and the principle of legitimacy enshrined in Palestinian relevant legislation. **ICHR** is highly concerned that the deviation from the principles of legitimacy on one hand, and the emphasis given to security considerations at the expense of respect to human rights and the rule of law on the other hand, will gradually lead to a policing state (*Etat policier*).

5. Ongoing Administration of Affairs by the Deposed government in the Gaza Strip

Due to the ongoing political division in the Palestinian-controlled Territory, the Deposed government in the Gaza Strip went on administering its affairs and acted without legal references, in the sense that their actions are not governed by constitutional and legal disciplines, as their security and security agencies are structured in a way contrary to the Law of Service in the Palestinian Security Forces of 2005. The same applies to the “Supreme Council of Justice”, (renamed in 2009 by the Deposed Government as the “the Higher Judicial Council”) - which continued to function in the Gaza Strip despite its illegal formation according to the Palestinian Basic Law and the Judicial Authority Law. Meanwhile, decisions to appoint judges continued without abiding to the stipulations of the law, a matter that will affect negatively on the rights and legal status of Palestinians in the future.

The Deposed government also continued presenting its proposals to the members of the Change and Reform Bloc of the PLC in the Gaza Strip, concerning the proposed

amendments to Palestinian laws. During 2009, there were also 13 rulings by military courts in the Gaza Strip sentencing persons with the death penalty in accordance with the PLO's Revolutionary Law of 1979. One of the rulings was issued in accordance to the so-called "Military Judicial Law" which was issued by members of the Change and Reform Bloc in the Gaza Strip during 2008. This occurred as a consequence of the absence of monitoring by the Civil Public Prosecution and the judiciary over detention centers and prisons, and due to the constraints imposed by the Deposed government in the Gaza Strip on the work of human rights organizations generally, and the Independent Commission for Human Rights (ICHR) in particular, who had no access to prisons and detention centers in the Gaza Strip almost throughout the whole year.

Second: Political Changes and Impact on Human Rights

This part of the report highlights the political changes in relation to major trends of human rights violations which ICHR has monitored and documented in the West Bank and the Gaza Strip during 2009¹. Patterns of human rights violations monitored and documented by ICHR during 2009 included violations of the right to life and physical safety, being exposed to torture and ill-treatment, arbitrary detention based on political affiliation by presenting civilians before military courts and dismissal from public office, job expulsion, attacks on freedoms of the media and constraints on fundamental rights such as the right to association and the right to travel and peaceful assembly.

Third: Legislative policies and their impact on Human Rights

The work of the Palestinian Legislative Council has been disrupted for the third consecutive year due to the Israeli occupational policies, and the state of political division. During 2009, the PLC was not capable of holding any session with full quorum in accordance to its by-laws, a matter that has reflected itself negatively on the role of the PLC in proposing laws and legislation affecting all aspects of Palestinian life, and the rights of Palestinian citizens.

Furthermore, the PLC is not fulfilling its monitoring role over both the financial and the administrative aspects, neither is it capable of monitoring the performance of the Executive Authority and holding the government accountable, through giving a vote of confidence or no confidence, nor questioning or carrying out fact-finding missions into severe human rights violations of Palestinians.

Members of Parliament Blocs in the West Bank, except for the Reform and Change Bloc, continued to hold meetings for the six working groups which were formed in

¹ Part II of the 15th annual report discusses in depth these patterns of human rights violations.

2008: the Interior, the local government, Jerusalem and the lands and settlements, the economic and financial matters, public services, social issues and public opinions and freedoms.

During 2009, PLC members made efforts to discuss resolutions and laws presented by the Judicial Authority which are in relevance to amending the Penal Procedural Code and the Amnesty Law, and Law of Amending the Formulation of Courts.

The working group of the oversight on the General Budget has made efforts that were reflected in the recommendations made to the government with respect to salary slips and the increase in the operation costs. The government did not however, present the general Budget Draft Law for the fiscal year 2009 before the PLC on time.

To that end, the Executive Authority played a key role in preparing legislation during 2009 as the current Palestinian government has attributed (24) laws to the PNA President to be issued in a form of laws by order. In the matter of issuing these laws, the government resorted to Article (70) of the Basic Law, while the president resorted to Article (43) of the Palestinian Basic Law. These laws were published in the Palestinian Gazette issued by (Diwan al-Fatwa) the Ministry of Justice in Ramallah.

As for the **Gaza Strip**, members of the Reform and Change Bloc in the PLC continued to convene in the Gaza Strip based on the so-called “power of attorney” system which is not based on any legal justification. PLC members of this bloc ratified six laws during 2009. They have also ratified amendments to Article (153) of the Penal Mandate law No (74) of 1936 with regard to the crime of adultery; the law that regulates the “Zakat” (charitable contribution required from every Muslim) and the amendments on the Personal Status Law with regard to the custody of children. Laws adopted, and amendments made by the Reform and Change Bloc of the PLC in the Gaza Strip contravene with the political system initially developed by the PNA since its inception. It is evident that the Reform and Change Bloc seeks to gradually impose legislation that reflects their own ideological beliefs and to expand the power of the Executive Authority in the Gaza Strip. **ICHR** notices that all legislation adopted by the Reform and Change Bloc contradict with the general trend of the PLC since its inception in 1996 which aims at unifying laws and legislation between the West Bank and Gaza Strip.

Fourth: Results and Conclusions based on Political Changes During 2008

Political and legal changes during 2009 have had a direct impact on rights and public freedoms of Palestinian citizen within the Palestinian-controlled Territory, and the major conclusions made by **ICHR** could be summarized as follows:

First Conclusion: Israeli occupational policies in the OPT remained the prime factor and the key element behind the deterioration of human rights in the Palestinian-controlled Territory during 2009. This was reflected in the Israeli aggression on the Gaza Strip early 2009 which resulted in the destruction of Palestinian official institutions, infrastructures, schools and hospitals, resulting in a long-term impact on the PNA's ability to provide the requirements that allow Palestinian citizens to enjoy their rights. Israeli practices also undermine the ability of the PNA to perform its tasks, hold its legal responsibilities, provide safety and security for the Palestinian citizens in Palestinian-controlled Territory, and to enforce the rule of law. Further more, the occupying authority and its policies in the West Bank including East Jerusalem attempts at undermining the efforts of the PNA in maintaining public safety and security to Palestinian citizens, and in the ability of the PNA in enforcing the rule of law in areas under its responsibility and full control through the continuous Israeli military incursions of Palestinian cities, targeted killings and the arrest of Palestinians on insubstantial security grounds.

Second Conclusion: The failure of the efforts to achieve national reconciliation and the depth of the political division between the Fatah and Hamas movements in the West Bank and Gaza Strip reflected itself negatively on human rights and public freedoms, as they encountered many violations by both parties of this division. The most important violations to be mentioned are: arbitrary detentions, lack of proper legal procedures during arrest, inspection, detention, elimination of public freedoms, disrespect of court rulings and presenting civilians before military courts, continuing to require security approval which came to be known "security clearance" as a condition to hold a public service position.

Additionally, the state of division influenced the construction efforts and the repair of the damages caused by the Israeli aggression on the Gaza Strip as neither the current Palestinian government nor the Deposed government in Gaza was able to start the reconstruction process. This has reflected gravely on depriving citizens from their rights and reducing their suffering and restoring the damages caused by the Israeli aggression.

Third Conclusion: The arbitrary use of the provisions of law by interpreting the law from political and security perspectives have led the Palestinian citizen to question the seriousness of the PNA and its role in respecting the rule of law and its regulations which are based on principles of equality, non-discrimination on any grounds. Furthermore, the arbitrary use of provisions of the law has led to a situation where legal provisions are applied on particular groups not other groups, without any consideration to the principle of equality in the public rights and liberties enshrined in the 2003 Amended Basic Law, which affirms that rights and public freedoms shall be respected and given priority over all other considerations.

Fourth Conclusion: Political changes that have taken place during 2009 and the entailing procedures which affected the public rights and liberties proved that having

an independent and integral judicial system is a crucial guarantee for **maintaining** and preserving rights and liberties especially with the absence of the PLC. **ICHR** notes that there should be judicial oversight by the Supreme Court of Justice over public decisions to ensure the principle of legitimacy and ensure that the Executive Authority, and its administrations, abides by the provisions of the law. In other words, the work of the administration is regulated by specific legal rules and does not have absolute freedom, and that ordinary Palestinian citizens can resort to courts for remedies in case rights were violated.

During 2009, the Supreme Court of Justice has contributed to protecting the public rights and liberties incorporated in the legal principles and constitutional provisions following its direct decisions on issues of arbitrary detention and dissolving and closing of associations. It has created a space for ombudsman before the court against the arbitrary actions of the Executive Authority. It also increased the citizens' confidence in the responsibility of the judiciary in general and in administrative judiciary in particular, in preserving and protecting human rights from the deviation of the authority and favoring security considerations over rights and liberties which are guaranteed by law.

ICHR hopes that this approach continues in the future as it expects from the judiciary to spread "job security" among civil servants especially at the Ministry of Education and Higher Education who were fired from their posts due to the non-approval of security agencies for their appointments in clear violation of Civil Servants Law. It is hoped that the Supreme Court revokes this illegal practice by annulling the Executive Authorities' decision of "security clearance" as a pre-requisite for holding public office.

Fifth Conclusion: The political changes that occurred during 2009 proved that respecting human rights and public freedoms does not depend only on the availability of legal texts, and the entailed rules and guarantees, as much as it depends on citizens' understanding of these rights and the ability of public opinion to influence them. This was apparent by the strong Palestinian public opinion following the PNA's decision to postpone the voting on the decision of the United Nation Fact Finding Mission regarding the Goldstone Report in the Human Rights Council. The importance of the Palestinian public opinion and its ability to influence decision makers was evident for the first time.

It has become also critical for all parties, political factions and civil society organizations to work hard on formulating a strong Palestinian public opinion on human rights-related issues. This is to be achieved by revealing practices and violations, regardless of their perpetrators, and presenting them for discussion within political factions, civil society organizations, and various media outlets for the purpose of creating a strong public opinion which perceives such practices as a threat to each citizen's safety, liberty and life which consequently threatens the Palestinian society of becoming weak and undeveloped. Furthermore, building up Palestinian

public opinion will enhance the public and societal monitoring of the authorities' performance in order to deepen the culture of human rights and the rule of law in the Palestinian context.

Sixth Conclusion: In the Palestinian context, past experience confirmed that succeeding in comprehensive well-balanced development plans and building a state relies in connecting these plans to the human social and economic rights from one side and the political civil and cultural rights from another.

In addition, democratic and legal legitimacy shall outrank any other legitimacy, while the criteria for an independent Palestinian State shall be based on the principle of rule of law rather than the giving priority to "security considerations. This can be achieved by drawing limitations to the encroachments of the security agencies and giving instructions to government officials within security agencies to fully abide by the provisions of the law. To that end, it is necessary that the security level abides by the instructions and orders imposed by the political level as stipulated in the provisions of the law.

Chapter 2. Impacts of the Israeli violations on PNA performance and its ability to protect human rights

The escalation of Israeli violations of human rights in the Palestinian-controlled Territory was more systematic in 2009, and has negatively influenced the performance of the PNA and its role in protecting human rights within its territory. The arbitrary measures and policies of the Israeli occupation forces exemplified by the war crimes committed during its military aggression on the Gaza Strip which began on 27/12/2008 led ICHR to confirm that violations of International Humanitarian and Human Rights Law will persist as long as the Israeli occupation remains in place.

1- Impacts of the Israeli violations on the Legislative Authority

Israeli occupational policies and the internal political separation between the West Bank and the Gaza Strip rendered the Palestinian Legislative Council (PLC) unable to fulfill its role. The ongoing detention of at least 35 PLC members, representing approximately one third of the PLC deputies, along with the political separation between the West Bank and the Gaza Strip have greatly contributed to the disruption of Palestinian political life and legislative functions. Until the end of the year, 17 PLC members were still in detention on charges of affiliation to various political parties. 14 of them are detained on charges of membership of the Reform and Change Bloc, 2 on charges of membership with the Fatah Parliamentary Bloc, and one for membership of the bloc named after the martyr Abu Ali Mustafa. The Israeli Military Court sentenced another four PLC members to renewed administrative detention. During the abovementioned events, Israel attacked the Gaza Strip including its infrastructure, as well as government buildings and organizations. A part of the Palestinian Legislative

Council's headquarters in the Gaza Strip was destroyed, thus leaving the Council members unable to hold regular sessions.

2- Impacts of the Israeli Violations on the PNA Executive Institutions

Throughout 2009, Israeli policies had a negative impact on the lives of Palestinian citizens as well as on the performance of the PNA government. The Caretaker government in the West Bank was forced to provide emergency interventions for the families of those who had been killed, injured, and those affected by the Israeli aggression on the Gaza Strip. Thousands of families had to be sheltered after their homes were entirely or partially destroyed, and the government had to repair and rebuild targeted civil facilities and coordinate with the relevant authorities to facilitate the entry of materials required for the restoration of the electrical networks. All the above constrained the ability of the PNA to work on the elimination of poverty, subsidizing basic supplies, and facilitating the poor with their rights to work, to health and to education. Development initiatives and programs focusing on providing support to national industries, and the building of social safety networks also got little attention. With regard to unemployment, the PNA was unable to create employment opportunities or improve working conditions. The Israeli siege on Palestinian-controlled Territory has led to the deterioration of the standards of living among the inhabitants of the Gaza Strip, the rise of poverty and unemployment rates, in addition to the destruction of the private sector. The shortage in construction materials froze all the official measures and building plans of the Deposed government. The same is true for the measures adopted by the PNA in the West Bank. Lack of coordination and conflicting efforts between the two governments along with the siege on the Gaza Strip exacerbated the sufferings of the Palestinian people and the violations of human rights.

The increase in the number of Palestinian detainees in Israeli jails compelled the Ministry of Detainees to double its efforts, particularly in terms of the shortage in resources available for rehabilitation services in the education sector.

As for health sector, the Israeli aggression on the Gaza Strip led to a sharp increase in the number of deaths and injuries among the Palestinian population. The severe siege hindered the freedom of movement and travel of thousands of sick and injured who require to travel for medical treatment. In addition, the shortage in essential medical supplies and medical equipments resulting from the siege endangered the lives of Palestinian citizens.

Furthermore, the Israeli siege on the Gaza Strip is a critical factor for the rise of unemployment rates and demand on the public services provided by the Ministry of Social Affairs whose projects have been obstructed by the siege and thus so does its ability to provide basic services to the public. The Ministry of Agriculture also suffered from the closures of the Gaza Strip's border crossings which paralyzed

exports and the exchange of goods as well reduced fishing zones open for Palestinian fishermen. The Ministry of Local Government endured lots of hardships because of the full Israeli control of areas which separate the Palestinian Territory, particularly when the ministry attempted to provide services to the Palestinian population. Increased prices and the unavailability of construction materials, especially in the Gaza Strip due to the blockade, forced the Ministry of Public Works to suspend some of its infrastructure projects. In addition, the Ministry of Labor was not able to obtain work permits for workers from the Gaza Strip to enter Israel.

With regard to infrastructure, many lightening projects in dozens of villages in various districts have been suspended. Israeli checkpoints have also restricted the freedom of movement of the researchers of the Central Bureau of Statistics (CBS) in the Palestinian-controlled Territory as well as in Jerusalem. The CBS has also been unable to send publications and statistical forms because of the blockade imposed on the Strip.

3- Impact of Israeli Violations on the Performance of the Judicial Authority

Israeli closures, blockades and military checkpoints imposed over the past years played a crucial role in the aggravation of the efficiency of the judicial system. Indeed these measures represent one of the main obstacles for the execution of court decisions and sentences as well as the movement of witnesses and litigants, judges and prosecutors. As a result, the ability of the judicial authority to provide guarantees for a fair trial, the right to access justice, and prompt case settlement diminished. The lack of Palestinian sovereignty on the complete territory of the West Bank was an important factor behind the weak performance of the Palestinian judicial system. Israeli military checkpoints also led to the irregularity of working hours for judges and the restriction of movement of litigants, their representatives and witnesses. The closures have also affected the efficiency of the Palestinian civil police force and curtailed its ability to access all areas of the West Bank.

4- Impact of the Israeli Violations on the Palestinian Economy

The Palestinian economy has achieved a growth rate of 5% in 2009, and government spending remained the core factor for economic growth in the West Bank, as the current Palestinian Authority has been able to pay the salaries of staff regularly, and execute hundreds of small projects for the benefit of organizations and local councils in various districts with a total cost exceeding US \$ 500 million.

However, Israeli occupational policies have contributed to the ongoing regression of the Palestinian economy and the restriction of its growth. The closures resulted in the decrease of productivity of the workforce, not to mention its impact on the reduction of capital growth and flows. Public losses of private and public properties have been estimated to one third of their total and the Annexation Wall prevented farmers to access their lands either for cultivation or for the picking of olives. Thousands of dunums of the fertile agricultural land were lost to the Annexation Wall and many

other agricultural areas were either closed or confiscated for security reasons. As for the Gaza Strip, the Israeli aggression led to the near total destruction of the agricultural sector.

The lack of Palestinian sovereignty over crossing points impeded the work of the Ministry of Communications and inflicted considerable damage on the Palestinian economy. Access to foreign markets is still greatly limited. The administrative system that undermines investors' confidence and restricts access to natural resources is still predominant within the Palestinian Occupied Territory. Water sources and telecommunication frequencies are still under full Israeli control. The abovementioned factors lead to the absence of indicators of sustainable economic growth in the West Bank. The Gaza Strip on the other hand is witnessing a state of complete economic stagnation.

5- Impact of Israeli Violations on the Education and Health Sectors

The escalating occupational policies and measures adopted by Israel in 2009 have excessively affected the social development sector. With regard to education, 17 schools, where families sought shelter for protection during the Israeli aggression on the Gaza Strip, were exposed to bombardment and destruction. The presence of the Annexation Wall has negatively affected the whole education sector and prevented school teachers from performing their duties as their freedom of movement was restricted. In addition, this wall forced a form of seclusion and isolation onto some Palestinian communities from their livelihoods, lands, and services. This applies to school teachers, students and personnel of the Ministry of Education, who are not able to access their place of work or schooling, thus rendering the wall the gravest violation of the right to education. Students are obliged to commute through the iron gates of the wall which open only at specific hours during the day. In addition, the Israeli military checkpoints erected at the entry of villages and towns have seriously affected the livelihoods of both teachers and students among other residents. Indeed, the inaccessibility to the places of education has affected a total of 124 schools in the West Bank and East Jerusalem.

As for the status of health in the Gaza Strip, in light of the suffocating blockade and closure of border crossings, medical sources at the Ministry of Health (MOH) in the Gaza Strip declared that the hospitals had exhausted their supply of dozens of medications and hundreds types of essential medical disposables including gauze and bandages. In addition to the acute shortages in many varieties of medicines and medical equipment from the warehouses of the Ministry, the medical staff and health organizations endured deliberate targeting: numerous ambulances, hospitals and primary care centers were destroyed. In the West Bank, the Israeli occupation forces have prevented ambulances to access patients and provide them with treatment.

6- The Impact of Israeli Violations on the Provision of Basic Public Services (Water and waste water services)

Israel continues to control and rob water springs and underground reservoirs, thus depriving the Palestinian population of their right to access these reservoirs. In addition, the Annexation Wall's route is identical to that of the groundwater reservoirs which reflects the long standing policies of Israel of water well confiscation as well as the prohibition of drilling artisan wells among others.

The isolation of many water wells and springs by the Annexation Wall led to the deterioration of the water situation in the Palestinian-controlled Territory as reflected in the obstruction of the PNA comprehensive development programs in this sector as well as the shortage of drinking water for the Palestinian citizens. In this way, Palestinians suffer from the decreased availability of water resources since they are mostly controlled by Israel.

In the Gaza Strip, the water situation severely deteriorated following the Israeli occupational measures of dam constructions along the Gaza Valley and the drilling of wells, known as "Trap wells" along the eastern borders of the Strip which led to the isolation of the underground reservoir. On the other hand, the high percentage of chlorine rendered 90% of Gaza's water unfit for drinking due to contamination. The other main reasons for contamination include the disruption of sanitation projects and the Israel's restriction on allowing entry of equipment to the treatment plants. The Israeli siege also prohibited entry of materials needed for the decontamination of Palestinian wells, similar to the ban on the transport of materials, tools, and spare parts into Gaza, needed to operate and repair water and water facilities. As a result, the pollution of the water environment generated heavy losses for all those working in maritime fishing, and the contamination of fish had its own repercussions on the health of Palestinian citizens.

7- Impact of Israeli Violations on Citizens' Security and Safety

Israel's occupational policies and measures, including the deliberate separation between Palestinian areas, economic and military siege and the incursions into the Palestinian towns, complicated the environment in which the Palestinian security forces carry out their duties. These policies are responsible for hampering the security agencies from performing their duties with an overreaching objective of consolidating the Israeli claims of the weakness of the PNA, including the low level of performance of its security agencies and their inability to impose public order and respect for the rule of law. The Israeli occupation has been, and remains the major threat security sector reform.

In spite of that, the PNA continued to implement and enforce a security plan in the Palestinian cities and towns where it gained certain achievements in 2009. However, Israel continued to hinder these efforts with its counterproductive systematic policies

of incursions, assassination of Palestinian activists, arbitrary arrests, and closure of charitable societies and public institutions inside Palestinian cities and towns.

Recommendations

- 1- As the Israeli long standing occupation is the major reason for the war crimes and collective systematic punishment taking place in the Gaza Strip and the other Occupied Palestinian lands, and an obstacle to the right of the Palestinian people to statehood and self-determination guaranteed by International norms and conventions of all human rights, the PNA should call on the international community to engage in serious action for the termination of the occupation of the entire Palestinian lands occupied in 1967.
- 2- The PNA has to seek the activation of the mechanisms of immediate intervention by the UN and its organizations to exercise pressure on Israel to respect International agreements and to comply with legitimate international resolutions. In addition, efforts should be made to urge the high contracting parties of the Fourth Geneva Convention on the application of the resolution issued by the General Assembly on 20/7/2007 under No. A/RES/ES-10/15 in accordance with the advisory opinion of the International Court of Justice with regard to the Annexation Wall.
- 3- The PNA should demand the immediate release of all the PLC members from Israeli jails so that the PLC can play its genuine role with relation to legislation and exercise control over the performance of the executive authority.
- 4- The PNA should call on the international community to exercise pressure on Israel to lift the suffocating siege imposed on the Gaza Strip and cease the systematic policies of incursions and invasion of Palestinian cities, as well as lift barriers, allow mobility and freedom of movement, respect all human rights and suspend all forms of violations so as to enable the PNA and all its institutions to perform the tasks assigned to them and to protect and ensure the rights of its citizens in an efficient manner.
- 5- The High Contracting Parties to the Fourth Geneva Convention shall be invited to fulfill their obligations as provided in Article (1) of the Convention to undertake and ensure respect for the Convention in all circumstances, as well as to fulfill their legal obligations stipulated in Article (146) to hold accountable those who violate the Convention.
- 6- The unity of the Occupied Palestinian Territory as an integrated geographical unit needs to be highlighted. The occupying state must open a safe passage between the West Bank and the Gaza Strip as a special Palestinian entitlement. In addition, pressure should be exercised on Israel to terminate the strict siege imposed on the Gaza Strip, open all crossings without delay, and permit the entry of humanitarian and medical supplies, as well as other goods and materials needed for reconstruction following its aggressive military attack in December 2008-January 2009. The maintenance of the siege hinders

international commitments to the reconstruction of the Strip to turn into concrete practical measures. The international silence with regard to the ongoing siege is proof of the participation of the international community in the process.

- 7- The General Assembly of the United Nations should be invited to request the Security Council, in accordance with Chapter VII of the Charter of the United Nations, to refer the situation in the Occupied Palestinian Territories to the International Criminal Court. The Contracting Parties to the Fourth Geneva Convention of 1949 shall be invited to fulfill their obligations to search for persons suspected of committing serious violations of the Convention and bring them to trial regardless of their nationality.

Part II. Human Rights and Public Freedoms in the Palestinian-controlled Territory in 2009

Chapter 1. Right to Life and Physical Safety

This year witnessed a rise in deaths in comparison to 2008. **ICHR** registered the occurrence of 237 deaths in the Palestinian-controlled Territory including 168 in the Gaza Strip and 69 in the West Bank, of which there were 39 children and 30 women. In contrast, the numbers during the last year were 136 and 55 in the Gaza Strip and the West Bank respectively.

In the West Bank, killings were attributed to a variety of reasons. 26 deaths were ascribed to quarrels and acts of revenge. The misuse of arms by those charged with law enforcement was the reason for 2 other cases. However, the motives behind another 10 killings remained unknown since the investigations carried out by the official authorities failed to identify the causes. Similarly various reasons are behind the 168 deaths that took place in Gaza Strip: 28 were ascribed to internal fighting, 15 to quarrels and acts of revenge, 5 to what is called honor killings and another 11 to the misuse of arms by citizens.

With regard to the deaths resulting from the misuse of arms by members of the security agencies of the Deposed government, the number has dropped this year to 1 case of murder compared to 33 cases in 2008. However, **ICHR** registered 23 deaths which occurred in mysterious circumstances this year, while deaths caused by accidents in the tunnels built along the borders between Gaza and Egypt reached 62 compared to 29 deaths in the previous year.

19 children were killed in the West Bank, of which 5 died during family quarrels, 2 as a result of honor killings, and 11 due to drowning or fires as a result of failure to take sufficient safety precautions. In addition, according to **ICHR's** documentation, 3 detainees died in detention centers and penitentiaries administered by the police and the security agencies in the West Bank and (8) in the Gaza Strip inside Palestinian jails and investigation centers.

The military courts in the West Bank and civil and military courts in the Gaza Strip issued 3 and 14 death sentences respectively. There was a sharp increase in death sentences this year, most of which were issued by military courts in the Gaza Strip, which reflects the courts' unwillingness to adhere to fair trials, and their tendency to deliver verdicts in accordance with the unconstitutional Revolutionary Law of 1979. In this way, **ICHR** considers the issuing of death sentences in the Palestinian-controlled Territory, particularly by the military courts, a violation of the right to life and the right to a fair trial, as well as an assault on the jurisdiction of the civil court.

In addition, the regular visits to arrest and detention centers by **ICHR** as well as citizens' complaints revealed that some of the detainees in the various departments of the civil police jails were exposed to torture and ill-treatment. **ICHR** received numerous complaints in which citizens claimed that they or their relatives were exposed to torture in the prisons in which they were arrested.

ICHR did not notice any significant developments in the Palestinian legal system in 2009 in terms of torture and other types of cruel, inhuman ill-treatment. However, **ICHR** conducted a comprehensive review of the provisions of torture provided in the Palestinian legal system and their compatibility with the provisions of international standards of human rights relating to anti-torture policies, mainly those stipulated in the United Nations Convention of 1984 as well as the annexed optional Protocol of 1989 Against Torture and Other Cruel Inhuman or Degrading Treatment.

The above mentioned legal review has addressed all provisions relating to the prevention of acts of torture, such as those concerning visits to detention centers, the control over them, the necessity to define their location, the requirements that need to be met by those assigned to fill the positions there, as well as the right of the detainees to lodge complains. Among the other provisions discussed in the legal review, the remedial legal provisions concerning acts of torture was given particular importance. These included provisions on criminal, civil and administrative accountability of the perpetrators and those responsible for acts of torture, along with the rehabilitation of those seriously affected. Provisions related to the national judicial jurisdiction and its need to acquire universal jurisdiction, along with other relevant matters including judicial cooperation and the extradition of criminals are also included.

The repeated patterns of torture and ill treatment reported to **ICHR** in 2009 by West Bank citizens were multiple. They included the use of obscene or degrading words, slaps on the face, severe beatings with batons and rifle butts or with hands and legs,,

shackling in the "shabah" position (painful binding of the detainee's hands and feet to a chair) and standing on a small chair for long period, covering the head with a sack, hitting the head against the wall, "shabah" with hands tied behind the back, fastening to the cell's door, sleeplessness by making disturbing noises, pouring cold water on the body, whipping with different tools including electricity cables and wires as well as hoses.

Similarly, torture and ill-treatment practiced against citizens in the Gaza Strip documented by **ICHR** took various forms including: "Shabah" for several days with the hands tied with metal cuffs and hanging of the entire body from the ceiling, continuous blindfolding, covering the head with a bag which weakens the ability to breathe, beatings on feet and other parts of the body with batons, leather sticks and plastic hoses.

In addition to the low number of responses reported by the Deposed Ministry of Interior in the Gaza Strip on violations of the human right to physical safety, it confessed to a limited number of complaints on the transgressions committed by certain members of the security agencies which resulted in punitive measures taken against them. However, in the vast majority of the responses, the ministry did not acknowledge any excesses. The following are some of the standard responses that **ICHR** received from the Deposed Ministry of Interior in response to complaints:

- "The victim died after receiving first aid and been taken by the ambulance directly to hospital where he received treatment by a specialized physician."
- "The detainee was arrested for four hours by the interrogators but was neither beaten nor attacked."
- "The hospital affirmed that the casualty had not been subjected to any attacks and that he is not suffering from any disease."
- "You have to be informed that the detainee admitted of being guilty without torture."
- "The allegation that the detainee was beaten or exposed to Hanging by the ceiling is totally rejected"
- "He was never subjected to any form of torture as mentioned in his complaint."

Recommendations

Recommendations to the PNA

ICHR believes that:

- 1- The presidency of the PNA should adopt and be prompted by the Palestinian government to adopt a moratorium on the death penalty and halt its application through appropriate legislative measures as a prelude to its total abolition.

- 2- The cases of all civilians who have been sentenced to death by military courts should not be ratified by the President but be reassigned to the competent civilian courts to ensure their reassessment.
- 3- Clear instructions must be issued to the security agencies by both the President and the Ministry of Interior (MOI) to refrain from torture or other types of ill-treatment in prisons and detention centers and simultaneously to hold accountable all those involved in these practices. Psychological and physical rehabilitation and compensation must be provided for the aggrieved victims who have been subjected to torture by law enforcement officials.
- 4- A Presidential decree must be issued on the prohibition of torture and ill-treatment in arrest and detention centers of the Palestinian security agencies under penalty of legal accountability.
- 5- The Preventive Security Agencies (PSA) and the Palestinian General Intelligence (PGI) have to seriously investigate all the allegations by citizens about being subjected to torture and ill-treatment, and to take appropriate measures against law enforcement officials who proved to be engaged in such practices.
- 6- Investigation must be carried out by the public prosecution in all cases of murder, in particular the mysterious cases or those perpetrated as a means of defending "family honor", to make the perpetrators known and bring them to justice.
- 7- The public prosecution must exercise its monitoring role on all detention centers of the security agencies to ensure that detainees are not subjected to ill-treatment or torture or to verify the cases of their real occurrence.

The official authorities must exercise effective surveillance on public places to ensure that safety precautions are applicable.

Recommendations to the De-facto Authority in the Gaza Strip

- 1- Clear instructions must be issued by the Ministry of Interior to the security agencies of the Deposed government to avoid excessive use of force against citizens for the protection of human rights and physical safety and for the prevention of the repetition of unfortunate events like that of "The Soldiers of God" in which dozens were killed.
- 2- Serious investigations should be implemented in all cases of murder to make the offenders known and bring them to justice.
- 3- To conduct serious inquiries into all allegations by citizens for the adoption of preventive measures against those proved to be guilty of torture or ill-treatment. Rehabilitation shall be provided for the aggrieved parties who must be compensated for the physical and moral abuse they endured.
- 4- The PLC members of the Reform and Change Bloc in the Gaza Strip have to stop the issuance and endorsement of legislative decisions affecting the human

rights to life and physical safety until PLC regular meetings are convened in full quorum.

- 5- Effective surveillance on public places should be exercised by the official authorities to ensure the availability of public safety precautions.

For Women whose rights to life and physical integrity are endangered, it is essential to

- 1- Conduct adjustments to the stipulated legal sanctions applied in the West Bank and Gaza Strip, particularly with regard to the abolition of laws that render the killing of women permissible, or allow perpetrators to find excuses for their crimes for the protection of "family honor". The exemption of offenders and the mitigation of sentences against them encourage the continuity of their crimes.
- 2- Amend the Palestinian Penal Procedural Code or enact a new one to regulate the procedures in cases of violence against women so as to ensure privacy and confidentiality, and take into account the needs of feminine victims, as these issues imply certain interactions of societal and cultural dimensions that endanger or threaten the lives of women.
- 3- Increase the number of security and protection homes to commensurate with the growing needs for such shelters.
- 4- Establish branches of the Family Protection Department in all police stations in all districts.
- 5- Allocate training sessions for prosecutors and police officers assigned to deal with women victims so as to enable them to acquire knowledge and experience in this respect, and to raise women's awareness of human rights and strengthen their faith and convictions of the justice of criminal codes.

Chapter 2. Right to Proper Legal Procedures during Arrest and Detention

ICHR has noted a rise in arbitrary detentions without due process in 2009. Through follow up, the Commission has monitored dozens of complaints on security agencies' lack to ensure proper legal procedures during arrest and frisking in both the West Bank and the Gaza Strip. Detainees in most cases were arrested by PSA and PGI, as the affidavits and complaints reported to **ICHR** in 2009 confirm, due to their political affiliations, and their cases were referred to the Military Judicial Authorities to be sentenced for periods of up to six months upon a request from the security agencies to the Chief of the Military Judicial Commission without being brought before the Commission itself or before the Military Public Prosecution. Being repeated so frequently with the consent of the Military Judicial Commission, these practices constitute a violation of the relevant Palestinian laws including the Amended

Palestinian Basic Law, the Palestinian Penal Procedural Code as well as the Revolutionary Penal Code of 1979. In addition, concomitant to arbitrary detention, the new phenomenon of confiscating money and property of some of the detainees, in violation of the provisions of Article (21) of the Basic Law, became apparent.

In accordance with the Military Procedural Code and pursuant to a decision by the Military Judiciary of the Deposed government through its Military Public Prosecution, civilians and members of the Military, especially members of the Fatah movement, are arrested after being accused of specific charges due to their political affiliation for a period of 15 days that is later extended to 45 days, and 6 months upon a judgment from a district court and a permanent court respectively. However, the detainee is later released unless the Military Public Prosecution files a bill of indictment against him.

The charges that these detainees are accused of, such as their contact with the "Ramallah government" or providing it with information, made the Deposed government deny the existence of political prisoners in its detention centers. However, **ICHR** considers these detainees as political prisoners and regards the measures adopted in their arrest as arbitrary and contrary to the law whether they are civilians or military men. The offences they are charged with are no more than pretenses to justify political arrest.

Recommendations

Recommendations to the PNA

- 1- All parties of criminal justice as well as civil society organizations have to participate immediately in preparing a draft of a unified Palestinian Penal Code formulated in a precise legal manner to clearly identify the criminal offenses punishable by law, with the exclusion of the activities that in accordance with the International standards are regarded among human rights, and to criminalize the use of torture and cruel, inhuman and degrading treatment. It must also include punitive measures against the officials entrusted with law enforcement for committing such offenses. However, until such a code is ready; the PNA must ban the detention and imprisonment of individuals for exercising their political, intellectual and syndical rights.
- 2- The Palestinian Penal Procedural Code has to be amended in a way that separates between investigation and indictment, so as to provide a maximum level of protection for personal freedoms by providing legal guarantees for the right to defense that is guaranteed in international conventions and the Palestinian Basic Law, mainly due to the neutrality of the investigation as compared to charge that is based on dispute.
- 3- Prisons as well as detention centers within the headquarters of PSA and PGI must be subjected to thorough examination by the Public Prosecution.

- 4- The PNA must conform to bringing all civilian defendants before competent judicial authorities to provide guarantees for a fair trial and allow them to appeal and complain to a higher judicial authority.
- 5- In accordance with the provisions of the law, the Public Prosecution has to assume its legal responsibility during arrest and detention, as well as interrogation and extension implemented by the judicial police.
- 6- The confiscation of funds and real estate or properties in violation of Article (21) of the Basic Law must be stopped immediately.

Recommendations to the de-facto authority in Gaza

- 1- The Supreme Council of Justice in Gaza must immediately terminate the administrative authority and the term of the Deposed government, and permit the restructuring of regular courts in accordance with the provisions of the Basic Law and the Judicial Authority Law.
- 2- The security agencies of the Deposed government in the Gaza Strip must be prohibited from bringing civilians before the Military Judiciary, and conform to legislations in force.
- 3- The armed groups such as Al Qassam Brigades, Hamas' military arm, must be stopped from participating in the arrest, detention and investigation procedures.
- 4- Complaints received against the security agencies of the Deposed government should be treated with transparency and objectivity to detect the perpetrators of illegal detention and of acts of torture and ill-treatment.

Chapter 3. The Right to Litigation

The Judicial Authority in the Palestinian-controlled Territory still encounters tremendous interior and exterior constraints that hamper its ability to perform its duties in order to achieve justice and settle disputes between citizens in a timely manner. These constraints have been aggravated in 2009 due to the Israeli occupational practices and the subsequent disconnection and isolation of Palestinian towns and villages due to the military checkpoints and the complete closure of the Gaza Strip.

The political partition has hindered the work of the judiciary in a way that cannot be ignored. The formation of the Supreme Council of Justice upon a decision of the Deposed government in the Gaza Strip was a violation of the provisions of the Palestinian Basic Law of 2003, which identifies the nature as well as the jurisdiction and composition of the Judiciary.

As the Judiciary captures a small share of not more than 37% of the PNA budget, the lack of funds and human resources in support of the authority restricted its supporting parties and units, thus diminishing its ability to perform its duties whether in term of arresting offenders and investigation of crimes or with regard to ensuring the smooth conduct of trials.

The continuing disruption of the PLC's work has greatly hampered the work of the Judiciary in general, mainly with regard to paralyzing its ability to develop a set of legislations particularly the Judiciary law. The inability to make amendments to certain procedural laws such as the Palestinian Penal Procedural Code was an obstacle to Judiciary reform which led to the slow disposition of cases and adjournment in sessions. Additionally, all the attempts made by the special working group for the study of Judicial laws packets within the Legislative Council have failed to modify the laws of civil, commercial and penal procedures through resolutions sanctioned by the President in accordance with the authorities entrusted to him in Article (43) of the Basic Law.

In this context, **ICHR** monitored the violation of the right to litigation in the Palestinian-controlled Territory in 2009. Due to the absence of fair trial guarantees, a number of detainees remained in jails as the Judiciary fell short of making quick decisions. Additionally, in extension of the policy that paved its roots during 2008, the Executive Authority and its security agencies continued to show little respect for the rulings issued by the courts, in particular those issued by the Supreme Court of Justice, either by not carrying them out, circumventing around them or through the slowdown of execution of these rulings. This was particularly the case for arbitrary arrests, the closure of organizations as well as other cases where there have been clear decisions from the courts, especially the Palestinian Supreme Court of Justice which settled dozens of cases during the year.

In Gaza, the substitute Supreme Council of Justice set up on 11/9/2009 upon a decision issued by the Deposed government continued its work. It is considered an explicit distinct infringement of the jurisdiction of the Palestinian Supreme Court of Justice and the basics and fundamentals of the independence of the judicial authority, guaranteed and confirmed in Article (98) of the Basic Law. This has caused essential damage to the integrity of the Judicial Authority and the Palestinian Judicial System as a whole, which restrained its ability to carry out its functions efficiently as a unified third authority in protecting human rights and public freedoms. Additionally, the Reform and Change Bloc in Gaza continued to convene its sessions in accordance with the system of delegations. Some Judicial laws were also subjected to amendments that consolidated partition within the judicial authority. **ICHR** also noted that some detainees, due to their political affiliations, suffered from the absence of minimum guarantees of a fair trial, and their referral to the Military Judiciary, this time in accordance with the Military Jurisdiction Law No. (4) Of 2008.

Recommendations

Recommendations to the PNA

To ensure the right of access to justice and the guarantees of a fair trial, the following recommendations should be fulfilled:

1. Appropriate procedures should be adopted by the Executive Authority to enhance the independence of the Judicial Authority and ensure the non-interference of the security agencies.
2. The Executive Authority has to show respect for judgments and their implementation without delay, adjournment, or lingering.
3. The Amnesty law that has a positive reflection on the resolution of the judicial deadlock must be ratified by the President in a way that doesn't affect personal rights in addition to the ratification on the amendment of the Law on the Formation of Regular Courts, and the Penal Code.
4. Some provisions of the Judicial Laws, such as the Palestinian Penal Procedural Code, the Civil and Commercial Procedural Law, must be amended due to the evident effect on the acceleration of case settlement.
5. The budget of the Judiciary shall be increased in order to promote the judicial facilities such as human resources and the technical aspect.
6. In accordance with the provisions of the Basic Law and the International standards of human rights, civilians must be brought before the civilian rather the military courts since the latter is restricted to military men and in need of the minimum guarantees of a fair trial.
7. A mechanism should be developed to settle the issue of the breach of traffic rules, whose value must be paid in banks. Such violations shouldn't be brought before the court except in case of objection by the violator to the assigned value, so that judges can dedicate their time to look into other more important files.
8. A joint department for judicial inspection that combines both wings of the Judiciary: the judges and prosecutors pursuant to Article (42) of the Judicial Authority Law must be immediately established.

Recommendations to the Deposed government:

- 1- To retract the resolution of establishing the Substitute Supreme Council of Justice to pave the way for the Palestinian Supreme Court of Justice to perform its functions in accordance with the law.
- 2- To suspend the Code of Military Judiciary issued by the Reform and Change Bloc.

Chapter 4. Public Freedoms

Right to Freedom of Opinion and Expression in the Palestinian-controlled Territory

The right to freedom of opinion and expression and the right to peaceful assembly have repeatedly been violated in the West Bank and the Gaza Strip. The exercise of the right to freedom of opinion and expression has seen a marked decline in 2009 due to the political divide in the Palestinian political system. The forms of violations of this right were numerous. The most prominent of them were the violation of freedom of the press and the right to peaceful assembly.

Freedom of Press: In 2009, the violations of personal freedom of journalists witnessed an incomparable rise since the establishment of the PNA. **ICHR** has monitored a series of types of violations that caused harm not only to journalists but also to journalism as a whole, exemplified by the suppression and restriction of freedom of press and the blockade of the press through a policy pursued by the police and security agencies of the two governments. The most conspicuous violations afflicting journalists included arrest and questioning, physical attacks, the accusation of some media of bias and non-professionalism, as well as threats. Furthermore, journalists were forbidden to convene press conferences or cover field events. The printing and distribution of some daily and weekly newspapers were banned; media institutions and centers were stormed and shots were fired on media institutions. It was also noticed that journalists were prohibited to participate in training sessions or travel abroad. In sum, the deterioration of media freedoms was a reflection of the continuing tension between Fatah and Hamas.

Although the official policies and statements of the PNA in the West Bank confirms its adherence to press and media freedoms, the Executive Authority and its security agencies gave priority to security considerations over public liberties in general and freedom of media in particular, as shown by **ICHR's** documentation and the complaints it received.

However, the Judicial Authority didn't condemn any of the journalists against whom legal proceedings were instituted, as the decisions of the Supreme Court of Justice considered the arrest of civilians by the Military judiciary contradictory to the Basic Law and an assault on personal freedoms guaranteed by law.

The Supreme Court of Justice has issued more than one decision in favor of the immediate release of journalists detained by security agencies, which led to lingering and lack of implementation of decisions issued by the Palestinian competent courts. As can be seen from the information available to **ICHR**, the role of the Supreme Council of Justice in the Gaza Strip came into line with the official policy of the De-facto Authority in Gaza. The role of the legislative council in the protection of public freedoms and in providing guarantees for the protection of rights has vanished, and was restricted to the votes of some PLC members through declarations, condemnation, denunciation and demand for respect for public freedoms. The absence and the suspension of the Ply's functions affected its oversight role in the protection of the rights and freedoms in general and freedom of press in particular.

The political divide has affected freedom of opinion and expression in the Palestinian-controlled Territory as violations against journalists and media organizations led to further deterioration in freedom of expression, and negatively affected the development of the Palestinian media in general, thus debilitating its ability to develop public opinion in the Palestinian society. It is difficult to talk about the retrogression of violations against media freedoms unless a solution is found to put an end to the deep discord between Fatah and Hamas in the West Bank and the Gaza Strip and terminate the political divide on the Palestinian arena.

Recommendations

Recommendations to the PNA

1. The Ministry of Interior is advised to prohibit the arrest of journalists who have to be neutral in reporting internal Palestinian disputes, or the ongoing political conflict. In addition all illegal actions taken against journalists and media institutions due to their jobs and their political affiliations have to be halted. The competent authorities should also stop the arrest and persecution of journalists and release the detainees. These authorities also have to end the security measures that they employ in dealing with the media in order to preserve the freedom of opinion and expression, press freedom and the protection of human rights. A formal investigation with regard to ill-treatment and torture of journalists by the security agencies should start as soon as possible.

2. Journalists should be classified as civilians, and the orders issued by the Military Public Prosecution for their detention must be regarded contrary to the law.
3. The Ministry of Interior should remove all restrictions imposed on the exercise of the right to freedom of opinion and expression, and the right to peaceful assembly in the Palestinian-controlled Territory in accordance with the provisions of the Palestinian Basic Law.
4. **ICHR** recommends the Ministry of Interior to change the measures adopted in dealing with the freedom of opinion and expression, or those related to the rights of the Palestinian journalists, in covering the events of conferences, meetings, marches, as well as other activities, and allow all media to work freely in all Palestinian areas.
5. The Palestinian security agencies, as well as all those who are responsible for law enforcement need to respect judicial decisions, mainly those of the Supreme Court of Justice issued in favor of journalists, and to implement them without delay so as to ensure the rule of law and respect for human rights. They also have to prosecute all those responsible for attacks on journalists and bring them to justice.
6. The Ministry of Interior is recommended to allow the media, which was prohibited to work without legal justifications, to re-exercise their functions. This applies to two newspapers: "Al Risala" and "Falasteen".
7. Journalists should adhere to professional standards and objectivity, and deal with the Palestinian national issues without being considered as causing provocation which leads to enticements that deepen tension and partition.
8. A Higher Council for Information has to be established to assume the responsibility for the official Palestinian media to ensure neutrality and objectivity.
9. The Competent Authorities have to withdraw the decree which requires a prior authorization for the organization of peaceful and public gatherings, because it is a violation of the law and its implementing regulations, which do not require a license prior to the organization of public meetings.
10. A serious investigation into the events in which the citizens involved in peaceful demonstrations were severely assaulted must be enforced. This also applies to the measures that hampered and disrupted the organization of peaceful rallies and festivals as they are regarded a violation of the sovereignty of law, and restriction of freedoms.

To the Deposed government in the Gaza Strip

1. The security agencies of the Ministry of Interior of the Deposed government should stop the arrest and persecution of journalists. An inquiry into cases in which journalists are subjected to ill-treatment and prosecution has to be carried out. Journalists need to be a neutral party and are not involved in the ongoing political conflict between Fatah and Hamas.
2. The Ministry of Interior and security agencies of the Deposed government must remove the restrictions on the exercise of the right of citizens to freedom of opinion and expression, and provide protection for journalists and media institutions. Moreover, necessary measures have to be taken to enable them to perform their duties freely, in respect for press freedoms, and reaffirm the right to freedom of opinion and expression.
3. The Ministry of Interior and security agencies of the Deposed government have to remove the restrictions on the exercise of peaceful assembly in the Palestinian-controlled Territory, in accordance with the provisions of the Palestinian Basic Law.
4. **ICHR** recommends the security agencies of the Ministry of the Interior of the Deposed government to stop preventing journalists from media coverage, and give them full freedom to cover the events taking place in the Gaza Strip.
5. **ICHR** recommends the cessation of all illegal measures taken by the Ministry of Interior of the Deposed government against media institutions operating in the Gaza Strip, and allow them to act in accordance with the provisions of the law.
6. The Ministry of Interior of the Deposed government ought to allow the media that were banned to exercise their functions in the Gaza Strip,
7. The security agencies of the Ministry of Interior of the Deposed government need to stop bringing journalists before military courts.
8. The competent authorities have to withdraw the decree which requires a prior authorization for the organization of peaceful and public gatherings, because it is a violation of the law and its implementing regulations, which do not require an authorization prior to the organization of public meetings.
9. A serious investigation should be carried out to look into the events in which the citizens involved in peaceful assemblies were attacked, and the measures that impeded the organization of peaceful gatherings and festivals, as they restrict freedoms and contradict the rule of law.

Chapter 5. Right to Association

In 2009, the right to formation of and membership in charitable and other associations in the West Bank and the Gaza Strip has been subject to several violations in contravention of the international standards of human rights, the Palestinian Basic Law and the law on Societies and Charitable organizations No (1) of 2000 and its Executive Regulations No (9) of 2003.

In the West Bank, **ICHR** noted that 25 new civil society organizations under formation had applied for registration at the MOI in 2008, and have not yet obtained their registration certificates despite the passage of a two-month period as prescribed by law. To further complicate the registration process, the MOI has continued the application of the Minister's decision No. (20) of 2007 which ordered the Ministry's Societies Registration Department to refer to the security agencies prior to the issuance of registration. In 2009, **ICHR** documented many incidents where the security agencies stormed the offices of some charities and civil society entities and destroyed or seized their properties.

Furthermore, the MOI continued to intervene in the internal affairs of certain societies in the West Bank by replacing the existing administrative bodies with new bodies. **ICHR's** documentation for the 2009 violations reveals that the MOI assigned new interim management committees for 11 societies. The MOI also interfered in the election of the governance and administration bodies of several civil society organizations in contradiction to Paragraph (3) of Article (46) of the Executive Regulations of the Associations Law. **ICHR** noted that the Registrar of Societies in the MOI of the Current Palestinian government also selected the committees responsible for the financial auditing of societies, although the department is not the competent authority referred to in Article (6) of the Associations Law. The MOI also ordered the dissolution of 35 charities during 2009.

In the Gaza Strip, **ICHR** documented similar events such as breaking into the premises of several societies by police and the security agencies of the De-facto Authority with assistance from the Al Qassam Brigades. Staff members of those associations were also subjected to arrest and persecution. Moreover, the MOI of the Deposed government dissolved 40 societies and exercised financial auditing and scrutiny powers on 170 civil society organizations in violation to the provisions of law.

Recommendations

Recommendations to the PNA

Taking into consideration the current status of the right to association and formation of civil and charitable societies, **ICHR** recommends that the PNA considers the following:

1. It is necessary for the MOI to adhere to the provisions of the Law of Charitable Associations (1) of 2000 and its Executive Regulations number (9) of 2003, and to immediately halt the following practices: dissolution of associations, interference in their management affairs and exercise of financial and management audits on civil society organizations.
2. It is necessary for the Monetary Authority to issue instructions to banks to allow the opening of bank accounts for associations registered in accordance with the law to open bank accounts, without special permission from the MOI.
3. It is necessary for the security agencies to stop the closure of associations, arrest of heads of associations, and confiscating their property.

Recommendations to the Deposed government in the Gaza Strip

1. It is necessary for the MOI to adhere to the provisions of the Law of Charitable Associations (1) of 2000 and its Executive Regulations number (9) of 2003, and to immediately halt the following practices: dissolution of associations, interference in their management affairs and exercise of financial and management audits on civil society organizations.
2. It is necessary for the security agencies to stop the closure of associations, arrest heads of associations, and confiscating their property.
3. It is necessary for the MOI to evacuate as soon as possible the premises of some civil society organizations that are currently occupied by the security agencies.

Chapter 6. Right to Hold Public Office

ICHR observed that various restrictions on the right to hold public office, including the condition known as pre-appointment "security clearance", have also continued throughout 2009. In addition, a new violation emerged with respect to the dismissal of public servants, without adherence to the provisions of the pertinent articles in the law. Dismissal occurs after failure to obtain the aforementioned clearance from the security agencies, although the dismissed civil servants were appointed following the procedure and requirements provided for by the Civil Service Law. **ICHR** received numerous complaints from civil servants after a short period in office, because of the non-approval of security forces, regardless if they completed the appointments' requirement as specified by the law or came as a result of following the sound procedures and the principles of equal opportunities. The dismissed civil servants underwent written and oral examinations, and had their names published in two daily newspapers for two successive days at least.

The continued implementation of these decisions represents unprecedented legal violations of the right to public office under the PNA. A stringent policy seems to have been adopted in order to have all acquired rights systematically violated and the individuals' legal rights annihilated. The policy seems to be based only on the political will without any due consideration to the minimum standards of human rights.

The same trend continued in 2009 with regard to the ministerial decisions on public service. Most documented violations were directly linked to 2007 events as the outcomes or results of decisions taken two years ago. Appointment of employees, or refusal thereof, was based on security agencies' approval and their dismissal or salary suspension was based on the same reasons.

In 2009, the PNA had 165,000 employees in the West Bank and Gaza Strip and **ICHR** received 1043 complaints in relation to the violation of the right to public office in general, including 37 complaints of discrimination and unfair selection in recruitment. About 29 complaints were lodged in the West Bank and 8 complaints in the Gaza Strip. On the other hand, **ICHR** received complaints on the erosion of the rights of existing civil servants, such as delayed promotion, forced retirement, or detraction of financial rights. **ICHR** received a total of 696 complaints distributed between the West Bank (490) and the Gaza Strip (206). As for the type of complaints, these were related to unfair dismissal (307 complaints of which 304 were filed in the West Bank and 3 in the Gaza Strip). Violations of the right to strike were reported in 3 complaints in the Gaza Strip.

Recommendations

Recommendations to the PNA

1. It is necessary for the current government to adhere to the legal provisions governing the public service sector, starting with the Civil Service Law No. (4) of 1998, and its amendments, and executive regulations on procedures for the recruitment and dismissal from public office, and salary suspension.
2. It is necessary for the PNA to halt all illegal administrative norms currently applied by the General Personnel Council, that require all appointment applications to be referred to the security agencies for approval prior to appointment.
3. It is necessary for the PNA to review dismissal, salary suspension, or appointment refusal or files that were decided upon based on recommendations received from the security agencies, and pay due compensations to those affected in accordance with the law.
4. It is necessary for the PNA to apply the legal provisions on social insurance and pension in accordance with the governing legal principles and procedures, and refrain from denying civil servants their rights under any pretext.

Recommendations to the Deposed government in the Gaza Strip

1. It is necessary for the Deposed government to adhere to the legal provisions governing the public service sector, starting with the Civil Service Law No. (4) of 1998, and its amendments, and executive regulations on procedures for the recruitment and dismissal from public office.
2. It is necessary for the Deposed government to not penalize civil servants exercising their right to strike by depriving them of their entitlements and rights, as the right to strike is a legitimate right guaranteed by the Basic Law and international conventions.
3. It is necessary for the Deposed government to consider the public office in the Gaza Strip as neutral and refrain from politicizing it or prioritize its political considerations when recruiting for the public office.

Chapter 7. Right to the Highest Attainable Standards of Health

In 2009, **ICHR** received a large number of complaints concerning medical errors within health institutions run by the Ministry of Health (MOH). A total of 29 complaints were filed, of which 15 on deaths due to medical errors. The MOH pharmacies also had problems in supplying certain kinds of medicines to public hospitals, pharmacies or clinics in rural areas. In addition, **ICHR** received many complaints on the MOH refusal to grant patients transfers for treatment outside MOH facilities and hospitals.

In the Gaza Strip, the MOH of the Deposed government issued a decision on 25/11/2009 for the opening of a Traveler Registration Office in Gaza city which requires every citizen wishing to travel abroad - including patients and their families - to obtain a permit from the office three days before the travel date. The decision has increased the patients' suffering and reflected negatively on their right to direct access to appropriate medical care.

In addition, the strategic plan of the MOH addressed the issue of health referral and the ministry's policy for services procured from outside the country in preference for attracting and developing local expertise. This policy has increased in-country referrals rather than abroad referrals.

The national strategic plan also addressed obstacles and challenges facing the sector stemming from the social, political, economic, demographic, epidemiological and financial situations. The plan aims at improving the sector's ability to provide the best health care services, and ensuring that the health sector has sustainable funding and adequate and sufficient human resources. The plan promotes and strengthens the processes of planning, management, and policy formulation as well as the promotion of health awareness, and provision of secondary treatment services while ensuring the highest levels of adequate and sustainable health care services. The plan also seeks to improve the infrastructure for hospitals and primary health care facilities and the provision of adequate and qualified human resources through the improvement of training and health education standards.

Recommendations

Recommendations to the PNA

1. **ICHR** deems it necessary for the Council of Ministers to set executive regulations related to health and particularly the Public Health Law.
2. It is necessary for the MOH to appoint specialized physicians especially cardiologists, nephrologists and oncologists, as well as nurses and midwives for public hospitals.

3. It is necessary for the MOH to take actions, practical measures and concrete steps to address the issue of negligence and medical errors.
4. It is necessary for the MOH to insure its personnel against medical errors.
5. It is necessary to establish primary and secondary health care facilities in remote areas particularly those affected by the Annexation Wall and the Israeli military checkpoints, so as to ensure the provision of health care services to all citizens.
6. The MOH should make sure that sufficient supplies of medicines are obtained and made available especially to patients with chronic diseases.
7. There is a need for the MOH to construct warehouses for governmental hospitals with problems related to storage of sufficient medical supplies.
8. It is necessary to spare the health sector the implications of political division, and work to ensure that all citizens enjoy their health rights.

Chapter 8. Right to Adequate Standard of Living

In 2009, the Gaza Strip witnessed an unprecedented deterioration in the humanitarian conditions, as a result of the continuing effects of the Israeli military offensive that occurred between 27/12/2008 - 18/1/2009. Citizens are suffering from its aftermath and the resultant damage on public and private property which reached housing, infrastructure, and the industrial and commercial facilities.

The Israeli siege imposed on the Gaza Strip since mid-2007 was exacerbated in 2009 as the Gaza Strip has been considered a hostile entity targeted with a multitude of subsequent actions and policies. This has turned the Gaza Strip into a larger prison for its population, and caused a full economic collapse across all sectors (industry, services, trade, construction and agriculture). The private sector has been badly hit since it used to cater for 120 000 jobs in the aforementioned sectors. It is within this context that **ICHR** presents and highlights the humanitarian situation in the Gaza Strip that was closely monitored during 2009:

a - Right to Housing

The Israel bombardment of the Gaza Strip by land, sea and air caused full and partial destruction of 2628 and 8499 houses, respectively. About 864 homes were rendered uninhabitable, and the number of damaged housing units reached a total of 11,136, including both independent houses and apartments in housing complexes and buildings. About 17,401 families lost their homes that sheltered 107,384 persons thus rendering 25,083 families homeless and in urgent need for emergency shelters and accommodation.

b - Increased Poverty and Unemployment Rates

The year 2009 saw a rise in poverty and unemployment rates in the Gaza Strip as a result of the continuing Israeli blockade. Poverty rates reached 90% and the Israeli war cost the Palestinian economy 4 billion US \$ in losses. The situation deteriorated to the point where the United Nations Conference on Trade and Development declared the current economic situation in Gaza Strip as the worst since 1967 at the level of economic security and living conditions. In 2009 the unemployment rate increased from 28% in the second quarter of the year to 31.4% in the third, in comparison to 32.7% in the third quarter of 2008.

c – Increased Cost of Living index

In 2009, prices increased by (3.19%) in comparison with the prices of November 2008. It is noted that the price increase was concentrated in **food and basic supplies which have risen steadily** throughout the year and rendered the poorest households even more vulnerable.

ICHR reviewed the procedures, policies, and programs implemented or intended for implementation by the Deposed government in the Gaza Strip and the current Palestinian government, for the creation of employment opportunities for citizens in the Gaza Strip and a decent standard of living that provides the minimum requirement for a decent and honorable living. **ICHR** also reviewed the impact of those measures and policies of the right to a decent standard of living and concluded that they are not proportional to the actual level of citizens' basic and necessary needs in the Gaza Strip. This applies to the attempts of the Deposed government's emergency creation programs, permanent social assistance, or emergency relief aid. **ICHR** also monitored the changes to the status of the right to decent living standards in 2009 compared to previous years. **ICHR** observed a significant decline in the living conditions of citizens in the Gaza Strip, and that both the PNA and the Deposed government have not lived up to their legal duties with regard to the citizens' rights to an adequate standard of living.

Recommendations

Recommendations to the PNA

1. It is necessary for the PNA to pressure the international community for an immediate lifting of the economic blockade on the Gaza Strip in order to enable access for all goods and basic materials necessary for reconstruction. The PNA should deal with this as a legal obligation that the international community must fulfill especially the state parties and signatories to international conventions and human rights conventions.

2. It is necessary to put an immediate end to the political and geographical division of the Palestinian National Authority since the division directly entails the inability of citizens to exercise their legally guaranteed rights, particularly the right to adequate standards of living.
3. It is necessary for the PNA to coordinate all efforts, plans and programs, both governmental and international, for the reconstruction of the Gaza Strip, and immediately start the rehabilitation of damaged private homes, in light of the resources available internally, without waiting for a comprehensive reconstruction process.
4. It is necessary for the PNA to secure accommodation for families that lost their homes until their renovation as well as to provide assistance to those citizens to ensure the minimum for an adequate standard of living for them and their families.
5. It is necessary for the PNA to ensure the provision of social assistance to all citizens in need, in accordance with the increase approved by the international and relief organizations, even if such organizations do provide all or part of them with assistance.
6. It is necessary for the PNA to include in its reconstruction plans and programs homes and private residential units destroyed by the recent Israeli war on the Strip.
7. It is necessary for the PNA to invest aid money it receives, whether for reconstruction or other purposes, to implement economic projects creating permanent jobs and local economic development.

Recommendations to the Deposed government

1. It is necessary to provide shelter and accommodation for those who lost their homes until their reconstruction, as well as assistance that ensure the minimum adequate standard of living for them and their families.
2. It is necessary to facilitate the reconstruction tasks of institutions and donor countries and provide the technical and technological services necessary for the initiation of reconstruction of all affected sectors.
3. It is necessary to ensure full removal of debris and rubble from destroyed areas, particularly damaged buildings that pose a threat to the lives of citizens.
4. It is necessary for the Deposed government to review and increase its own emergency employment generation programs, in order to meet the actual emergency needs of citizens and reduce the rates of (extreme) poverty and relatively address the increase in the unemployment rates.
5. It is necessary for the Deposed government to implement temporary programs that provide the minimum level of social assistance commensurate with the minimum requirement for a decent living of affected groups.
6. It is necessary for the Governmental Assistance Committee to increase the amounts of its assistance provided to citizens, to ensure coverage of new groups and provision of assistance according to the needs of citizens.

Part III. Accountability and Responsibility for Human Rights Violations

Chapter 1. Complaints and Oversight of Detention Centers

ICHR received a total of 3442 complaints concerning violations of human rights and public freedoms in 2009 including 2449 complaints in the West Bank and 993 in the Gaza Strip. The complaints relevant to security agencies were the highest in number even though the ministries and other public institutions outnumber the security agencies. The complaints were distributed as follows: 60% were related to the security agencies and 40% to civil agencies.

First: Citizen Complaints and Oversight of Detention Centers in the West Bank

ICHR received more than 2207 complaints about the violation of detainees rights of which 581 complaints regarding detainees arrested on political grounds. About 252 complaints were related to violations of the right to physical safety, which focused on patterns and methods of torture such as physical abuse, psychological pressure, verbal abuse, sleep deprivation, prolonged standing, cigarettes burns, and solitary confinement. Most complaints against the security agencies were directed at the Preventive Security, the General Intelligence, Civil Police, and Military Intelligence. Moreover, **ICHR** registered more than 1000 complaints on violations of the right to proper legal procedures.

With regard to the right to hold public office, violations varied between dismissal and non-payment of employees salaries under the pretext of non-compliance with the decisions of the legitimate government. The number of these violations exceeded a total of 826. The practice of "security clearance" had the largest impact on the dismissal of civil servants, especially among public school teachers.

On the other hand, **ICHR** monitored violations related to lack of respect and non-enforcement of courts' decisions. About 141 such violations were registered especially with regard to the decisions issued by the Supreme Court of Justice. At best, the enforcement was delayed or implemented right away but the released citizen was re-arrested and presented to the judicial authorities with the same charges.

Monitoring Places of Detention

In 2009, **ICHR** carried out its task of monitoring detention centers and penitentiaries in the Palestinian-controlled Territory. **ICHR** lawyers, researchers and office directors conducted periodic visits to prisons and detention centers with the aim of monitoring the living, legal and health conditions in those centers, monitoring human rights violations, and receiving detainees' complaints on such violations. During the past year, **ICHR** conducted 889 visits to dozens of arrest and detention centers in the West Bank. The visits focused on inspecting places of detention in terms of the appropriateness of physical structures, availability of essential needs and sanitation, over-crowdedness, and the adherence to the separation between juveniles and adults, and between men and women.

However, **ICHR** still faces some difficulty in carrying out unannounced visits to detention centers, despite the promises it received from officials in the West Bank that all visits would be permitted. **ICHR** visits were impeded in some cases, especially in the first quarter of 2009 and it received a total of 321 complaints against the detention centers administered by the security agencies.

Recommendations

Recommendations to the PNA

1. It is necessary for the PNA ministries and institutions to seriously address the complaints that **ICHR** follows up on and responds to **ICHR** correspondence without delay.
2. It is necessary for the PNA, especially the MOI and the security agencies, to implement the decisions of the Palestinian courts without delay or procrastination in adherence to the Palestinian Basic Law.
3. It is necessary for the Palestinian security agencies to adhere to directives issued to them by the President that forbid the presentation of Palestinian civilians before military courts.
4. It is necessary for the PNA to commit to providing guarantees for proper legal procedures that include the non-presentation of civilians before military courts, in addition to detaining citizens in detention centers in accordance with the provisions of the law.
5. It is necessary for the PNA to issue clear instructions to its security agencies to immediately stop all forms of ill-treatment and torture as well as bringing violators to the competent judicial authorities.
6. It is necessary for the PNA to refrain from using the civil service for political reasons, and to abide by the Palestinian legislation particularly the Civil Service Law in force in the Palestinian-controlled Territory.
7. It is necessary for the competent judicial authorities in the West Bank to quickly adjudicate in the pending cases in accordance with the provisions of

the law, especially with regard to persons who have been in detention for an extended period of time.

Second: Citizens' complaints and Monitoring Places of Detention in the Gaza Strip

ICHR received 993 complaints on violations of human rights and public freedoms in the Gaza Strip in 2009 with the highest percentage of complaints aiming the security agencies, amounting to 712 complaints compared to 281 complaints against civil authorities.

The most prominent were complaints regarding citizens' right to personal freedom, stemming from arbitrary arrests based on political affiliation, ill-treatment and torture, excessive use of force, and death in detention centers operated by security agencies. **ICHR** received 958 complaints on violations of detainees' right to proper legal procedures during arrest, of which 236 complaints were linked to detention based on political affiliation.

Violations of the right to physical safety totaled 252 and focused on many forms and patterns and methods of torture, physical abuse, psychological pressure and verbal abuse, forced standing, sleep deprivation, and solitary confinement. Most of these complaints were filed against the Internal Security and the Civil Police.

With regard to violations of the right to hold public office, the focus ranged from dismissal and the non-payment of employees' salaries under the pretext of non-compliance with the decisions of the legitimate government. A total of (218) violations were received by **ICHR** against the parties detailed below:

1. **The Internal Security:** Complaints against the Internal Security totaled 373, most of which revolved around the lack of due process during arrest and detention, detainees' subjection to torture and ill-treatment, failure to present detainees before the competent judicial authorities, and arbitrary detention based on political affiliation.
2. **The Civil Police:** Complaints against the civil police reached 227 and revolved around long periods of detention in violation of the Criminal Procedural Code, torture and ill-treatment of detainees, and inadequacy of detention centers compared to the criteria specified in the Prisons and Reform Centers Law.

Monitoring Places of Detention

The year 2009 began with the Israeli aggression on the Gaza Strip, during which all places of detention, as well as the Spring Foundation for Social Welfare, were partially or totally destroyed.

According to information received by **ICHR**, on the first day of the Israeli aggression on the Gaza Strip, the Gaza Central Prison authority released about 500 inmates, and left 300 more. On 28/12/2009 the Saraya compound, which housed the Gaza Central Prison, was bombed by Israeli warplanes, which led to the collapse of its walls and the escape of the majority of its detainees. When the prison police caught a number of them, they were transferred to non-disclosed places and their whereabouts remained unaccounted for until March 2009. Despite all the aforementioned obstacles, **ICHR** carried out 96 visits in 2009 to many prisons and detention centers in all governorates of the Gaza Strip.

Recommendations

Recommendations to the Deposed government in the Gaza Strip

1. It is necessary for the ministries and institutions to seriously address the complaints that **ICHR** follows up on and respond to **ICHR** correspondences without delay or procrastination.
2. It is necessary for the Deposed government to prohibit the presentation of civilians before military courts.
3. It is necessary to provide detainees with guarantees of due process.
4. It is necessary for the Deposed government to issue clear instructions to its security agencies to immediately halt any form of ill-treatment or torture, and bring perpetrators before the competent judicial authorities for prosecution.
5. It is necessary to build or find more appropriate places for detention to temporarily solve the problem of over-crowdedness by increasing the number of rooms and improving services to prisoners while subjecting all places of detention to the provisions of the Palestinian law.
6. It is necessary to adhere to legal standards during arrest and classification of prisoners in accordance with the law, and place a complaints box inside the detention centers.
7. The competent authorities should inspect detention places, and allow **ICHR** to carry out regular visits and surprise visits, without hindrance.
8. Juveniles and minor detainees should be assigned specialized police officers. In addition, a special court for juveniles should be established within the institution.

Chapter 2. Accountability and Responsibility or Human Rights Violations

In the West Bank, the current Palestinian government has leaned towards the formation of new internal monitoring mechanisms. The government has expanded the powers of the Inspector General of the General Intelligence Agency and appointed an Inspector General in addition creating an Ombudsman and human rights unit within the police. Moreover, the Ministry of Interior's (MOI) Democracy and Human Rights Unit has played a more effective role in terms of follow-up on some of the complaints addressed to the MOI.

Officials of the Deposed government in the Gaza Strip announced the formation of a number of commissions of inquiry on many human rights violations which took place in the Gaza Strip. For example, one committee was created to investigate the killings and shooting of a number of citizens during the Israeli aggression on the Gaza strip, or the events that took place in "Ibn Taymiyah" mosque in Rafah, after clashes erupted between Salafi militants and security agencies and the Al Qassam Brigades. The committee has not come to any results or findings on these investigations.

Nevertheless, serious human rights violations continued to occur in 2009, particularly extrajudicial killings in the Gaza Strip during the Israeli aggression. In the West Bank and the Gaza Strip, most violations were related to torture and other cruel, degrading and inhuman treatment, as well as arbitrary detention in light of the weakness of accountability procedures and impunity of perpetrators. The public statements made by officials in either the PNA or the Deposed government on their efforts for the protection of human rights did not produce any results on the ground.

Public Policy and its Impact on Accountability:

Despite numerous efforts on behalf of the current Palestinian government in the West Bank, and its direct and specific instructions for respecting the rule of law and its provisions, the security agencies continued to disregard proper legal procedures during arrest, inspection, detention and extension of detention. In 2009 many detainees were subjected to ill-treatment and torture during detention. The MOI and its security agencies have not implemented a number of Supreme Court decisions for the release of detainees held by the security agencies in violation of the law.

This is due to the fact that the Government's decisions were taken within the context of emphasizing general principles of disciplinary conduct. These principles are focused on the importance of respecting human rights even though they emphasize the conditions of the security agencies. Yet they clearly failed to address proper legal procedures that should be followed during arrests, detention, inspection and extension of detention which can render them illegal. They also overlooked the responsibility

and accountability of perpetrators violating the Palestinian Basic Law and the Jordanian Penal Code No. (16) of 1960 still in force in the West Bank.

It is necessary to hold accountable those who practice torture and ill-treatment during interrogation to complete all aspects of accountability and responsibility, the perpetrators should be referred to an impartial and independent judiciary, and appropriate and fair compensation be granted to those whose fundamental rights were violated, as stipulated in Article (32) of the Palestinian Basic Law.

In **the Gaza Strip**, the De facto Authority has followed the policy of detention and arbitrary arrest for political reasons without regard to proper legal procedures. Many detainees were subjected to ill-treatment and torture, and the security agencies of the Deposed government used excessive force on more than one occasion in 2009 as dozens of civilians were killed or injured. Apparently, members of the Al Qassam Brigades and security agencies of the Deposed government committed extrajudicial killings, particularly during the Israeli aggression on the Gaza Strip, in addition to shooting protestors' feet and other violations of human rights and the rule of law.

Impunity

Through its monitoring and analysis of human rights violations in the Palestinian-controlled Territory in 2009, **ICHR** noted that the procedures for the prosecution of Palestinian officials for violations such as extrajudicial killings, torture and ill-treatment or violation of the rights of prisoners and detainees have been ineffective in providing compensation to victims or holding violators accountable.

The current justice system remains unable to adequately hold perpetrators responsible for killing, torture or ill-treatment, leading to the creation of a culture of impunity. Lack of clarity, transparency, and response to victims' complaints reveal the insufficiency of the relevant authorities' follow-up mechanisms on injustice and violations, especially at a time when the international community is called upon not to allow Israel any impunity for its violations of human rights and the rights of the Palestinian people. Impunity should not be allowed to infiltrate the Palestinian society and our political system.

ICHR documented 22 extrajudicial killings in the Gaza Strip in 2009, and twelve deaths in detention centers, three in the West Bank, and nine in the Gaza Strip. In terms of violations of physical integrity, and subjecting detainees to torture and cruel, inhuman and degrading treatment, **ICHR** registered 202 complaints including allegations by West Bank detainees of being subjected to torture or ill-treatment by members of the various security agencies. In addition, 107 complaints were received by **ICHR** in the Gaza Strip in this regard.

According to the cases that **ICHR** followed up on, it seems that torture and ill-treatment were indeed committed against detainees, followed by almost complete impunity from punishment.

This is due to the fact that the Civil Prosecution usually refers cases of torture, ill-treatment and other violations, criminalized by the law to the military judiciary, because the perpetrators are members of the security agencies, including the police. Moreover, **ICHR** believes that the military judiciary is not independent because the General Military Prosecution, in cooperation with the Chief Justice himself, had on many occasions given security agencies the permission to carry out detentions and arrests in violation of the Palestinian Criminal Procedural Code and the Revolutionary Trial Code of 1979 applicable to the military.

Recommendations

Recommendations to the PNA

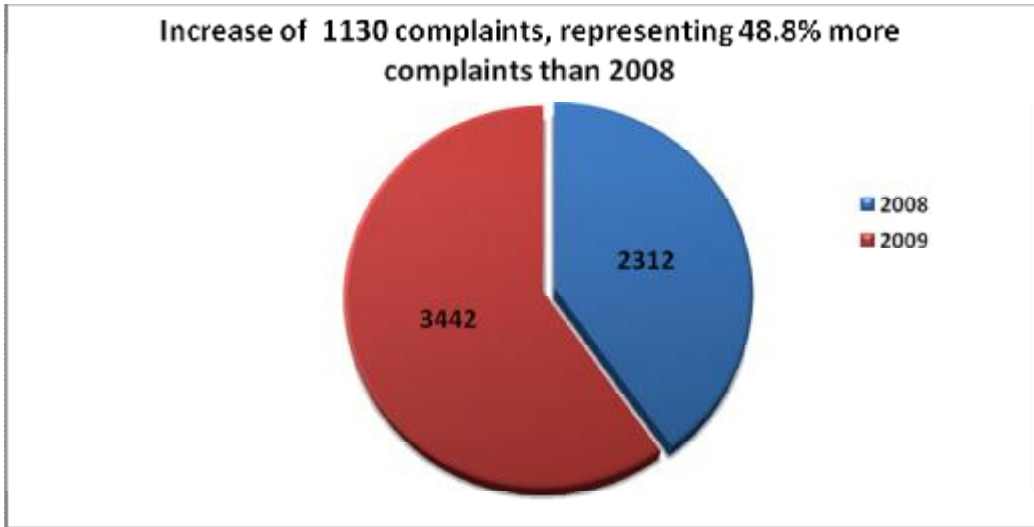
1. Independent and competent entities should investigate allegations of torture, and bring those responsible before the competent judiciary while ensuring that victims are paid proper compensation.
2. The PNA must ensure that the civil judiciary has jurisdiction over crimes of torture and cruel treatment committed by members of the security agencies against persons in their custody.
3. The PNA should activate the departments and committees for monitoring at the Ministry of Interior and for its security agencies. Those committees and departments should be given the necessary powers to investigate and suspend the accused in the event that it is proven that they indeed exercised torture and cruel treatment.
4. All Judicial Police activities exercised by the Preventive Security and the General Intelligence Agency should be placed under the supervision of the Civil public prosecution alone. The public prosecution should be provided with the names of all detainees and the conditions of their detention.
5. The PNA should ensure that the maximum allowable period of detention does not exceed twenty-four hours in any case before the accused is presented before the public prosecutor, in accordance to the Palestinian Criminal Procedural Code.
6. The Civil public prosecution must undertake its legal responsibilities with regard to accountability procedures, in case the judicial police abuse their legal powers.
7. It is necessary for the members of the public prosecution to visit detention centers at least once a week, and conduct inspection, and receive detainees' complaints.

Recommendations to the Deposed government in the Gaza Strip:

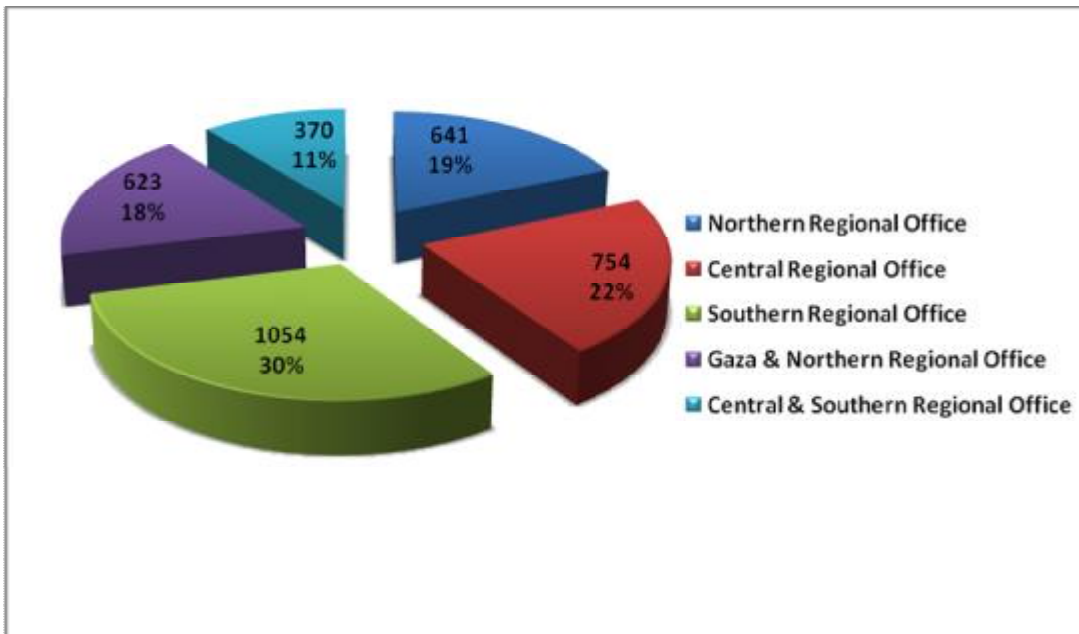
1. It is important to allow **ICHR** and other human rights organizations to permanently carry out periodic visits to prisons and detention centers, and inspect the living conditions.
2. It is necessary for the Deposed government to withdraw its decision of the formation of its own public prosecution, and allow the public prosecutor (Ahmad Al Mughanni) and his administration to resume their functions in the Gaza Strip in accordance with the law.
3. It is necessary for the Deposed government to respond seriously to complaints registered by **ICHR**, and carry out investigative procedures which are necessary for follow-up.

Finally, **ICHR** believes that the best guarantees for the prevention of such violations is to undertake serious and appropriate sanctions against the perpetrators of human rights violations, publicly disseminating the findings of investigation committees, and compensating the victims and those affected by such violations.

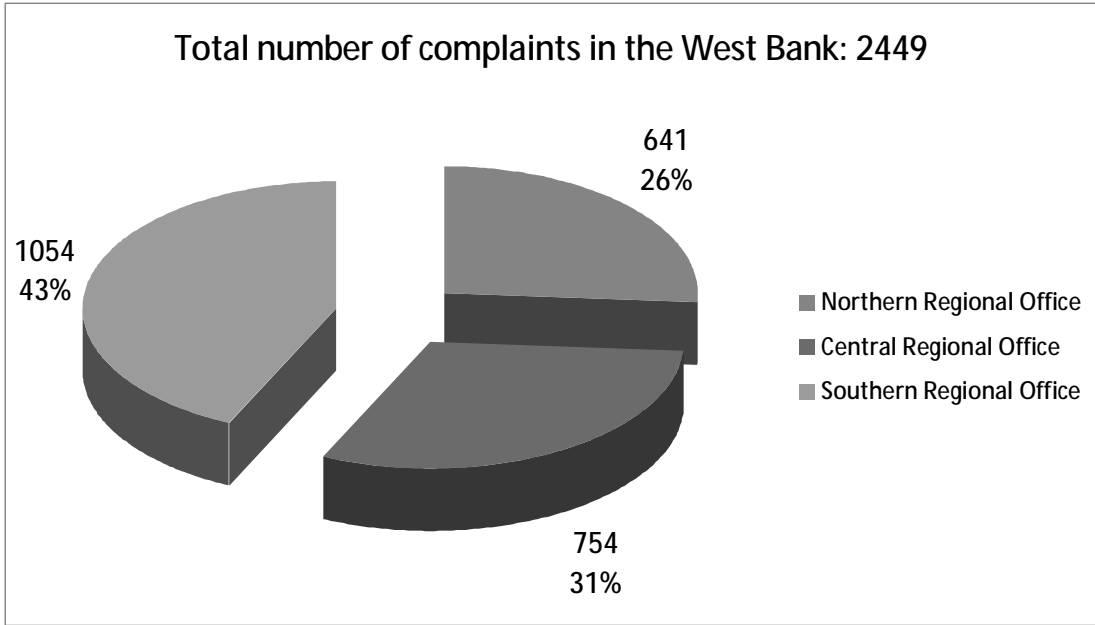
ANNEX: Complaints handling in 2009



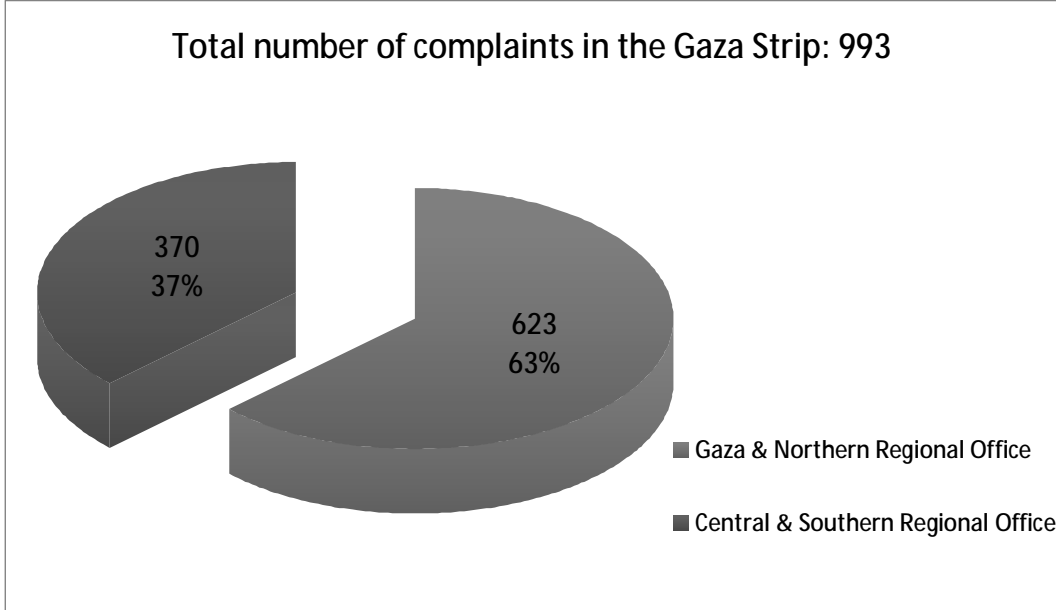
Number of complaints in 2008 and 2009



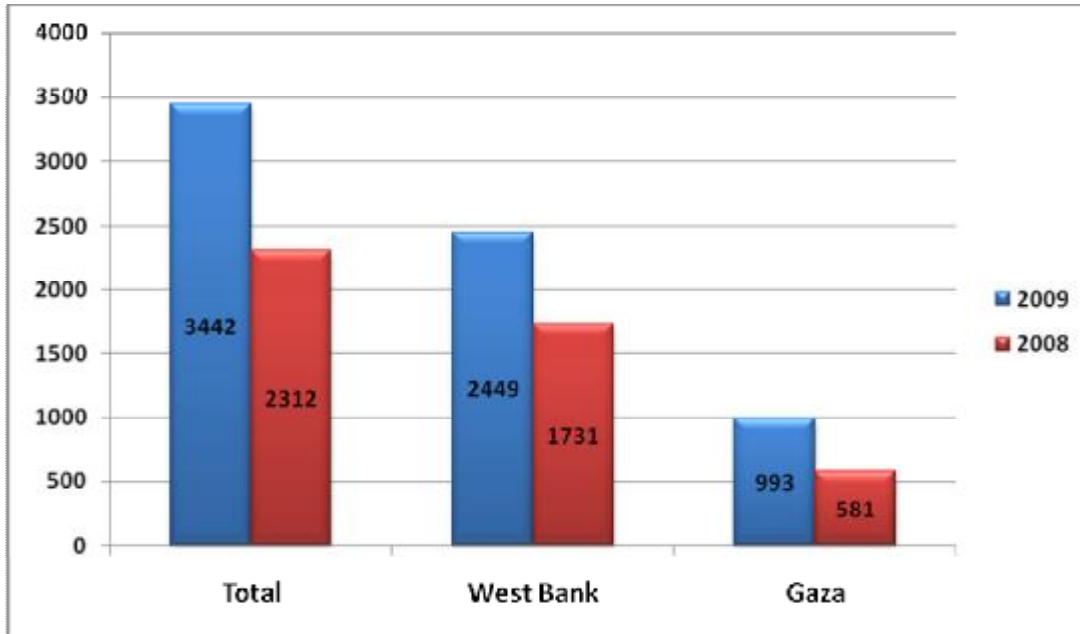
Total number of complaints received in 2009 according to regional offices



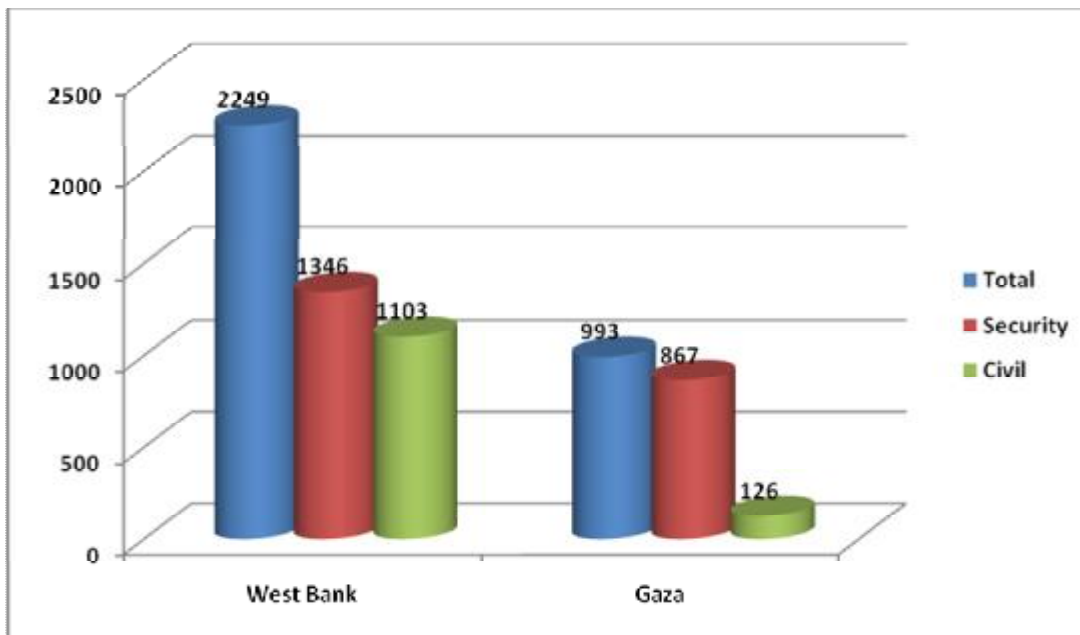
Number of complaints received in 2009 according to regional offices in the West Bank



Number of complaints received in 2009 according to regional offices in the Gaza Strip

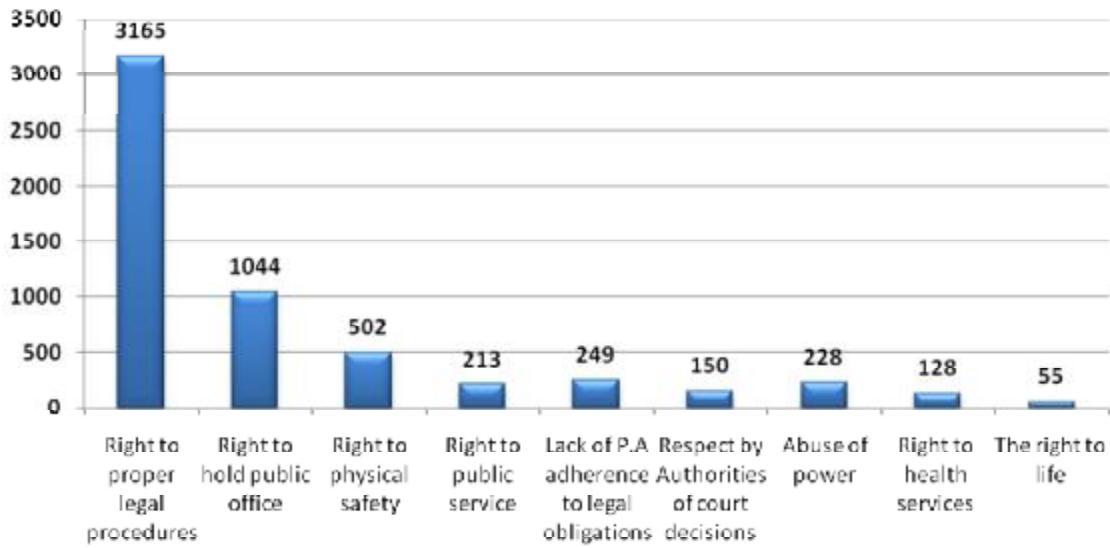


Number of complaints distributed between the West Bank and the Gaza Strip in 2008 and 2009

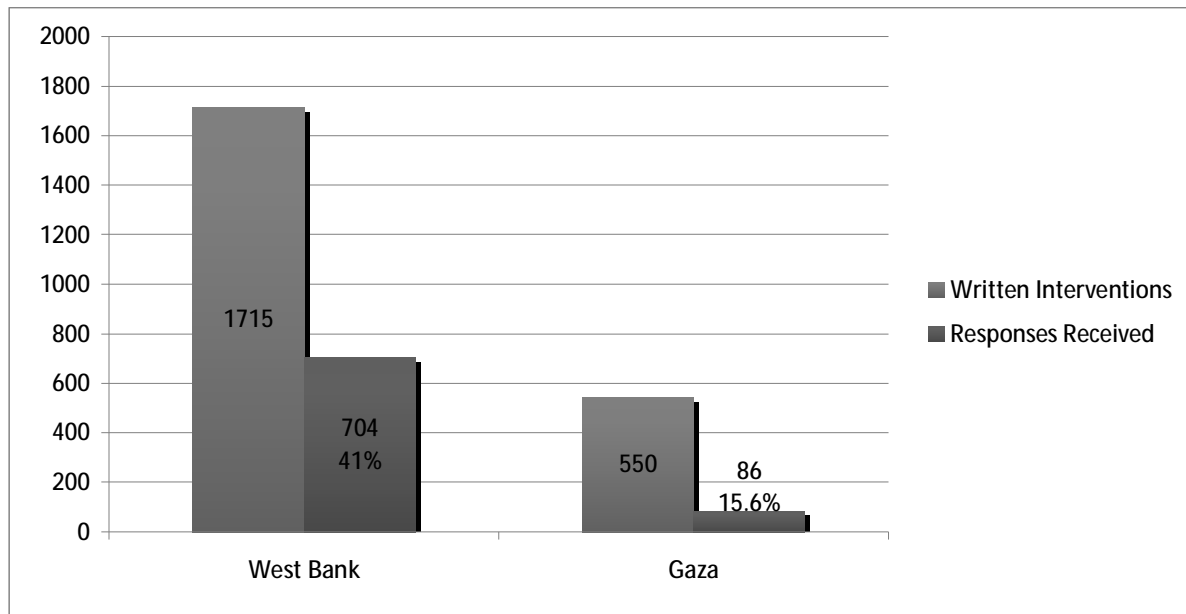


Number of complaints according to the perpetrator in 2009

Registered violations



Most important violations registered in 2009



Number of written interventions compared with responses received - 2009