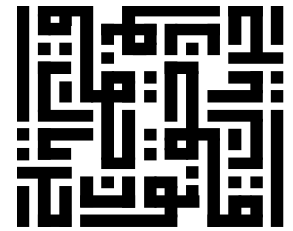


**Independent Commission for Human Rights
ICHR**



**Independent Commission for Human Rights* Submission to the OHCHR:
Universal Periodic Review Mechanism**

Impact of the Israeli Violations on the PA's Ability to Protect Human Rights

July 2008

As a national institution, the Independent Commission for Human Rights (ICHR), (formerly known as the Palestinian Independent Commission for Citizens' Rights – PICCR) views with increasing concern the escalated Israeli violations of human rights throughout the Occupied Palestinian Territory (OPT), as well as associated adverse impacts on the performance of the Palestinian Authority (PA) in protecting human rights and freedoms. In line with monitoring and safeguarding established requirements for protecting human rights under various Palestinian laws and regulations and monitoring the performance of all departments, agencies and institutions of the PA, this report highlights the impact of Israeli human rights violations on the PA's ability to protect human rights. ICHR Executive Summary of its 13th Annual Report on the status of Human Rights in the Palestinian controlled territory is also enclosed with this present report.

Recently, OPT has witnessed a major escalation in infringements on International Humanitarian Law. The Israeli occupation forces have also committed human rights breaches against Palestinian civilians. The Israeli authorities relentlessly continued to kill Palestinians, as well as to implement policies of systematic killings and targeted assassinations, air attacks, incursions, closure and siege, collective punishment, destruction of public and private property and infrastructure, and economic sanctions. Moreover, the Israeli occupation authorities have imposed a complete closure over the Gaza Strip, resulting in a harsh humanitarian crisis and catastrophic living conditions.

Declaring Gaza Strip as a 'hostile entity': In the aftermath of infighting between the Fatah and Hamas Movements in mid June 2007 (which culminated in Hamas' seizure of control over PNA security headquarters), the Israeli government imposed a complete closure over the Gaza Strip. Especially following implementation of the Unilateral Disengagement Plan on 12 September 2005, Israel has further intensified measures, which had already been in place. On 19 September 2007, the Israeli government issued a decision pronouncing the Gaza Strip as a 'hostile entity'. Thereupon, the Israeli occupation authorities tightened the closure and siege imposed over Gaza, reduced essential humanitarian supplies, including food, fuel, water and electricity, and threatened to cease provision of these supplies.

1. Impact of Israeli violations on the Palestinian Legislative Authority: Detention of many members of the Palestinian Legislative Council (PLC) has adversely disrupted PLC normal functions. Until the time of reporting, the Israeli army continues to detain Dr. 'Aziz Dwaik, PLC Speaker; Mr. Mahmoud Al Ramahi, PLC Secretary; and another 40 PLC members. Cases of these detained PLC members are still suspended; Israeli courts continue to place them under administrative detention (arrest without charge or trial). All appeals and interventions by local, Arab and international human rights organisations go unheeded by the Israeli government. Moreover, Israeli checkpoints, roadblocks and

closure of Palestinian cities prevent PLC Committees from holding necessary sessions. Under current unstable political conditions throughout the PNA-controlled territory, the Israeli occupation authorities have well managed to directly interfere in the PLC structure and function by arresting more than one third of PLC members. In this context, Palestinian relevant regulations do not entitle a detained PLC member to vote either in person or by proxy. Furthermore, PLC sessions cannot be held in case quorum as these members are absent and their votes are not counted.

Due to obstructed convention of public hearings, PLC has failed to make legislative achievements or approve new pieces of legislation over 2007. Consequently, PLC could not exercise its oversight role over the PNA government, nor could it impeach any ministers or officials.

2. Impact of Israeli violations on the Palestinian Judicial Authority: Israeli military checkpoints have effectively obstructed public access to judicial institutions. Judges, lawyers, clerks and summons servers as well as litigants, representatives and witnesses could not regularly access courts and public prosecution departments. Recurrent Israeli attacks and closure regime have also negatively affected the capacity of the Palestinian police to serve judicial summons and execute court judgements. In addition to security instability, judicial staff lost the sense of personal security – which is indispensable as to make progress in necessary investigations, prosecute offenders and bring them to justice.

In light of the flaccid judicial system and overlapping functions with those of security agencies (which the Israeli authorities continue to control), phenomena of taking the law in hand and security chaos have increased in the Palestinian society. Official Palestinian authorities are still incapable of executing court judgements and orders, arresting fugitive convicts or providing safeguards of fair trials.

3. Impact of Israeli violations on the Palestinian Executive Authority: Israel has maintained control over the PA as well as undermined its capacity to run respective official bodies and deliver basic services to Palestinians in both the West Bank and the Gaza Strip. Besides, PA does not possess effective control over major resources, including land, water, territorial contiguity, complete jurisdiction of legal and administrative systems over Palestinians, and free access to external markets.

The Israeli authorities continue to implement a policy of systematic destruction of Palestinian institutions. Israeli violations have also negatively impacted PA's ability to set forth and develop public policies, improve delivery of essential services to Palestinians, encourage the private sector, and support competition. Furthermore, PA has been incapable of reforming the security sector, consolidating control over the performance of security agencies, and curbing security instability. PA's failure to confront Israeli violations as well as to halt the construction of the annexation wall and settlement activity has further impeded fulfilment of its obligations towards Palestinian citizens. It has now been clear that Israeli infringements, which resulted in a state of security chaos throughout the PA-controlled territory, prevented PA from attracting local and foreign investments, implementing recovery plans, and putting an end to deterioration in the Palestinian national economy. Under such a crisis, PA could not reduce poverty and unemployment rates or address the humanitarian crisis in the West Bank and Gaza.

Due to escalated Israeli violations of human rights in the Palestinian territory and grave breaches of Palestinians' civil and political rights (let alone economic, social and cultural rights), measures taken by the PA have all failed to deter effects resulting from

Israeli violations, nor could they enhance the economic conditions throughout the PA-controlled territory.

In the OPT, the Israeli government grounds its colonial strategy on certain guidelines: besides the objective to change rules of conflict, the Israeli authorities continue to create 'facts on the ground' so as to prevent creation of an independent, contiguous and viable Palestinian State. Israel also evades from its due obligations as an occupying power and controls Palestinian economy by seizing land, marine and air borders and natural resources, and depriving Palestinian people's sovereignty over their own land and resources. Furthermore, the Israeli occupation authorities have created numerous obstacles on the ground. Over 2007, daily attacks, targeted killings, land confiscation, wall construction, house demolitions, and repeated closure of crossing points, and continued detention of ministers and PLC members have all contributed to disrupting the parliamentary life in Palestine and badly influenced PA performance.

Combined, the above factors have rendered the PA incapable of playing its due role in reducing poverty rates, supporting vital supplies, abating exorbitant prices, ensuring that the poor maintain their right to access work, health and education facilities, and putting forward development programmes that support and encourage national industries. In addition, the PA could not create a social security network, create job opportunities, or improve prevalent work conditions. Moreover, the Israeli authorities continued to fragment the West Bank and Gaza Strip, directly contributing to widespread security instability and gravely damaging PA components. In effect, the PA has now been incapable of performing its assigned duties, which has negatively impacted security and living conditions as well as Palestinians' rights in various aspects of life.

4. Impact of Israeli violations on the Palestinian economy: Severe restrictions on civilian movement, crossing points-related complex measures in regard of importing goods and transporting them to Palestinian cities and village, closure of roads, and all other Israeli actions and aggressions have borne devastating impacts on the Palestinian national economy. Therefore, the PA Ministry of National Economy has been unable to ameliorate hard economic conditions, set the proper grounds for operation of the private sector, or attract investments which support and contribute to effecting necessary economic growth.

Furthermore, PA has been incapable of recovering the private sector by providing the suitable environment of production, making available exits for international trade and achievement of comprehensive development. In addition, the PA failed to support expedient emergency employment programmes. Continued closure has also prevented Palestinian and foreign investors from launching investment projects in the OPT. Due to economic stagnation, several previously-active projects were suspended.ⁱ

5. Impact of Israeli violations on Palestinians' right to education: Particularly in the West Bank, ongoing closure and wall construction have impeded students' access to schools and universities.ⁱⁱ The PA Ministry of Education now encounters innumerable challenges due to Israeli policies on the ground. In specific, the educational process in Palestine suffers most from restricted movement and wall construction, which effectively impede a large number of teachers from travelling from one residential area to another. School and university students are no exception; many have been deprived of their right to education. Israeli troops positioned at wall gates also prevent staff of the Ministry of Education from accessing schools located behind the wall, resulting in reduced coordination between schools and respective Ministry of Education district offices as well as disrupting the educational process in general.ⁱⁱⁱ

According to the Palestinian Ministry of Education, many schools throughout OPT temporarily suspended classes due to Israeli army military operations. Lacking tranquillity and ongoing Israeli raids into the Gaza Strip as well as into areas in close proximity to the Green Line, borders with Israel, also adversely impact children's educational attainment, as well as their sense of security during the school day. Violent events have also resulted in severe psychological traumas among students, which urgently need special medical care.

On 4 October 2007, for example, classes were disrupted at the Burqa Secondary School in the West Bank. Students were forced to leave after the Israeli army raided the school, fired tear gas grenades and arrested a teacher and inspector. On 16 October 2007, classes were also suspended at 4 schools in the Nablus district due to military operations carried out by the Israeli army.

6. Impact of Israeli violations on provision of essential public services (water and sewage system): Israeli settlers have deliberately destroyed main water pipes that supply Palestinian villages in the West Bank. In addition, the wall has now isolated many artesian wells and springs, thereby reducing quantities of water supplied to the Palestinian territory and limiting PA's capacity to implement comprehensive development programmes and providing water to citizens.^{iv} As the West Bank governorates still suffer from increasing shortage in potable water, Palestinians living in affected residential localities are forced to purchase water from the Israeli Water Company (*Mekorot*) – the sources of which are ironically Palestinian. In the summer seasons, the Israeli company reduces water quantities supplied to the Palestinian territory to more than 40% in order to increase water supply to Israeli settlements illegally constructed on OPT.

As a result of an Israeli policy in place ever since 1967, severe water shortage also stems from an unfair distribution of shared water sources between Israel and Palestinians, thereby gravely breaching Palestinian citizens' fundamental rights, including rights to health care, proper residence, equality and equitable access to natural resources.^v

Furthermore, Israel has converted Palestinian land into garbage dumps. Nowadays, Israeli settlements continue to discharge untreated waste water onto Palestinian valleys and agricultural land. For example, waste water is discharged from the settlement of Ari'el in the governorate of Salfit into Wadi al Matwi – one of the catchment areas feeding the Western Basin in the West Bank. Therefore, Palestinian farmers have lost their source of income as they were prevented from cultivating their irrigated land in this area.

Due to the Israeli closure regime, PA's efforts to construct waste water treatment plants failed. Also, the Israeli authorities continually refused to grant necessary licences to the PA to carry out projects for management of solid wastes and construct sanitary landfills. Despite PA's relentless attempts to find proper solutions for solid and liquid wastes hazards by providing necessary funds to establish modern sanitary landfills, the Israeli occupation authorities have repeatedly closed roads leading to these dumps. As a result, hundreds of tons of solid wastes accumulate in the vicinity of Palestinian residential areas, thereby causing grave damage to public health and environment.^{vi}

7. Impact of Israeli violations on Palestinians' right to health care: Health care services, including governmental hospitals, medical care centres and clinics (which all represent 80% of those operative in the West Bank and Gaza Strip), have declined in light of severe shortfall in medical supplies and equipment, such as medicines and vaccinations. Medications of certain illnesses, including cancer, dialysis and birth

deliveries, are also missing. Particularly in Gaza hospitals and health care centres, medicines as well as medical supplies and equipment have run out. Due to unavailable spare parts, several medical devices broke down. Furthermore, hospitals have failed to conduct surgical operations due to depleting nitric oxide.

8. Impact of Israeli violations on the provision of security: Since 2000, Israeli policies have negatively affected overall performance of the Palestinian security establishment as well as agencies assigned to enforce public security and order. These policies have also downgraded the security situation in the PA-controlled territory, thereby debilitating PA's performance and promoting security chaos in the Palestinian territory.

Beginning on 28 March 2002, the Israeli occupation forces continue to reoccupy and maintain military control over Area (A). Added to ongoing incursions into Palestinian cities, public security and order have deteriorated. Hence, Israel should be held responsible for the declining security situation throughout the PA-controlled territory, devastated economic situation, facilitation of smuggling illegal vehicles and narcotic drugs, trading weapons, unexploded ordnances, protecting offenders and criminals, and impeding duties of security agencies. Combined, these Israeli measures have further consolidated pretexts claiming that both the PA and its relevant security agencies are weak and incapable of controlling the security situation and establishing public order and rule of law. More often than not, the Israeli occupation forces continue to raid Palestinian cities, towns and villages, thereby depriving Palestinian security forces of their solemn status and debilitating their capacity to collect illegal weapons – the main tool used in incidents of security instability in the West Bank and Gaza Strip.

Against this backdrop, the Independent Commission for Human Rights (ICHR) appeals that the United Nations:

1. Urge the Israeli government (the occupying power) to immediately put an end to the subjugation of the OPT, stop its recurrent aggressions and incursions into the PA-controlled territory, lift the siege imposed on the Palestinian people particularly in the Gaza Strip, and release Palestinians detained on arbitrary grounds, especially those placed under administrative detention (arrest without charge or trial) as well as PLC members.
2. Compel the Israeli government to shoulder its liabilities as the occupying power and permit the PA to fully exercise its due role on the executive, legislative and judicial levels without any interference.
3. Rejuvenate mechanisms of immediate intervention by the United Nations organisations so as to oblige Israel to respect relevant international conventions and adhere to UN resolutions, as well as call upon the High State Parties to the Fourth Geneva Convention to implement the United Nations General Assembly Resolution A/RES/ES-10/15 of 20 July 2004 in relation to the International Court of Justice's *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.
4. Urge the international community, represented by the United Nations agencies and other international organisations, to further support PA institutions to promote human rights in Palestine as well as to provide basic conditions of decent life and safeguard human dignity for Palestinians, who have been subjected to the Israeli occupation for over 40 years.

Annex

Endnotes:

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- ⁱ *Agreement on Crossing Points: Another Year of Suffering* (Gaza, Palestinian Centre for Human Rights, 2006).
- ⁱⁱ *Impact of the Wall on the Educational Process*, See the PA Ministry of Education website: www.mohe.gov.ps.
- ⁱⁱⁱ *Impact of the Apartheid Annexation and Expansion Wall on the Palestinian Education*, Educational Media Department, PA Ministry of Higher Education, 2007.
- ^{iv} *The Palestinian Environment on the World Environment Day*, Applied Research Institute (ARIJ), 2005. <http://www.arij.org/pub/pubarabic/Environment>.
- ^v B'TSELEM - The Israeli Information Centre for Human Rights in the Occupied Territories: <http://www.btselem.org/English>.
- ^{vi} International Press Centre: http://www.ipc.gov.ps/ipc_new/arabic/press_conf/details.asp.

* The Independent Commission for Human Rights (**ICHR**) was established in 1993 upon a Presidential Decree issued by President Yasser Arafat, in his capacity as President of the State of Palestine and chairman of the Palestine Liberation Organization. The Decree was subsequently published in the Official Gazette in 1995. In accordance with the Decree, the duties and responsibilities of **ICHR** were set out as follows: “to follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights”. The Decree entrusted **ICHR** with the drafting of its statutes in a manner that would ensure its independence and effectiveness.

Furthermore Article 31 of the Basic Law voted by the Palestinian Legislative Council (PLC) in 1997, ratified in 2002 and modified in 2003 provides that

“An independent Commission for Human Rights shall be established by law, which shall specify its formation, duties and jurisdiction. The Commission shall submit its reports to the President of the National Authority and the Palestinian Legislative Council”.

Such a law has not yet been passed by the PLC, but **ICHR**, through its internal bylaws, mission statement and its activities, has been clearly working on the basis of a firm commitment to the values of democracy and good governance, and respect for human rights when striving to achieve its mandate.

During the latter half of 2004, **ICHR** commenced work on a draft law which was submitted to the Palestinian Legislative Council (PLC) in May 2005 for discussion and approval. This draft law confirms **ICHR** as the National Human Rights Commission for Palestine with an Ombudsman function at its core. The law provides **ICHR** with a broad mandate in accordance with national and international norms. It gives **ICHR** the

authority to deal with cases of human rights violations; complaints submitted by citizens related to maladministration, abuse of power and squandering of public funds; education and promotion; monitoring; and generally integrating human rights into Palestinian legislation and practices. The draft law empowers **ICHR** as well to take cases to the court and have access to information. In other words, the law defines the role of **ICHR** in protecting basic liberties and freedoms as prescribed in the Basic Law and international laws.

ICHR commenced its activities in the beginning of 1994. **ICHR's** first Commissioner – General was Dr. Hanan Ashrawi, who initiated the idea and spearheaded the drive for the establishment of **ICHR**.