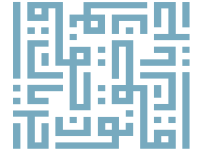


الهيئة المستقلة لحقوق الإنسان (ديوان المظالم)

The Independent Commission For Human Rights (ICHR)



# The Status of Human Rights In Palestine

## Nineteenth Annual Report

19

January 1 - December 31

2013



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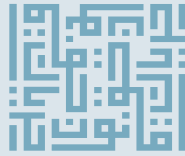
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**A Palestinian State where the rule of law and equality are promoted, and where human rights and freedoms for all are respected**

**Law – Rights – Freedoms**

\* Dr. Eyad Sarraj died on 17.12.2013, one of the founders of the (ICHR), and its Commissioner General from (1995 - 1998)



**The Independent Commission for Human Rights  
“ICHR”**

**The Status of Human Rights in Palestine**  
Nineteenth Annual Report

1st of January- 31st of December 2013

This report is prepared through the concerted efforts of all staff at ICHR under the supervision of the Executive Director and the preparation of the Monitoring of National Legislation and Policies Department at ICHR

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## Preface

This is ICHR's nineteenth annual report on the status of human rights in the occupied State of Palestine, representing the year 2013. Within the sphere of its mandate, ICHR has tirelessly continued its work as a National Human Rights Institution (NHRI) to fulfil its mission regarding human rights protection and promotion in Palestine, and this is based on Palestinian Basic Law and international human rights standards. Despite the policies of the occupying state of Israel combined with the repercussions of the internal Palestinian division and accelerating political changes in the neighbouring Arab states, ICHR confirms that commitment to the rule of law, respect for citizens' rights, ensuring decent livelihoods and promoting national unity are the safeguards of our individual and national rights.

In order to effectively achieve these goals amidst the challenges and obstacles posed by the complex political environment that has had a devastating effects on human rights in Palestine, ICHR developed a strategic action plan in 2013 to be implemented throughout the following three years. This plan is primarily anchored to a rights-based approach. It aims to promote a culture of human rights in Palestinian society, strengthen the justice system in line with relevant international human rights standards, and strengthen the international mechanisms to defend and develop its institutional performance. We also emphasize the duty-bearers' legal obligations towards rights-holders as well as the government's responsibilities and legal obligations to support these rights through developing the necessary policies, programs, mechanisms, procedures and resources.

The year 2013 was characterized by violations of Palestinian human rights by Israeli occupation on national, political, economic and daily living levels, and to such an extent that it can be claimed Palestinians are not entitled to any "human rights" from the Israeli occupation perspective.

In addition, the internal Palestinian division that has persisted since 2007 and the failure to bring it to an end have resulted in having a tragic impact on Palestinian society's constituents and public order at the political, social, cultural and security levels. It has in fact done so to the extent that the undermining of public rights and freedoms has become the dominant feature. This has created successive crises at the political, judicial, legislative, cultural and security levels in a manner that essentially prejudices the entire system of human rights in Palestine.



The change of the political atmosphere in Egypt during the last year and the inconsistency of Palestinian policy regarding Egypt have also been problematic in terms of promoting human rights. In addition, Israel's repressive measures in the form of a siege imposed on the Gaza Strip as well as the consequences of the Palestinian internal split have led to the Gaza Strip becoming the homeland of the "the forlorn of the earth" in every sense of the word, particularly in terms of suffering, lack of rights and basic requirements for a decent life.

In 2013, the situation of human rights witnessed no positive change. The ongoing occupation and its practices, the political division and its repercussions and the continuing patterns of human rights violations leave no room for observing significant positive change. ICHR's report has monitored and documented all patterns of violations and presented conclusions and recommendations concerning monitoring and treatment in accordance with Palestinian Basic Law and international human rights standards. Although some patterns of human rights violations declined, including violations involving the right to life, the right to peaceful assembly, freedom of thought and religion, political affiliation and treatment in detention, other major patterns of violations increased, such as the violation of the right to litigation, fair trial guarantees and the right to physical safety. Violations of the right to physical safety took place despite the decree issued by the President to prohibit and criminalize torture.

Regarding the violations which ICHR followed up on concerning the security agencies, the Ministry of Interior and Governors indicated there was a large volume of complaints filed against these agencies in regard to arbitrary detention, breach of legal provisions, failure to carry out courts' rulings and non-implementation of the principles of accountability and punishment of those who were proven to have perpetrated violations such as torture. The security agencies were not combining joint data during the past year, which was intended to avoid duplication of arrest or summoning of persons for their political affiliation. Such conduct resulted in a pattern of unprecedented punishment. Arbitrary administrative detention, based on a decision by the Governor to apply the outdated Jordanian Crime Prevention Law of 1954, was also practiced, and this was in breach of the rights and guarantees stipulated by Palestinian Amended Basic Law of 2003.

Furthermore, the security agencies have no unified legal approach regarding how

to treat ICHR as a national and constitutionally based institution responsible for monitoring and ensuring the requirements for protecting the human rights found within the range of Palestinian laws and legislation and in the activities of the different civil and security agencies of the State of Palestine. What concerns ICHR most in this regard is non-enforcement of the principle of accountability from a human rights and legal perspective, failure to announce the findings of an investigation, and informing ICHR thereof. It is also concerned over the failure of the Public Prosecution to fulfil its role with respect to investigating the cases that may indicate detainees who are subjected to torture. Thus, ICHR reaffirms its request that civil monitoring over the performance of the security agencies should be promoted, and independent investigation committees should be formed with members to include a civil judge to investigate the more severe violations committed by these agencies.

ICHR emphasizes that non-interference with the work of the judicial authority and respect for the independence of the Palestinian judicial system by staffing all judicial posts with competent people shall end the problematic relationship between the institutions within the justice sector. This problematic relationship arises from the absence of a clear and unified understanding of the nature and boundaries of the role of each institution of the public sector.

ICHR monitored several problems that affected the right of citizens to litigation and fair trial guarantees, and so caused damage to the reputation of the judicial system and undermined citizens' confidence in it. Procrastination on the enforcement of courts' rulings and the problem of hearing sessions carried out by judges whose assignment terms had expired were obvious. This report indicates that complaints on violations of the right to fair trial guarantees and lack of respect for courts' rulings significantly increased in the West Bank and Gaza Strip.

What also attracts attention in this report is the unprecedented number of the deaths that occurred during 2013 due to negligence of general safety standards, particularly in workplaces. This indicates that the monitoring of work establishments exercised by the Ministry of Labor and employers' interest in occupational safety is still weak. Thus, the Ministry of Labour should establish a national occupational safety and health system in partnership with employers and workers. It should also review the labour laws to make the necessary amendments and emphasize that penal sanctions would be imposed if occupational safety standards are not followed.

ICHR is gravely concerned over the increase in the number of women's deaths under mysterious conditions, whether in family disputes or "honor killings". I hesitate to use the term "honor killing" since any violation of the inherent right to life has no honor. I also hesitate to use the term because it implies anticipated and presumed conviction of the victim. ICHR has found that the investigations conducted by the

competent authorities to reveal the causes of these deaths and the perpetrators were insufficient.

In light of this, ICHR calls for amending Personal Status Law No. (16) of 1976, enforced in the West Bank, and the Law of Family Rights issued upon Order No. (303) of 1954, enforced in the Gaza Strip. It also calls for completing and approving the amendment of Penal Law No. (16) of 1960.

It is worth mentioning that Palestine has had the status of Observer State in the United Nations for more than a year but has not yet joined or ratified any of the international human rights treaties. Neither has it acceded to any of the United Nations specialized agencies. Joining these treaties and agencies as ICHR recommended in its previous report is a legal entitlement that would upgrade Palestine's status in the United Nations and promote its citizens' rights protection mechanisms.

Finally, on behalf of myself and the Board of Commissioners, I extend my thanks and gratitude to the executive staff of ICHR and its employees in the Gaza Strip and West Bank. I extend my thanks, in particular, to the Executive Director and the staff of the Monitoring of National Legislation and Policies Unit for their admirable efforts and persistent work to prepare this report in a way that reflects their ethical, humane and national commitment to advancing human rights in Palestine.

**Commissioner General  
Dr. Ahmad Harb**

## Introduction

In its capacity as Palestine's National Human Rights Institution (NHRI), ICHR performs a host of activities and events in accordance with the national legal references and international standards that regulate the work of NHRIs, including the Paris Principles, to achieve the primary goal of promoting and protecting human rights.

Through its offices in the different governorates of Palestine, ICHR regularly monitors the situation of human rights and submits reports to the Palestinian duty-bearers in this regard. It also follows up on the extent to which the State of Palestine commits to and implements its legal obligations and undertakings in compliance with Palestinian Basic Law and international human rights standards. Complaints are received from the citizens whose rights are violated and these complaints are then tracked through the competent authorities. ICHR conducts inquiries about the facts behind human rights violations, submits recommendations thereof, and provides advice to the relevant official Palestinian institutions through monitoring national legislation and policies to ensure their compliance with international human rights standards. It also provides training courses for the law enforcement bodies in order to build their capacities in the field of human rights. In addition, ICHR provides legal aid and related information for citizens about their public rights and freedoms. A pivotal and effective role is also played regarding promotion of human rights and enablement of the Palestinian citizens to enjoy their fundamental rights and freedoms.

In light of the above, ICHR is pleased to present its nineteenth annual report on the status of human rights in Palestine. This report is a result of its work and effort throughout the year of 2013 in monitoring, documenting and following up on the cases of the Palestinian citizens' human rights and freedoms. In addition, the report is also a result of ICHR's interventions with the duty-bearers of the Palestinian official civil and security institutions in the West Bank and Gaza Strip to promote and protect human rights in Palestine. ICHR exercises this task as part of its genuine mission in accordance with article (31) of Palestinian Basic Law, which explicitly provides for submitting reports on the situation of human rights to the President of the Palestinian National Authority (PNA) and to the Palestinian Legislative Council (PLC).



The status of human rights in Palestine did not improve in 2013. ICHR continued to register the same patterns of human rights violations. Additionally, it noticed an increase in the number of allegations of torture and ill-treatment and in the number of the violations of personal freedom and inappropriate legal proceedings during arrest and search. Furthermore, ICHR monitored dozens of detention decisions issued by Governors without charges or hearings before the competent judicial authorities, particularly in the last quarter of 2013.

In addition, no significant progress was made regarding the necessary procedures and legislation relevant to criminal accountability of the law enforcement personnel involved in perpetrating severe human rights violations. They remained restricted to disciplinary measures only. Efforts were made in cooperation with the United Nations Office of the High Commissioner for Human Rights to develop codes of conduct for the Preventive Security Services and General Intelligence Agencies. Civil monitoring over the security agencies witnessed no improvements either. Contrary to that, ICHR noticed by the end of the past year that “security considerations” had precedence over public rights and freedoms. The security agencies continued to predominate at the expense of the political level and under the pretext of fear of “vigilantism”, particularly in the West Bank, where joint security campaigns were carried out by the security agencies without regard for appropriate legal procedures.

ICHR issues this annual report as part of its methodology of monitoring the major variables, events and actions that impeded the promotion of human rights and public freedoms throughout Palestine. This impediment to promoting human rights is mainly due to complications arising from the internal political division and its resulting repercussions on all the institutions of the PNA and Palestinian society, and also due to the continuous aggressive policies of Israeli occupation. In spite of such interferences, ICHR submits recommendations for reforms based on the concepts of human rights and legislative provisions.

Concerning the methodology of this report, it is divided into three parts. The first part discusses the political variables upon which reporting the conditions of human rights in Palestine are based. This includes the impact of the ongoing division and dysfunction of the PLC. It also highlights the major political, economic and legal

developments which affected human rights and public freedoms in Palestine during 2013. The second chapter of Part I includes an analysis of the impact of Israeli violations on the exercise of human rights as well as on the performance of the (PNA) and its ability to protect these rights.

Part II of this report involves human rights and public freedoms, and notes the serious increase in the number of violations of basic rights due to the ongoing political split. It includes an analysis of the violations of the right to life, and the deaths arising from them. It also notes the significant rates of continuing violations of the right to physical safety and security, and additionally discusses freedom of opinion and freedom of the press.


The second part also covers several cases in which citizens were prohibited from exercising their right to peaceful assembly in the West Bank and Gaza Strip and the right to movement and travel, particularly in the Gaza Strip. It discusses economic and social rights through highlighting the right to work and the right to health. The last chapter of this part discusses the right to development and sheds light on efforts exerted in regard to the Palestinian Development Plan of 2014-2016 and the efforts exerted to mainstream the guidelines of the Palestinian National Plan into the Development Plan. It also focuses on the link between the right to development and gender issues and the necessity of incorporating women's rights and gender issues into national plans, programs and policies since effective participation of women in the development process is imperative for achieving sustainable development.

Part III of the report analyzes the situation of priority groups (children and PWDs) through discussing developments relevant to these two categories. There is also a focus on the policies and legislation related to promoting and protecting their rights. The section which notes the situation of PWDs focuses on their right to appropriate work. It also presents the recommendations resulting from this study to promote the future efforts of ICHR towards enforcing PWDs' rights in cooperation with different civil society organizations.

In spite of all the obstacles to the human rights situation in Palestine, ICHR and Palestinian society anticipates the success of the transformation process and the establishment of an independent democratic State of Palestine based on equality and the rule of law.

Finally, I must extend my thanks to the staff of ICHR for their efforts during 2013 to track human rights issues in a spirit of teamwork, a high level of commitment to and strong faith in the promotion and protection of human rights. I also thank them for their contributions, each from his and her own position, towards the finalization





of this nineteenth annual report. I particularly thank the main team that worked on this report, including researchers Maen Id'es, Khadeeja Hussein, Yasser Alawneh, Hazem Hanyeh, Aysha Ahmad, and Islam al-Tamimi. Special thanks also goes to the Director of the Monitoring of National Legislation and Policies Unit, Ghandi Ruba'i and his team, for their crucial role in the preparation and drafting of this report.

**Randa Siniora**  
**Executive Director**

## **PART I**

### **Political, Economic and Legal Environment**



## Chapter 1

# Political, Economic and Legal Developments in 2013

In 2013, due to Israeli occupation and the ongoing Palestinian political division, the PLC has been disrupted, and unable to propose, adopt, or approve any legislation that would help Palestinians' rights and consolidate the Palestinian legal system. In addition, the PLC is unable to fulfill its overseeing role in the PNA on financial and administrative matters, hold the government accountable or investigate claims of human rights violations.

As a result, the human rights situation witnessed no significant change during 2013 due to this political division and the stalled political negotiations between Palestinians and Israelis. Furthermore, the legal and legislative systems necessary for eliminating obstacles facing the enforcement and promotion of human rights and public freedoms, particularly those enshrined in Part (II) of the 2003 Amended Basic Law,<sup>1</sup> were neither amended nor developed.

Despite the plans and programs undertaken by the Executive Authority to advance human rights and public freedoms in Palestine, authorities continued to practice violations of basic human rights as monitored by ICHR. The repercussions of the economic crisis also added to the suffering of Palestinian citizens.

The political stalemate, fragile economy, and weak social networks for protection made the crisis even worse. Unprecedented waves of protests erupted as a result, impacting on such basic sectors as education and health.

## I. Political Factors

### 1. Israeli Occupation Measures in the Occupied Palestinian Territories

Israel as the occupying power continued throughout 2013 with its policies in contravention of international humanitarian law and international human rights law, including the following: continued military occupation of Palestine's territories; collective punishment policy; siege of the Gaza Strip; invasion of Palestinian towns and villages; expropriation of Palestinian land; expansion of settlements; arbitrary and administrative detention of Palestinians; and the colonization and isolation of Jerusalem. Moreover, the Israeli occupation authorities killed (49) Palestinians throughout the year and continued construction of the annexation wall in contravention of the 2004 Advisory Opinion issued by the International Court of Justice, as well as installation of permanent and temporary checkpoints, allotment of certain roads for Israeli settler use only, and division of the West Bank into separate "bantustans".

In August 2013, and after years of a hiatus due to Israeli intransigence, the political negotiations between the PNA and the Israeli occupation government were resumed under the sponsorship of the American government represented by its Secretary of State John Kerry. ICHR notes that the forthcoming Palestinian State is still under occupation and has not achieved its goal of national independence and actual sovereignty. The Palestinian people are still deprived of their right to self-determination in breach of the provisions of international conventions, and so Israel is still responsible towards the West Bank, including Jerusalem and the Gaza Strip, in accordance with international humanitarian law and international human rights law as an occupying power.

## **2. Reconciliation Efforts towards the Political Division between the West Bank and Gaza Strip**

Although the Egyptian Presidency declared the completion of the reconciliation agreement between the delegations of Fatah and Hamas on April 9, 2013 in Cairo, they failed to implement previously signed agreements. It is highly important to note the bitter consequences of the division on constituents in Palestinian society and the political, social and economic fabric. ICHR maintains that the ongoing division and disruption of national reconciliation efforts constitute a breach of the principle of the constitutional legitimacy exemplified in disrupting the call for legislative and presidential elections.<sup>3</sup> The failure to hold presidential and legislative elections on time according to the law is due to the political division and failure of the reconciliation efforts. This caused the Palestinian political regime to enter an exceptional stage marked by the existence of an Executive Authority with broad powers that were free from legislative controls.

## **II. Economic Factors**

According to the Ministry of Finance, the current government was able to reduce its debts from 4.8 billion dollars to 4.4 billion dollars. It confirmed that the current revenue system suffers from several weaknesses due to internal and external factors: predominantly, Israel's control over border crossings; lack of transparency of information from Israel; Palestine's linkage to Israel's economy; weak tax laws; declining revenues from the past five years; low rates of collection; and a declining tax-payer base.<sup>4</sup> The Monetary Authority noted that the Palestinian economy recorded a decline in 2013 by (3.7%) compared with (5.9%) in 2012.<sup>5</sup> The Palestinian Central Bureau of Statistics also presented a report on Palestinian economic performance covering the first three quarters of 2013.<sup>6</sup> The report reveals that the Palestinian GDP and the Palestinian GDP per capita recorded a decline through the first three quarters of the year. It added that the rate of unemployment during the first three quarters of the year stood at 22.7% compared with 23.0% during the same period of 2012.

In addition, the economic situation in the Gaza Strip has further deteriorated with a continuous Israeli military siege, especially with limited amounts of fuel allowed into



the Gaza Strip and the regular cutting off of electricity to operate electricity stations, resulting in the closure of numerous industrial companies and the disruption of their work. The free access and movement of persons and goods between the West Bank and the Gaza Strip, combined with the closure of the “Rafa” outlet after recent political developments in Egypt in June 2013, further complicated matters, causing additional hardship to Palestinian residents of the Gaza Strip. This was especially so after completely closing the borders and restricting the passage of goods via the tunnels between Rafah in the Gaza Strip and the Egyptian border, resulting in the tense relationship between the Gaza and new Egyptian government.

### **III. Legal Factors**

Due to the detention of Palestinian legislators by the Israeli occupation forces and the ongoing Palestinian political division, the PLC has been disrupted for the sixth successive year. It has been unable to propose, adopt, or approve any legislation that would support Palestinians’ rights and consolidate the Palestinian legal system in the West Bank and the Gaza Strip. Additionally, it has been unable to fulfill its supervisory role regarding financial and administrative matters, hold the government accountable or investigate claims of human rights violations.

In 2013, President Abbas issued (20) decisions within the power of law, based on Article 49 of the Palestinian Basic Law, which states that the President of the PNA may issue decrees with the power of law when the PLC is not in session. Once the PLC is back in session, it will decide whether to approve or disapprove the said decrees, but until that time the President’s decision has the power of law.

The inactivity of the PLC for the sixth successive year and ongoing issuance of decrees with the power of law by the President led to a new legislative crisis as Palestinian Basic Law does not include provisions addressing the exceptional state the Palestinians have been facing due to the internal division and disruption of legislative authority. The debate concerning the necessity of the Presidential decrees has proven to be futile. This is due to the crisis lasting so long and growing increasingly complex without an independent overseeing body to examine the compatibility of the decrees issued by the President with Palestinian Basic Law.

The Reform and Change Parliamentary Bloc in the Gaza Strip continued throughout 2013 to hold the PLC and ratify laws based on a “proxy” system which has no legal justification. The government in the Gaza Strip also continued to approve laws and regulations approved by the Reform and Change Parliamentary Bloc.

## **IV. Findings and Conclusions**

### **1. Continuing Israeli Occupation Resulted in Deterioration of Human Rights**

The continuation of the Israeli military’s occupation of the Palestinian territories and its hostile policies in the West Bank, Gaza Strip and Jerusalem remained a major factor in the

deterioration of the human rights situation in the Palestinian territories in 2013. This was most evident through the Israeli military's constant blockade of the Gaza Strip, continued invasion of Palestinian cities, assassinations and arbitrary detention of Palestinian citizens under the pretext of security concerns. This undermines the long-term ability of the Palestinian state in the provision of requirements that enable Palestinian citizens to enjoy their rights.

Israeli policies undermine the Palestinian state in performing its functions and assuming its legal responsibilities in the areas under its control. Moreover it cannot fulfill its duty to provide safety and security for the Palestinian people and enforce the rule of law. At the same time, Israel refuses to address their occupation of the Palestinian state in terms of its sovereignty, but continue to undermine Palestine's ongoing efforts to establish the rule of Palestinian law through its invasions of Palestinian cities, and the assassination or detention of Palestinian citizens for alleged security concerns.

## **2. Internal Political Division led to Negative Implications for Rights and Freedoms**

The failure of efforts to achieve national reconciliation, and the continuation of the political division between Fatah and Hamas in the West Bank and the Gaza Strip still negatively affects the status of rights and public freedoms. Violations of human rights have emanated from both sides, most notably through continuation of arbitrary deprivation of liberty, and lack of integrity in carrying out legal proceedings during search and arrest as well as detention and confiscation and/or restriction of public freedoms and lack of respect for the judiciary.

## **3. The Legislative Dilemma**

With the disruption of the Palestinian Legislative Council for the sixth consecutive year and the continuation of Presidential decrees issued into law, there is uncertainty in regard to new legislation, especially since Palestinian Basic Law did not include provisions for such exceptional political circumstances. The debate over presidential decrees is no longer worthwhile in regard to the ability and necessity for making laws issued by the President. Moreover, there is no independent monitoring body to determine the suitability and compatibility of presidential decrees with Palestinian Basic Law.

## **4. A Weak Human Rights Culture and Respect for Human Rights within Society**

Events have shown that political changes throughout the year 2013 regarding rights and public freedoms do not depend solely on the availability of legal texts and the content of rules and guarantees. More importantly, political change depends on the understanding of citizens and the ability of public opinion to influence them and the necessary work and accountability by all groups and political parties.



Civil society organizations must play a role in influencing the formation of strong opinions regarding Palestinian human rights issues. They must detect violations, regardless of the perpetrators, and identify them continuously for public discussion and in the media in order to raise awareness so that Palestinian society can develop informed opinions. Failure to perform such practices threatens the security of every citizen's life and freedoms, resulting in a weakened and declining Palestinian society. Encouraging public opinion will strengthen the Palestinian community's supervision of the performance of the authorities, deepening their understanding of a human rights culture and the rule of law in the Palestinian cultural context.

### **5. Weak Systems of Accountability and Political Division Empowered Security Agencies**

Continuing patterns of violations are also the result of the return of the provisional powers and influence of security services at the political level. This was especially the case in the fourth quarter of 2013 in which several campaigns were implemented by security services where excessive force was exercised. This indicates the risk of return to a state of lawlessness due to lack of accountability and the failure to take any appropriate measures, especially following serious violations of human rights.

The issue of accountability was not addressed and no measures were taken to develop civilian overseeing of the security agencies. Some disciplinary measures were taken against government officials committing violations of human rights; however, no criminal charges were made against them. The only mentionable achievement in the way of greater oversight and accountability from security agencies was the Code of Conduct adopted by the Preventative Security Service, which is to be implemented later in 2014.

### **6. The Financial Crisis and Weak Social Protection Systems: Increased Suffering for the Poor and Vulnerable Groups**

Factors including the political stalemate and division, continued military occupation, fragile economic situation and weak social safety nets have led to financial crises and manifestations that have emerged in an unprecedented series of aggravated protests in key sectors such as education and health.

### **7. Political Considerations and the Negotiation Process Prevented Palestine's Accession to International Treaties and Conventions**

Despite the Accession of the State of Palestine into the United Nation as an Observer State, Palestine has refrained from acceding to any of the International treaties and Conventions, and did not join any of the UN Specialized Agencies during 2013. Such accession has been linked with political factors, especially after returning to political negotiations with Israel under the auspices of the Obama Administration. Signing and ratifying international human rights and humanitarian conventions and treaties

have been considered to be political tools rather than legal obligations for the State of Palestine. The only development was the political commitment made by the State of Palestine in 2013 to integrate the guiding principles of the Palestinian National Action Plan into the three-year development plan (2014-2016). Within this context, the official commitment was made to accede to the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights, although no concrete steps were undertaken in 2013 to that end.





## Chapter 2

# The Impact of Israeli Occupation Violations

Here, ICHR recounts some Israeli violations based on the data of other sources, and analyzes their impact on the status of the Palestinian citizens' human rights. It does not claim to cover all Israeli violations in Palestine.<sup>1</sup> Israeli occupation continued throughout 2013, committing human rights violations of Palestinian citizens in the West Bank and Gaza Strip on a daily basis through systematic and methodical policies. It continued to target land and people through violations to the basic components of the Palestinian people's lives, including harassment, pursuit, detention, and killing. It continued its policy of home demolition, land confiscation, settlement expansion and wall construction. Furthermore, the Israeli occupation continued to undermine any Palestinian prospects for development or growth by continuing to restrict freedom of movement and travel as well as enforcing a blockade. The Palestinian citizens face daily risks to their lives, security and freedom because of the occupation, which hinders the existence of a viable and independent entity in the occupied Palestinian territory and continues to impede the Palestinian people's right to self-determination, which is in contravention of many international conventions, laws and norms.

In 2013, the Israeli occupation authority committed severe violations in the Palestinian occupied territory in breach of Geneva Convention IV of 1949. It continued to practice discrimination, violations of human rights and the implementation of sporadic military operations against civilians and infrastructure facilities. It continued its siege on the Gaza Strip and restrictions on the Palestinian citizens in the West Bank, denying them access to natural resources and basic facilities, establishing additional checkpoints, and detaining citizens. It is worth mentioning that the occupation authorities have not convicted any settlers for their aggression on Palestinian citizens and Palestinian property. The settlers continue to escape justice and Israel acts as a state above the law. The State of Palestine was not able to curb Israeli violations or protect its citizens during 2013 through joining international human rights treaties or turning to the International Criminal Court (ICC) to rule on the activities of the occupation State. The major Israeli violations of Palestinian human rights that were monitored by ICHR during 2013 are discussed subsequently.

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1. For more detail, refer to special reports issued by local and international human rights organizations and other national and international groups.

## I. Violations of the Right to Life

The Israeli occupation forces continued to target the lives of Palestinian citizens in the West Bank and Gaza Strip throughout 2013. They are responsible for the deaths of (49) Palestinians, including (9) children, and injury to (1550) others, among whom tens of children and women are included.<sup>2</sup> The occupation forces also fired in the direction of citizens and fishermen in the Gaza Strip (194) times during the same period.

## II. Violations of the Rights of Detainees and Prisoners

Arbitrary detention by Israeli occupation forces against Palestinian citizens persisted throughout 2013. They detained (3874) citizens,<sup>3</sup> among whom (3799) were from the West Bank and Jerusalem, and (75) from Gaza Strip.<sup>4</sup> It is worth mentioning that (4800) Palestinian prisoners continue to endure life in the occupation prisons, and among these inmates there are (162) who are (18) years of age and less, (17) females and (150) administrative detainees.<sup>5</sup>

In 2013, the occupation authority continued to target members of the PLC, detaining (14) of them. Most of them were subjected to administrative detention without charges or trial. The occupation authority also continued its policy of administrative detention against Palestinian citizens without filing indictments against them or bringing them before the courts. Furthermore, it deprived them of their right to family or lawyer visits,<sup>6</sup> and this led to initiating a string of protests, including a hunger strike. More than (1500) Palestinian prisoners suffered from medical negligence in Israeli occupation prisons while several of them have serious diseases and conditions including cancer and other chronic disorders. The Israeli Prisons Service (IPS) previously provided pain-killers for the prisoners, but this is no longer the case and is contributing to worsening their health conditions.

The IPS stepped up its suppressive measures and policies against the Palestinian prisoners, causing the deaths of four individuals. Ashraf Abu Drei died after two months of his release due to a malignancy; Maisara Abu Hamdyeh and Hassan Al Turabi died of disorders they contracted due to poor detention conditions and medical negligence; Arafat Jaradat died after a few days of detention due to torture.

2 Annual report on Israeli Violations of the Rights of the Palestinian People during 2013, Abdel Al Hurani Center for Studies and Documentation.

3 Abdulnasir Farawneh, Director of the Department of Statistics at the Ministry of Prisoners and Freed Prisoners; report issued on 23\12\2013.

4 These detentions and physical and psychological torture practiced by the occupation State constitute a flagrant violation of the provisions of the international humanitarian law and sometimes amount to war crimes.

5 Report issued by the Ministry of Prisoners and Freed Prisoners, February 2014.

6 The occupation State still claims that the Four Geneva Conventions of 1949 are not applicable to the occupied Palestinian territory, and so it treats the Palestinian prisoners as terrorists, based on its military laws and orders and the British Emergency Law of 1945, in violation of the provisions of the international conventions and treaties relevant to the treatment of prisoners in an occupied region. The Palestinian prisoners, thus, were forced to organize protests against their arbitrary political detention, starting a hunger strike in defense of their rights and to nudge the international community and international human rights organizations to shoulder their responsibilities towards their cause and oblige the Israeli occupation to treat them as war prisoners in line with the international laws and conventions.



In addition, the Israeli military courts used financial fines as a tool for increasing the revenue of the Israeli occupation treasury. They imposed such fines in about 90% of the cases of Palestinian detainees.<sup>7</sup>

### III. Israeli Violations in Area (C)

Palestine's Area C, which is under full Israeli occupation control, has been subjected to continuing Israeli violations. This area, which constitutes 60% of the West Bank,<sup>8</sup> is under full Israeli security and commands administrative control in accordance with the Oslo Accords. It is important to note that 70% of Area C is inhabited by (150,000) Palestinian citizens distributed in (542) locations. It is situated within the borders of the Israeli Settlements Regional Council. However, the Palestinian citizens who own these lands are deprived of their right to use or develop them. Furthermore, the occupation authority imposes harsh restrictions on construction in this area due to the absence of structural planning, resulting in most of the Palestinian citizens living there are not able to obtain permission to build houses or at least renovate the houses they already have. They are not permitted to develop the infrastructure or the services facilities there, either, and this is in spite of the fact that there is a need for development since there is little access to basic services such as electricity, water, and sewage disposal due to the weakness of relevant networks in their communities. In contrast, while they hardly have access to health, education and cultural services, the (325,000) Israeli settlers who live in (135) settlements and (100) settlement outposts in the same area enjoy all of these services and comforts of daily life.<sup>9</sup>

The Palestinian citizens of the Jordan Valley area suffer from the continuing Israeli policy of home-demolition for military training purposes. They also endure water shortages while the occupying power encourages settlement activities in that area, taking into consideration its needs for future growth. The occupying power ignores the violations arising from the planning laws it adopts and the measures it takes to harass the local Palestinians, but at the same time makes sure to utilize the area's natural resources for the exclusive benefit of the settlements.<sup>10</sup>

7 The expenses of the Ministry of Prisoners and Freed Prisoners were distributed during 2013 as follows: (NIS 275.787) in fees for prisoners education at universities; (NIS 8.590.500) in fees for attorneys at law defending prisoners' cases; (NIS 876.100) in fines imposed on Palestinian prisoners by Israeli military courts and (NIS29.816.978) for canteens. The Ministry also pays for prisoners' rehabilitation programs, educational programs, vocational training programs and allocations for the Prisoner Society. It paid (NIS 10.887) in social aid and (NIS5.911.592) in grants for freed prisoners and (NIS 647.168) in fees for their vocational training. It also paid (NIS198.180) for medical treatment of patient prisoners. Other expenses were also incurred, such as monthly salaries for prisoners and freed prisoners and health insurance fees for their families. In 2013, it paid about (NIS161.984.638) in salaries for prisoners and their families or for those authorized to receive them on their behalf. It pays permanent salaries for prisoners sentenced up to five years in Israeli prisons (51.416 persons). Additionally, it paid during 2013 about (NIS 25.643.487) in the form of operating expenses, allocations for prisoners and freed prisoners associations.

8 Figures and numbers concerning area (C) in the West Bank: Major Human Fears", OCHA, January 2013.

9 Ibid.

10 See "Israel's Policy in Area C in the West Bank", B'Tselem, June, 2013.

## IV. Settlements, Settler Aggression, and Violations of Human Rights

In 2013, the occupation authorities accelerated settlement activities in the West Bank and East Jerusalem, giving approval for the building of (18000) new settlement units. Part of this has been implemented and is underway while the remainder is pending due to bidding procedures.<sup>11</sup>

For settlement expansion and construction of the annexation wall and for other “security reasons”, the Israeli occupation forces seized thousands of dunams of Palestinian-owned lands composed predominantly of farmland. The wall restricts the area where Palestinian citizens are allowed to build, have access to basic services and can move and develop necessary infrastructure. Moreover, it deprives them of their sources of livelihood and contributes to their forced displacement from their land, and this includes entire families. The Israeli occupation is colonizing in nature and deprives the Palestinian people of the right to their land and resources. It obstructs Palestinian efforts to achieve development and prosperity, and highlights the fact that the State of Palestine does not control 60% of its land and water resources.

Israeli settler attacks have been one of the main sources of instability for Palestinian citizens, threatening their physical security and curtailing their access to sources of livelihood. Israeli settlers, protected by Israeli occupation forces, have attacked Palestinian citizens, and such attacks generally have increased and are mainly motivated by discriminatory policies. During 2013 around (191) settler attacks were registered, causing injuries to (98) Palestinians. The same year witnessed (129) settler vandalism incidents against Palestinian-owned property, such as the uprooting and torching of (3,793) fruit trees and obstructing (1616) Palestinian children from access to school.<sup>12</sup> As a result of these attacks, property sustained losses, lands were forcibly seized, and farmlands and property, including mosques, houses and olive trees and orchards, were set on fire. Furthermore, farmers and shepherds were physically assaulted. Israeli settler attacks are part of a policy aimed at exerting pressure on the Palestinians in order to seize more of their land for settlement purposes. The ability of the settlers to escape justice encourages them to commit more violence against Palestinians, which only further worsens Palestinian living conditions and jeopardizes their security.

## V. Impact of Israeli Violations on PNA Performance

The background to understanding how Israeli violations impact on the government’s performance is based on the ongoing Israeli military occupation of the Palestinian territories and its arbitrary practices; these constitute a main obstacle to the governance sector in Palestine. Depriving the Palestinians of having full sovereignty over their land prohibits them from achieving any intentions towards social, economic

11 See their annual report on Israeli violations of the rights of the Palestinian people during 2013; Abdel Al Hurani Center for Studies and Documentation.

12 *The Annual Report on the Human Rights Situation in the Occupied Palestinian Territories, including East Jerusalem, Office of the United Nations Commissioner for Human Rights, August 2013.*



and infrastructure development. This situation coupled with other systematic Israeli violations contributes to the infringement of Palestinian citizens' fundamental rights, including the right to the security of person and an acceptable standard of living.

The challenges resulting from the Israeli blockade, roadblocks and the annexation wall continued to further constitute major obstacles to achieving social development. Military roadblocks, for example, hinder Palestinian paramedics from fulfilling the demands of their work, including life-and-death circumstances. In addition, they also have adverse impact on the educational sector, such as the Israeli blockade imposed in occupied Jerusalem restricts Palestinian students and teachers' mobility.

Israeli violations against and appropriation of Palestinian natural resources, including water, stone, oil and natural gas, have undermined the Palestinian government's ability to utilize them to improve the living conditions of the Palestinian citizens, and has also impeded economic development. The occupying power's restrictions on the citizens' freedom of movement also increased unemployment rates in Palestinian society. The Israeli labor market is also partly inaccessible to the Palestinian labor force, and Israel continued to violate the rights of the Palestinian laborers through part of its closure policy. Moreover, it continued to fragment Palestinian cities and villages by putting up checkpoints and building the annexation wall.

Considering the above, the Palestinian government has not been able to exercise control over land, natural resources and borders. This resulted in interference in Palestinian productivity, and then overloading the Palestinian markets with Israeli products,<sup>13</sup> which caused more damage to the Palestinian economy. Apart from that, the infrastructure itself, especially in Area C,<sup>14</sup> was not able to be saved by those opposed to such policies and measures.

Israeli occupation practices in the West Bank and East Jerusalem aggravated the financial situation of the Palestinian Authority. It additionally incurred expenses amounting to millions of shekels for covering the needs of the Palestinian prisoners' families and ensuring housing for the citizens whose houses were demolished by the occupation authority. It also incurred large expenses to help the Palestinian citizens whose land and properties were affected by the annexation wall and settlements.

In regard to the Israeli blockade on the Gaza Strip, it has continued to undermine the living conditions for approximately (1.7) million Palestinians. These restrictions imposed on the Gaza Strip have reduced job opportunities and restricted Palestinian access to sources of livelihood, health and education services, safe work and safe housing. These restrictions have deeply impacted on the social life of Palestinians and their aspirations for a better future. The blockade has also contributed to the deteriorating human rights situation and worsening humanitarian crisis. In 2013, the occupying power closed Karm Abu Salem border crossing; it was closed for

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13 The Quarterly Performance Report of the Fifteenth Palestinian Government, the Governmental Performance Quality Department, Palestinian Council of Ministers, 2013.

14 Ibid.

(150) days despite the truce agreement signed on 21 November 2012 in Cairo. This agreement provided for lifting the siege imposed on the Gaza Strip to allow trade activities, including imports and exports.

The occupying power continued to prevent the entry of several goods into the Gaza Strip. The number of truckloads of goods allowed into the Gaza Strip totaled (55,833) in 2013 in comparison to (57,441) truckloads in 2012<sup>15</sup>. The occupying power continued to systematically prevent the export of industrial and agricultural products from the Gaza Strip, except for limited quantities of strawberries, bell peppers and tomatoes. Only (187) truckloads of agricultural produce were exported from Gaza in 2013 in comparison with (234) truckloads in 2012. Furthermore, entry of construction material into the Gaza Strip was prohibited, causing a collapse within the construction sector. Over (35,000) construction workers lost their jobs, making the humanitarian situation in the Gaza Strip even worse.<sup>16</sup>

Israel continued to deprive Palestinian citizens of their right to have access to their farmlands located near the border. The location of these farmlands is about 1.5 kilometers inside the Gaza Strip running for 62 kilometers along the border from the northwest to the east. In 2013, (154) Israeli attacks against Palestinian civilians were observed in these areas.<sup>17</sup> Furthermore, Israel continued to harass Palestinian fishermen in the Gaza Strip by targeting them and their fishing boats with gun fire, denying them entry into the fishing zone, which was previously agreed to at twenty nautical miles, and restricted later to three nautical miles, clearly a violation of their right to work.

## VI. Violations of the Rights of the Child

In 2013, the Israeli occupation continued to target Palestinian children in the West Bank and Gaza Strip through killings, injuries and detention. Thirteen (13) children were killed and (41) others were injured in the Gaza Strip. They were either exposed to explosive shrapnel or directly shot and killed by Israeli occupation force weapons. The occupation forces also detained (36) children<sup>18</sup> when Israel raided the Gaza Strip. Children approaching the border fence for work or hiking were also targeted by the occupation forces, who were never held accountable for the crimes they committed against these Palestinian children. Furthermore, the Israeli occupation forces were known to abuse Palestinian children by subjecting them to detention and torture. They are known to have been interrogated in Hebrew, a language they do not understand, forced to sign papers, also in Hebrew, brought before military courts and held in solitary confinement for months. The Israeli occupation forces used Palestinian children as human shields for storming homes or escaping stones

15 According to a study released by the Public Relations Department for the Palestinian Chambers of Commerce in Gaza governorates, Gaza, January 1, 2014.

16 According to statistics released by the Ministry of Economy in the Government of Gaza Strip.

17 According to a report titled «The Israeli Occupation Forces: Violations of Rules of International Humanitarian Law in Gaza Strip in 2013», Al Mezan Center for Human Rights, Gaza, January 2014.

18 According to «Violations against Children in Gaza Strip in 2013» report, Al- Mezan Center for Human Rights, February 2014.



hurled at them.<sup>19</sup> In 2013, 76.5% of the Palestinian children arrested by the Israeli occupation forces were subjected to physical violence in comparison to 74% in 2012. They were subjected to handcuffing, blindfolding, verbal abuse, physical violence, humiliation, intimidation and strip searches.

## VII. Violation of the Right to Economic Development

It has already been mentioned that Israeli occupation policies and measures hindered economic development by obstructing Palestinians' access to their natural resources, especially in Area C, which is key to Palestinian economic growth and development. Due to Israeli occupation policies and measures that obstruct Palestinian economic activities in this area, the annual Palestinian economic loss was estimated at about \$3.4 billion.<sup>20</sup>

It is clear that, should the Palestinian people have access to their natural resources, the economy would be well able to find the right path towards sustainable development. However, in 2013 the Palestinian economic performance experienced a 3.7% slowdown, increasing its dependence on foreign aid and undermining its sustainability. Should business enterprises be allowed in Area C, the Palestinian Gross Domestic Product (GDP) is estimated to be able to increase by 35%. This would increase the Palestinian government's revenues by approximately \$800 million, and so decrease the budgetary deficit by 50%.<sup>21</sup> However, by denying the Palestinians access to their own natural resources in Area C, the Palestinian economy is destined to continue to fall if the ongoing Israeli restrictions continue.

## VIII. Violations of the Right to Education

Ongoing occupation measures and military campaigns caused harm to the educational process in 2013, with the occupation forces committing several violations against Palestinian students and teachers. These violations involved denying students access to schools, firing stun grenades and tear gas canisters in their direction and setting off panic among students. The data gathered in this regard indicate that over (13,000) Palestinian students lost (1,581) class sessions,<sup>22</sup> (3) students were killed and over (195) students and teachers were wounded. Furthermore, (184) students and teachers were arrested, including (7) teachers and (175) students in addition to a services employee. In addition, there were (85) students and teachers, comprising (32) teachers and (53) students, detained for several hours.<sup>23</sup>

19 See a report released by the Committee on the Rights of the Child on the Israeli occupation's violations of Palestinian child rights, June 2013.

20 According to Doing Business, report released by the World Bank, October 2013.

21 Ibid.

22 «The Israeli Occupation's Violations of Educational Process and Teachers over 2013»; the Public Administration of Field Follow-up in the Ministry of Education, February 2014.

23 As a result of the measures taken by Israeli occupation, the educational process was totally obstructed in 9 schools over 10 days in total. This denied 2,045 students as well as 173 teachers access to their schools. In addition, as a result of closure and military checkpoints denying teachers access into schools, the educational process was partially obstructed in 34 schools. Moreover, 89 schools were attacked or raided as Israeli occupation forces fired stun grenades and tear gas canisters at them, causing panic among students.

The annexation wall undermined the educational process. It limited teachers and students' ability to travel to and from their schools, depriving a number of students of their right to education. At the same time, teachers and students were subjected to harassment at Israeli occupation checkpoints on a daily basis and for barely credible reasons.

The educational process in occupied Jerusalem was not saved from these destructive measures. Teachers' and students' movements were restricted due to the siege imposed on the city and the surrounding checkpoints. It suffered a shortage in school buildings and classrooms since the occupation municipality refuses to grant the Palestinians permits for building new schools or renovating existing ones. The Palestinian citizens of occupied Jerusalem were forced to enroll their children in schools located in distant areas. This contributed to increasing the rate of dropouts and put the educational process in Jerusalem at risk.

The Israeli occupation authorities have been denying students from the Gaza Strip permits necessary for them to pursue their education in the West Bank or overseas. The geographical separation between the West Bank and the Gaza Strip, which is due to Israeli occupation, impacted on the educational process in flagrant violation of the Palestinians' right to education.

## **IX. Violation of the Right to Freedom of Movement**

In 2013, Israel continued to restrict the right of the Palestinian citizens to movement and travel, particularly in "seamline" areas (areas located between the Green Line and the wall), the Jordan Valley and the areas adjacent to the colonial settlements. These restrictions were meant to protect settlements and speed up their expansion. Restricting the Palestinians' right to movement and mobility has largely contributed to dismembering the Palestinian territories and cantonizing it into non-contiguous enclaves. These policy-based segregation measures limited job opportunities for Palestinian citizens and had an impact on their social, economic and cultural life.

The old city of Hebron suffered much from Israeli occupation policies aimed at restricting the Palestinian citizens' right to freedom of movement. The occupation authorities continued to erect over (120) physical barriers separating H2 area from the rest of the city, where approximately (40,000) Palestinians live. These barriers were set up on roads leading to H2 area, and to which Palestinian access was prohibited in order to accommodate the Israeli occupants of the settlements around it.<sup>24</sup>

Furthermore, the Palestinian citizens' access to basic services in that area - schools, water, sanitation and health services - is tightly restricted due to the occupation permit system. Conversely, Israeli settlers who commit violence and vandalism acts against Palestinian citizens and their property in Hebron experience no accountability and benefit from an unrestricted and comfortable life.

The segregation and expansion wall not only divides the Palestinian territories, but

<sup>24</sup> «The Humanitarian Impact of Israeli Settlements in Hebron City», United Nations Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territories (OCHA), July 2013.





it imposes a gates-system that has worsened the living conditions of Palestinian farmers in (150) Palestinian villages. They no longer have access to their farmlands that the occupation authorities seized for the construction of the wall. A large number of the Palestinian farmers in areas adjacent to the annexation wall can not cultivate their land unless they apply for special permits from the occupation authorities. However, once they have their permits, they have to go through up to (74) gates installed within the wall. At a certain time of the year, (52) of these gates are open during the olive harvest season.<sup>25</sup> In total, these policies and measures have isolated more than (11,000) Palestinian citizens from their properties due to the wall. In the meantime, Palestinian citizens living behind the wall no longer have free access to their workplaces, schools, universities, and health and cultural centers.

The access of West Bank citizens to the occupied city of Jerusalem has also been restricted. They are unable to travel to Jerusalem unless they have permits that allow them to pass through four Israeli occupation checkpoints out of the fourteen installed within the wall surrounding the city.<sup>26</sup>

## **X. Violations of Journalists' Rights**

Israeli occupation violations of the Palestinian journalists' rights persisted throughout the year. These violations involved targeting and assaulting journalists while performing their duties. There were (151) such violations observed. The breakdown is 60% of these violations were committed against journalists in Ramallah and Jerusalem, with (50) in Ramallah and (41) in Jerusalem.<sup>27</sup>

## **XI. Violations against Holy Sites in Jerusalem**

The Israeli occupation authorities' policies and measures against the Palestinian citizens in occupied Jerusalem continued throughout the year of 2013. These policies and measures were aimed at the Judaization of the city and the expulsion of its Palestinian citizens. The occupation authorities continued to restrict the right of the Palestinian citizens to enter Jerusalem. They installed military checkpoints and metal gates, making citizens' entry into and exit from the city much more difficult than previously practiced. Furthermore, (53) buildings, and (23) stores and businesses were demolished in the city. Eight dwellings belonging to Bedouin families in Al-Za'ayyem and Al-Ka'abnah villages in the vicinity of occupied Jerusalem were demolished and their owners were displaced. They also handed over hundreds of home-demolition orders to Palestinian families. Moreover, the Israeli occupation authorities seized about (1450) dunams of land belonging to Palestinian citizens in the city of Jerusalem, doing this in order to expand settlements and construct roads

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<sup>25</sup> «Humanitarian Impact of the Barrier», United Nations Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territories, July 2013.

<sup>26</sup> Ibid.

<sup>27</sup> See the 2013 annual report of Palestinian Center for Development and Media Freedoms (MADA), February 2014. Reporters in various Palestinian cities were subject to Israeli violations. The number of such violations is distributed as follows: (20) in Hebron, (23) in Nablus, (8) in Bethlehem, (2) in Jenin, (1) in Tulkarem, (1) in Salfit and (5) in Jericho.

for settler use only. Excavation works were also continued as part of Project 21, aimed at connecting settlements in the nearby areas with the center of Jerusalem. A thousands of new settlement unit building project was also approved as part of the occupation's colonial expansionist policy as well as a bid for building (6,700) new settlement housing units in the area of occupied Jerusalem.

The occupying power, represented by its military forces and settlers, continued its aggression against Muslim and Christian holy sites in the occupied Palestinian territories. This aggression included (22) assaults against mosques, spraying racist graffiti against Muslims and Christians, and destroying Muslim cemeteries.

Furthermore, the occupying power continued its assault against al-Aqsa Mosque in occupied Jerusalem as part of the larger plan of wiping out the historical architectural character of the occupied city. It destroyed several arches of the holy compound and built in their place service centers and police stations.<sup>28</sup>

## XII. Violations of the Right to Housing

The occupying power's policy of confiscating Palestinian land for settlement building also affected the human right for housing by continuing its policy of home-demolition. Over (630) buildings and structures in the West Bank and East Jerusalem were demolished this year, forcibly displacing and dispossessing over (1,034) citizens, including (526) children.<sup>29</sup> Dozens of residential rooms were also demolished in the Jerusalem area; using the permit system as a pretext.

The occupying power also practiced the policy of forcible displacement against Palestinian citizens in the northern Jordan Valley. It forbade them to graze their sheep, increasing their economic hardship. Moreover, it demolished tents and barracks belonging to al-Kabna tribe in Khirbit al-Makhoul. They also demolished about (80) industrial and commercial facilities, scores of Bedouin tents and wells, agricultural structures and water tanks.<sup>30</sup>

The Israeli occupation authorities and settlers uprooted and torched about (13,700) fruit trees and seized about (5,202) dunams of Palestinian citizens' land in the West Bank and Jerusalem, including (2,370) dunams in Yatta and al-Samou to the south of Hebron. They also issued a military order to seize (5,000) dunams of land in the Jordan Valley for military purposes.<sup>31</sup> The occupation demolition policy in the West Bank led to forcible displacement of (1100) Palestinians and the construction of (2,159) settlement units during the first three quarters of 2013. East Jerusalem witnessed an unprecedented increase in the number settlement units in the previous year.<sup>32</sup>

28 See the annual report about the «Israeli Violations of Palestinian Holy Sites in 2013»; Solidarity Foundation for Human Rights, January 2014.

29 See the press statement «Displacing Palestinian civilians» released by the United Nations Office for the Coordination of Humanitarian Affairs in Jerusalem on December 11, 2013.

30 See the annual report on the Israeli violations of the Palestinian people in 2013 that was released by the Palestinian Liberation Organization's «Abdalla Hurani Studies and Documentation Center.

31 Ibid.

32 2014 Global Report, Human Rights Watch, January 2014.



## Recommendations

In light of the number of Israeli violations and their impact on the performance and ability of the PNA to protect human rights in Palestine in 2013, ICHR recommends the following:

1. The State of Palestine to call on the United Nations' Member States to apply all reasonable pressure on the government of Israel and Israeli occupation forces to immediately cease their continued and flagrant violations of the 1949 Geneva Conventions and cease their aggression against the Palestinian people, their land and property, cease all applicable violations of human rights, bring an end to their occupation of Palestinian territory, and evacuate settlements built in the occupied Palestinian territory since 1967.
2. The State of Palestine to request the international community apply all reasonable pressure on the government of Israel to comply with the principles and practices of International Humanitarian Law, particularly their legal obligation to "respect and ensure respect" for the articles of the 1949 Geneva Conventions that are relevant to the occupied Palestinian territory.
3. The State of Palestine to request the international community to apply all reasonable pressure on the government of Israel and Israeli occupation forces to halt its policy of administrative detention, save the lives of Palestinian prisoners, and release child prisoners and patient prisoners. It should also request the international community to pressure the occupying government to cease and desist from systemic and systematic suppressive practices against Palestinian detainees, put an end to the deterioration of humanitarian norms and improve living conditions in its detention centers.
4. The State of Palestine to follow up on the report of the Committee on the Rights of the Child of the United Nations and call on the international community to shoulder its particular responsibility and unequivocally advocate for the protection of Palestinian prisoners, especially children prisoners.
5. The State of Palestine to continue to pressure the government of Israel and Israeli occupation forces to allow Palestinians access to area (C) in order to fully utilize their land and natural resources, allocating land for Palestinians to build housing, develop infrastructure and have access to water and electricity.
6. The State of Palestine to accede to human rights conventions and files complaints to the International Criminal Court against the violations committed by the occupying state against the Palestinian people.
7. The State of Palestine and civil society organizations to coordinate efforts to ensure success of decisions made by the United Nations, and to consider the year 2014 as a year of solidarity with the Palestinian people and the protection of their fundamental rights. They should also cooperate with the Special Committee on the Exercise of the Inalienable Rights of the Palestinian People.

## **PART II**

### **The Status of Human Rights and Public Freedoms**





## Inception Chapter

# Patterns of Human Rights Violations Monitored by ICHR

## I. Violations of Fundamental Human Rights

Below is a detailed summary discussion of fundamental human rights violations in Palestine during 2013. The number of violations are reported as well as a breakdown of those numbers between the West Bank and the Gaza Strip, and, where applicable, Jerusalem.

### 1. Right to Life and the Death Penalty

ICHR documented (4) deaths in the prisons and detention facilities of the law enforcement authorities, with (2) cases in the West Bank, and (2) cases in the Gaza Strip. There is a noticeable decrease in the cases of death in detention this year compared with 2012, during which (11) cases of death during detention were recorded.

Although no death sentences were implemented, their issuance increased significantly last year. In 2013, (17) death sentences were issued, (16) of which were issued in the Gaza Strip and (1) in the West Bank. The Government of Gaza also carried out (3) other death penalties remaining from previous years without receiving ratification from the Palestinian President and as stipulated in Palestinian Basic Law. In 2012, (6) death sentences were issued, all of them from the Gaza Strip and (6) others carried out.

These sentences contravene with general human rights and reformist criminal justice trends at the international level towards the abolition of the death penalty and its substitution with rehabilitation and other forms of penalties. It is also contrary to the attempts of the international community and numerous states to abolish the death penalty from its legislation, and the adoption of moratoriums in the meantime.

### 2. Torture and Ill-Treatment

In 2013, ICHR registered a remarkable increase in the number of complaints received on alleged cases of torture and violations involving the right to physical safety in the West Bank and the Gaza Strip. A total number of (497) cases of allegations of torture (150 cases in the West Bank and 347 cases in the Gaza Strip) were received in 2013 compared with (294) such allegations in 2012. This was in addition to another (67) cases with allegations of inhumane and degrading treatment compared with (58) such allegations in 2012.

ICHR also received (158) additional allegations of physical and psychological assaults by security agencies, compared with (156) such assaults in 2012.

The responses ICHR received from the security agencies and the Public Prosecution concerning the complaints on the violation of the right to physical safety deny such allegations. In most of the responses received by ICHR concerning those allegations, security agencies denied that such acts were committed and in only a few of them were some disciplinary measures (but not criminal charges) undertaken. Investigation into such alleged cases of torture and ill-treatment are not being seriously addressed.

Despite the Presidential Decree issued in May 2013, which was disseminated among all security agencies and government officials upon ICHR's request, most cases of torture and ill-treatment in 2013 were registered against the Palestinian Civilian Police in both the West Bank and the Gaza Strip. No tangible measures were developed to initiate an independent General Inspectors' Office at the Ministry of Interior to conduct regular oversight over security agencies, while both civilian judicial and civilian overseeing of detention centers remained weak and ineffective; the culture of impunity still prevails.

### **3. Violations of the Right to Personal Freedom, Appropriate Legal Procedures and Arbitrary Detention**

Continuing arbitrary detention is considered to be an indicator of the human rights situation in Palestine through the security agencies arresting of citizens without proper procedures and absence of due process in both the West Bank and Gaza Strip.

During its official and regular visits to the detention centers, ICHR registered (826) cases of arbitrary detention, with (425) cases from the West Bank and (401) cases from the Gaza Strip. Many of those persons who filed these complaints claim that they were detained for their political affiliations. There has been a noticeable increase in arbitrary detentions compared to the past year, as (176) were reported to ICHR in 2012. This is due to the political variables and the continuation of the internal political division.

### **4. Disrespect for Court Decisions**

In 2013, ICHR received (123) complaints concerning disrespect for courts' rulings by civil and security authorities compared with (102) of the same type of complaints in 2012. Despite verbal announcements on numerous occasions by government officials and security agencies, ICHR continued to monitor delays and maneuvering in the implementation of court rulings all through 2013. ICHR reaffirms that courts' rulings should be respected and immediately carried out without delay in accordance with Palestinian Basic Law, especially article 106, which states that "judicial decisions are enforceable, and to refrain from implementing any is a crime punishable by imprisonment, and removal from office..."



## 5. Violations of the Right to Assume Public Office

One of the prominent human rights violations monitored through ICHR's complaints was the violation related to the rights of citizens assuming public office. ICHR registered (536) violations in 2013, (325) from the West Bank and (211) from the Gaza Strip), compared to (574) violations in 2012. This includes violations of public servants in the transfer of their salaries, upgrading them in accordance with provisions of the law, security clearance conditions, and numerous other violations related to their legal and human rights.

## 6. Violations of the Right to Peaceful Assembly

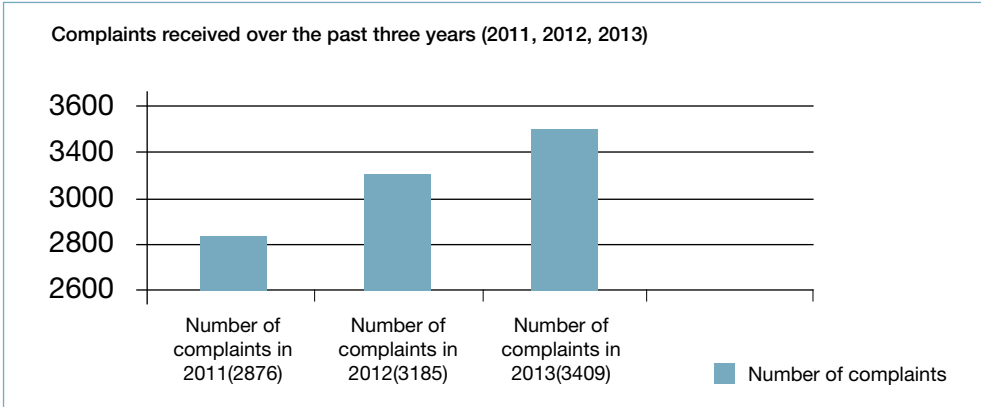
The right to peaceful assembly has been exposed to many violations in the West Bank and the Gaza Strip in 2013. Through the complaints received by ICHR and our monitoring from primary and secondary resources, violations recorded included the dispersing of some marches by force, attacking some of its participants and detaining some of the participants in those gatherings.

## 7. Violations of Freedom of Expression and Freedom of the Press

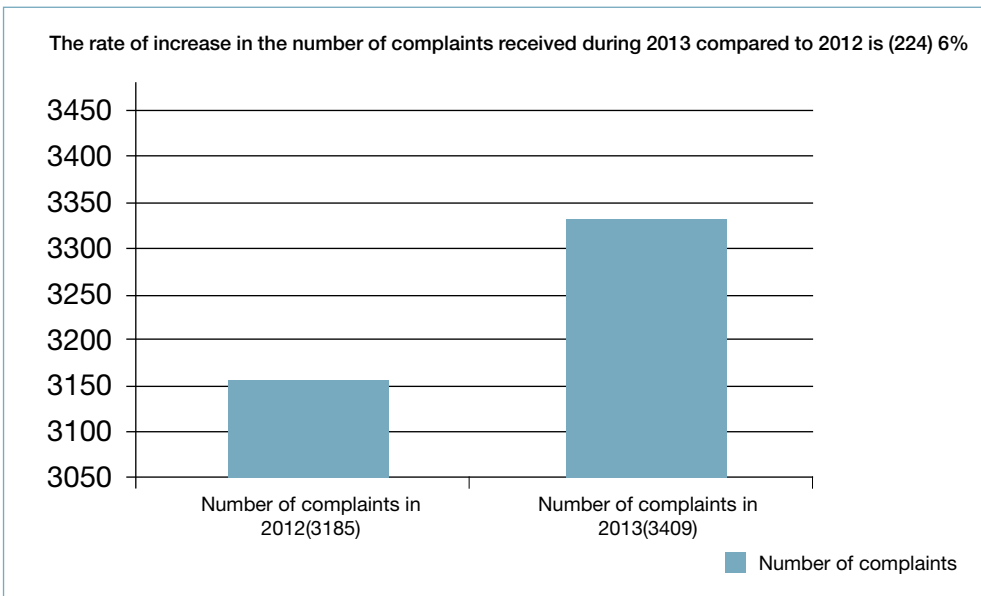
Many attacks on the personal freedoms of Palestinian journalists were monitored by ICHR in 2013. The violations included restrictions on press freedoms, and interference in the work of journalists and the media by security agencies in both the West Bank and the Gaza Strip. Among those practices were the illegal detention and prosecution of journalists, summoning of journalists and exerting pressure on them in an effort to restrict their freedom, and prevent the printing and distribution of some newspapers.

## II. Patterns of Human Rights Violations

The number of complaints received by ICHR during 2013 compared to 2011 and 2012 provides an indication of the status of human rights in Palestine over a three year period. ICHR has discovered through its analysis of these complaints that the patterns of violations observed during the previous years continued, though at a different pace. In 2013, it received (3409) complaints compared to (3185) and (2876) in 2011 and 2012 respectively. These complaints involved violations of human rights and infringement of public freedoms by the civil and security agencies of the Palestinian National Authority in the West Bank and Gaza Strip.



The number of complaints received by ICHR during 2013 increased by (224) (6%) compared to 2012.



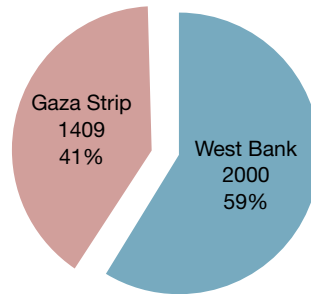
**1. Distribution of complaints in the West Bank and Gaza Strip:**

In 2013, ICHR received (2000) complaints in the West Bank and (1409) in the Gaza Strip, compared to (2373) complaints in 2012 distributed as (812) in the West Bank and (831) in Gaza Strip.





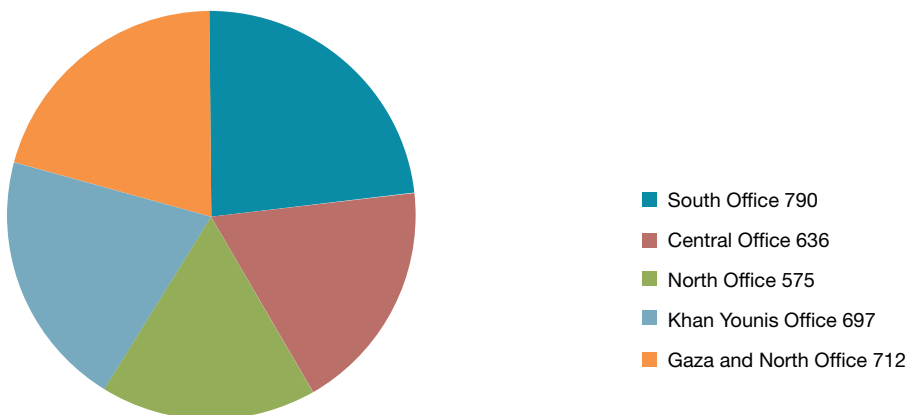
### Number of Complaints received in 2013 (3409) complaints



### Geographical Distribution of the Complaints Received by the ICHR's Regional Offices in the West Bank and Gaza Strip

The complaints received during 2013 were distributed among its regional offices as follows: South Office (790) complaints; Central Office (636) complaints; North Office (575) complaints; Khan Younis Office (697) complaints; Gaza and North Office (712) complaints.

### Geographical distribution of complaints among ICHR's regional offices in WB and GS during 2013



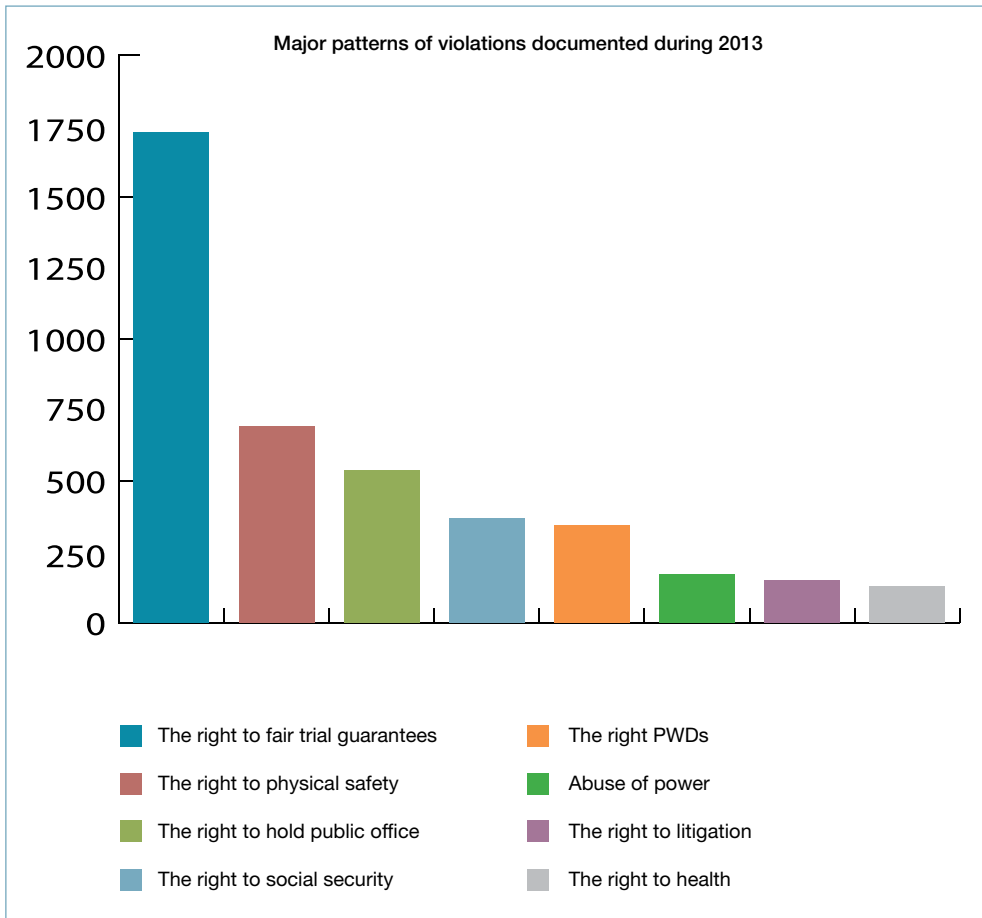
## 2. Division of complaints by type<sup>33</sup>

Division of complaints by type contributes to developing an indicator for the most common violations observed by ICHR in 2013. It also contributes to comparing the rates of each violation in terms of their rise or decline in the previous years. This leads to results regarding increasing and decreasing violations according to influential factors, practices and environment.

<sup>33</sup> For more statistical data about the patterns of violations based on the complaints received, see the sections on the violated right observed in this report.

a. Patterns of violations based on complaints received by ICHR during 2013

Number	Violation	Total
1	Right to fair trial guarantees	1731
2	Right to physical safety	693
3	Right to hold public office	536
4	Right to social security	367
5	Rights of PWDs	344
6	Abuse of power	170
7	Right to litigation	150
8	Right to health	127





### b. Violations monitored by ICHR during 2013 and 2012

Violation	2013	2012
Right to life/death in detention or during interrogation	1	5
Right to personal freedom	16	9
Misuse of position of power	10	15
Misuse of public money	1	1
Right to litigation	2	149
Abuse of power	168	245
Right to due process	1729	789
Right to peaceful assembly	41	71
Right to education	58	29
Right to hygiene environment	17	13
Right to development	0	0
Right public service	35	121
Right to housing	6	18
Right public office including competition and security clearance-based dismissal	534	574
Right to property	54	7
Right to form and join associations and peaceful unions.	1	12
Right to protection against forced disappearance	1	0
Right to work	55	44
Right to demand fulfillment of legal obligation	144	182
Right to expression of opinion, freedom of press and access to information	52	48
freedom of thought, creed and political affiliation	2	20
Rights of children and adolescents and their protection from social/economic exploitation or abuse.	118	79
Rights of PWDs	344	276
Non-respect of court rulings	122	102
Access to official documents according to the law	60	77

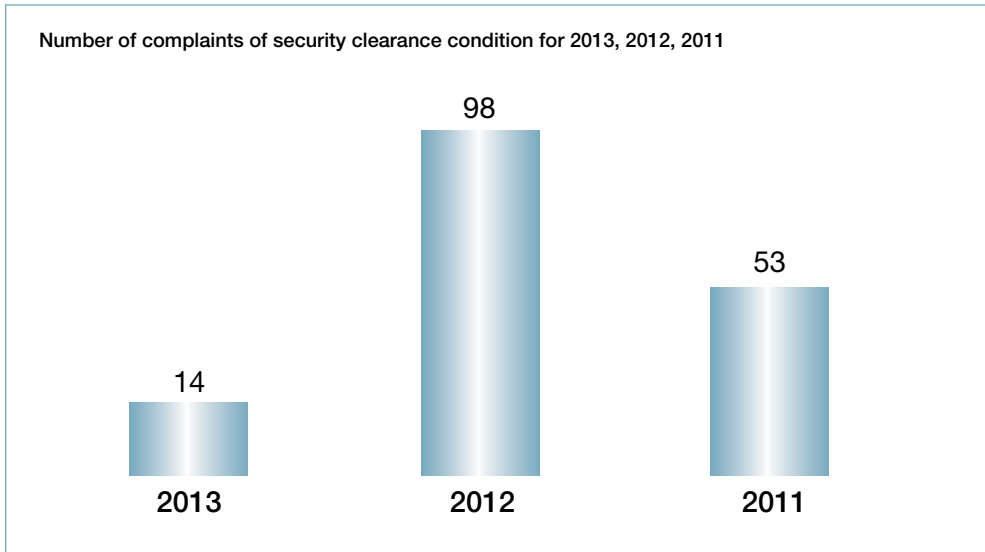
## c. Violations of the right to hold public office

	Total	Sub- violation 1	Total	Sub-violation 2	Total
West Bank	325	Integrated employment competitiveness	38	Security clearance reasons	14
				Other reasons	14
		Administrative disputes (promotion, pension, financial rights)	177		177
		Arbitrary dismissal	35	Security clearance reasons	14
				Other reasons	13
					8
		Right to strike according to the law	73		73
Gaza Strip	211	Integrated employment competitiveness	3	Other reasons	3
		Administrative disputes (promotion, pension, financial rights)	206		206
		Arbitrary dismissal	2	Other reasons	2
Total	536	Integrated employment competitiveness	41	Security clearance reasons	14
				other reasons	17
					10
		administrative disputes (promotion, pension, financial rights)	383		383
		arbitrary dismissal	37	security clearance reasons	15
					8
		right to strike according to the law	73		73



#### d. Number of complaints of security clearance condition for 2013, 2012, 2011

Year	2013	2012	2011
Number of complaints	14	98	53



### III. Agencies under complaint and major violations attributed to them

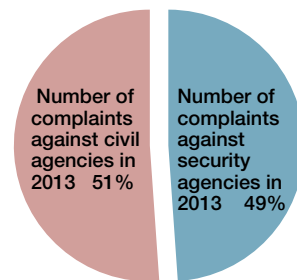
In 2013, ICHR continued to receive complaints against the security and civil agencies. It followed up on these complaints through addressing the competent authorities and received responses from most of them. These responses were different in terms of the results. The responses given by the security agencies were predictable, denying the allegations filed by the citizens and avoiding accountability and responsibility. The responses of some official authorities, particularly those received from the Ministry of Social Affairs, General Personnel Council and the Ministry of Health, were positive. They provided satisfying resolutions for most the complaints.

## Complaints filed against public authorities

Authority reported	WB	GS
Preventive Security	286	-
Internal Security \ Gaza Strip	-	139
Internal Security Forces \ Gaza Strip	-	28
Military Intelligence	36	-
General Intelligence	239	-
Civil Police (Police Agency, Criminal Investigations, General Investigations, Anti-Narcotics).	272	496
Police Agency (General Administration of Reformation and Rehabilitation Centers)	92	171
Ministry of Education and Higher Education	196	8
Ministry of Interior	45	26
Ministry of Social Affairs	288	121
Ministry of Health	133	36
Ministry of Finance	31	130
Ministry of Local Government	36	3
Ministry of Transportation	16	1
Ministry of Prisoners Affairs	20	1
Ministry of Agriculture	6	1
Public Prosecution	36	8
General Personnel Council	9	10
Council of Ministers	5	6
High Judicial Council	15	2
Ministry of Endowment	34	2
General Pension Authority	11	1

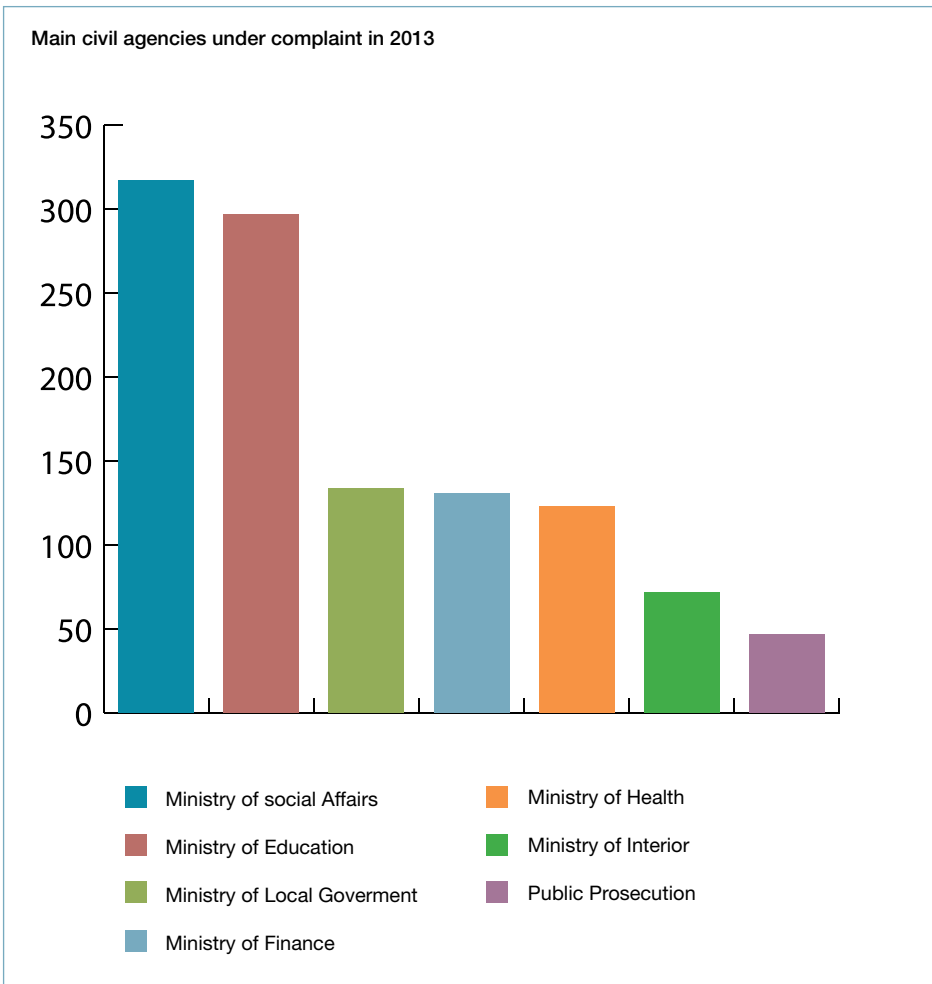
## Division of complaints by type:

Number of complaints during 2013 (3409)

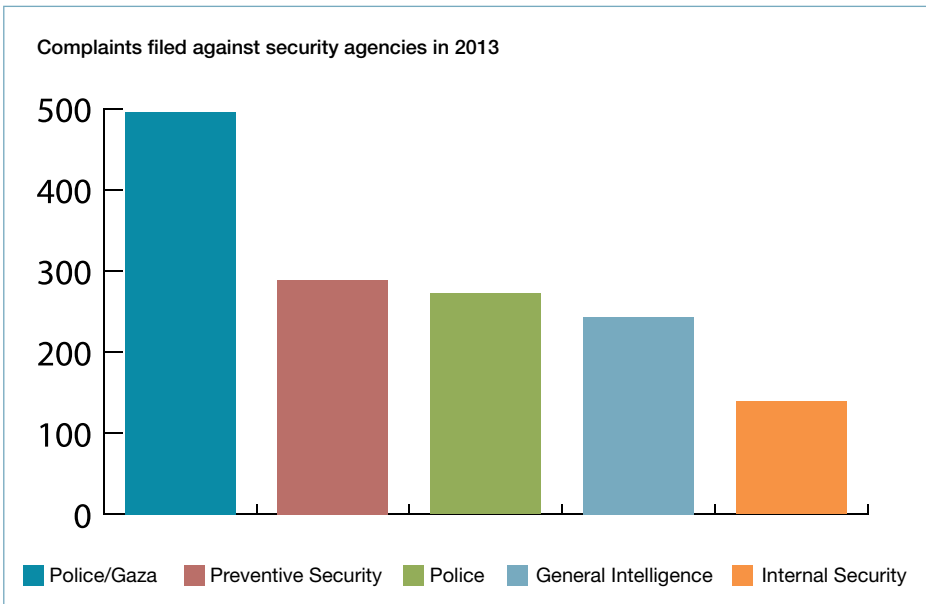




Main civil agencies under complaint 2013		
No.	Agency	Total
1	Ministry of Social Affairs	317
2	Ministry of Education	297
3	Ministry of Local Government	134
4	Ministry of Finance	131
5	Ministry of Health	123
6	Ministry of Interior	72
7	Public Prosecution	47



Security Agencies under complaint 2013		
No.	Agency	Total
1	Police \ Gaza	496
2	Preventive Security	289
3	Police	272
4	General Intelligence	243
5	Internal Security	139



### 1. Main complaints filed against security and civil agencies (West Bank)

- Preventive Security Agency:** the complaints filed against the Preventive Security Agency included allegations of violations involving the right to physical safety, including torture and threats during detention. They also involve the right to fair trial guarantees as well as arbitrary detention. Under such patterns of detention which were based on unsupported charges, the detainees were usually held for political affiliation or for expression of opinion, particularly through social media, and they were denied the right to appear before any judicial authority. They also included allegations of assaults on peaceful assemblies and cases of summoning citizens for interrogation and illegal deprivation of freedom. ICHR also received a number of complaints regarding confiscation of citizens' belongings, and deprivation of detainees' right to family or lawyers' visitation.





- **Palestinian Civil Police:** the complaints filed against the PCP included allegations of violations involving the right to physical safety, including torture and ill-treatment during detention, and the right to fair trial guarantees through denying the detainee the right to appear before court. They also included allegations of misuse of power, infringement of freedom of opinion and expression, prohibition of peaceful assembly, non-implementation of courts' rulings as well as violation of the right to property and abuse of power. They also include allegations of violations involving the right to hold public office and the right to medical care at the reformation and rehabilitation centers. The complaints filed against the administration of the RRCs focused on unacceptable living, health, and legal conditions, denial of the right to family visitation, inadequate health care and non-separation of inmates.
- **General Intelligence Agency:** the complaints filed against the General Intelligence Agency included allegations of violations involving the right to physical safety, including torture and ill-treatment during detention and the right to fair trial guarantees as well as arbitrary detention. Additionally, they included allegations of confiscation of private property and belongings without allowing their return even after case disposal. They also included violations involving infringement of public freedoms, mainly freedom of the press and freedom of opinion. ICHR also received complaints regarding the denying citizens the right to travel and the right to hold public office based on recommendations by the security agencies.
- **Ministry of Health:** the complaints filed against the Ministry of Health included allegations of medical negligence, inadequate health services, violation of the right to hold public office, lack of health facilities for PWDs in outlying areas in addition to lack of primary health facilities. ICHR also received complaints concerning medical referrals for treatment abroad as well as other complaints related to administrative issues.
- **Ministry of Finance:** the complaints filed against the MoF included allegations of violations involving financial rights of public servants, the right to social security, the right to hold public office and the rights of PWDs. Some complaints also included allegations concerning the administrative affairs of the MoF. It is worth mentioning that a large number of the complaints which ICHR received this year against MoF focused on stopping salary payment and cutting administrative bonuses of some public servants. Several of these complaints remained unsettled due to the negative response of MoF.
- **Ministry of Interior:** the complaints filed against the Ministry of Interior included allegations of violations involving the right to litigation, fair trial guarantees, investigation into torture cases and ill-treatment. They also involved infringement of public freedoms, peaceful assembly and freedom of opinion as well as arbitrary detention.
- **Ministry of Education and Higher Education:** the complaints filed against the Ministry of Education and Higher Education focused on the right to work, the

rights of PWDs, the rights of public servants, the right to education and dismissal from public office.

- **Ministry of Social Affairs:** most of the complaints filed against the Ministry of Social Affairs focused on financial claims, services for PWDs, social security, health services and rehabilitation and training centers. Most of the responses regarding these complaints were satisfactory. ICHR notes that the complaints filed against the Ministry of Social Affairs increased this year because of the difficult economic conditions that increased citizens' needs for aid and the new standards adopted by the Ministry for aid delivery. They also increased since ICHR gave priority to economic, social and cultural rights as well as the rights of PWDs.
- **Public Prosecution:** the complaints filed against the Public Prosecution focused on the right to litigation, the right to fair trial guarantees, arbitrary detention, non-implementation of courts' decisions and investigating torture and ill-treatment cases.

## 2. Main complaints filed against the security and civil agencies (Gaza Strip)

- Security cases: ICHR received (822) complaints against the following agencies: the Police Agency (Anti-Narcotics Unit, General Investigations, PCP), Internal Security, General Administration of the Reformation and Rehabilitation Centers, the Ministry of Interior and the National Security. ICHR was able to solve many of these complaints through informal cooperation with the competent authorities and the visits it makes to the RRCs, but the security agencies in the Gaza Strip still refuse to respond to ICHR's letters in writing, particularly in regard to complaints of violations involving the right to due process of law, arbitrary detention, torture and ill-treatment. ICHR noted an unprecedented increase in the number of complaints of violations of the right to physical safety committed by the PCP this year. It has not received positive or satisfying responses to these violations, either.
- The complaints received by ICHR against the security agencies include allegations of violations involving the following rights:
- The right to fair trial guarantees, including arbitrary detention carried out without an arrest warrant or search warrant. Under this kind of detention, the security agencies accuse the detainees with trumped up charges, deny them the right to appear before the Public Prosecution or court and hold them for political reasons without filing an indictment against them. They also deprive them of the right to family visits and the right to suitable living conditions in the prisons. They are usually held in facilities not legally identified as prisons or detention facilities.
- The right to physical safety (torture and threats during detention, physical and moral assaults)
- The right to movement and travel for political reasons and without a court order.



The Security Personnel handling the Gaza Crossing borders of Rafah and Beit Hanun denied citizens the right to travel. Others were deprived of the right to get or renew their passports by the Ministry of Interior in Ramallah

- The right to freedom of opinion and expression, use of social media and peaceful assembly

**Civil agencies under complaint:** ICHR received (586) complaints against several civil agencies in the West Bank, including the Ministry of Finance, General Personnel Council, Ministry of Education and Higher Education, Ministry of Social Affairs, Ministry of Interior, Families of Martyrs and Injured Persons Care Agency, Ministry of Health, Ministry of Foreign Affairs and Ministry of Prisoners. These complaints focused on financial rights, administrative allowances, halting salary payments, and financial rights for families of martyrs and injured persons. Most of the complaints of financial rights by public sector servants in Gaza Strip remained unsettled despite all efforts and interventions made by ICHR.

In the Gaza Strip, **ICHR** received complaints against the Ministry of Social Affairs, Ministry of Public Works and Housing, General Personnel Council, Public Prosecution, Lands Authority, Electricity Company and al-Aqsa University. ICHR received responses in writing to its letters from some institutions, including the Public Prosecution. These responses were typical and unsatisfactory. The complaints received by ICHR against the civil agencies included allegations of the following violations: violation of the right to hold public office including the financial rights of public servants; obstructing salary payments; suspending allowances and promotions; violation of the right to social security; violation of the right to health care including equal access to health services, responsibility for medical errors; violation of the right to housing; violation of the rights of PWDs; abuse of power; fulfillment of legal obligations; access to official documents; the right to property; illegal expropriation of property; and non-respect of court decisions.

## CHAPTER 1:

## THE RIGHT TO LIFE

**I. Status of the Right to Life in 2013**

The right to life is the most fundamental of all human rights, and is found in a wide range of national legislation and international treaties.<sup>34</sup> Palestine has experienced a range of “unnatural” deaths, all of which can be understood as violations of the right to life principle. In 2012, for example, the rate of unnatural deaths slightly declined compared with the previous year, the number dropping from (147) cases to (140) cases. However, in 2013, unnatural deaths rose to (168) cases; (70) in the Gaza Strip, (13) in tunnel accidents and (98) in the West Bank. As for the causes of death, they were classified using (13) of the (15) categories in a framework adopted by ICHR.<sup>35</sup> ICHR has not registered any cases of death that occurred outside their framework.<sup>36</sup>

In regard to the number of cases of unnatural deaths of women and children for 2013, ICHR registered (45) cases for women and (52) cases for children. Within the larger category of unnatural deaths, those for women increased to 26.8% in 2013 compared with 17% in 2012 and 19% in 2011. For children, this also increased, and went from 28% in 2011 and 2012 to 31% in 2013. In 2013, (19) cases of death occurred in family disputes, amounting to (11) in the West Bank and (8) in the Gaza Strip, indicating an increase by (3) cases. This can be compared to (15) cases in 2012, with (12) occurring in the West Bank and (3) cases in the Gaza Strip.

Concerning the deaths that occurred due to misuse of firearms by law enforcement bodies, ICHR registered (4) cases this year compared with (1) case in 2012. ICHR notes the weakness of law enforcement bodies concerning their commitment to the orders of firing in cases of protest dispersion or arrest of criminals. Firing according to these orders should be a last option, and not with the aim of killing.

In regard to to misuse of firearms by citizens, ICHR registered (9) cases resulting in death, (4) in the West Bank and (3) in the Gaza Strip, compared with only (4) cases in 2012 and (10) cases in 2011.

34 International human rights treaties emphasize the right to physical safety; several national laws and legislation also emphasize this right. Article (3) of the Universal Declaration of Human Rights states that everyone has “the right to life, liberty and security of person”. Article (6) of the International Covenant on Civil and Political Rights states “Every human being has the inherent right to life. This right shall be protected by the law”. On the national level, several provisions of the penal law in force in Palestine address crimes committed against man, mainly articles (326345-) of the Penal Law No. 16 of 1960 and articles (212242-) of the Penal Law No. 76 of 1936.

35 Classifications adopted by ICHR: family disputes; misuse of firearms by law enforcement personnel; misuse of firearms by citizens; mysterious conditions; “honor killing”; killing under the pretext of collaboration with the enemy; infighting; death penalty; tunnel accidents’ negligence of public safety precautions; death in detention; medical errors; explosive devices; suicide; and criminal acts.

36 Infighting and collaboration with the enemy.



In 2013, ICHR registered (32) cases of death occurring under mysterious conditions, (22) of these in the West Bank, and (10) in the Gaza Strip; compare to a total of (47) cases in 2012, with (19) in the West Bank and (28) in the Gaza Strip. Despite this decline in the number of deaths under mysterious conditions, the number registered by ICHR, this year highlights how the authorities investigating such incidents need to exert maximum efforts to identify and bring to justice the perpetrators of such crimes.

There were also (3) women killed for “honor”, with (2) in the West Bank and (1) in the Gaza Strip, compared with (5) cases in 2012 and (2) cases in 2011. It is worth mentioning that (16) female deaths were registered under mysterious conditions and their causes have not been identified.

The number of deaths that occurred due to negligence of public safety standards hit a record this year. ICHR registered (65) such cases compared with (17) in 2012.

## II. Deaths due to Negligence of Public Safety Precautions

In 2013, ICHR registered (65) deaths that occurred due to negligence of public safety measures, which is four times the number reported in 2012. These deaths were distributed as follows: (16) cases occurred in workplaces; (10) drowning cases of children at homes (aged 8 years and less); (4) drowning cases in swimming pools or outside homes; (17) cases of suffocation caused by heating materials used at homes; (6) cases of electric shock and (12) cases due to other reasons.

The deaths that occur in workplaces indicate the inadequacy of monitoring by the Ministry of Labor over these workplaces, especially since most of these deaths occurred in construction workshops in Ramallah and al-Bireh governorate. In these two locations, adequate monitoring is expected due to their proximity to the Ministry of Labor and other decision-making circles. To avoid deaths in the workplace, what the official authorities should establish is a supervisory position over the sites where such incidents happen. They should also establish, together with non-official authorities, to raise public awareness in order to reduce such accidents.<sup>37</sup>

In regard to deaths that occurred following medical treatment, ICHR registered (6) cases, (1) in the West Bank and (5) in the Gaza Strip.<sup>38</sup> It noted a decline in the number of such cases compared to (9) cases in 2012 and (8) cases in 2011.

Concerning homicides, ICHR registered (4) cases compared with (5) in 2012.

Though the number of actual tunnels on the Egypt-Gaza border decreased due to political reasons, ICHR nevertheless was able to register (13) tunnel-related deaths

<sup>37</sup> Deaths due to negligence of safety rules occur because of employers' neglect of occupational safety instruments. For example, every swimming pool should have a lifeguard, and no swimming pool should be licensed without meeting this condition.

<sup>38</sup> Two of these cases occurred at the end of 2012 but were not documented by the previous annual report of ICHR and as such, were included into this report. The number of deaths due to medical error rose to 11 in 2012. For more detail, please refer to the relevant section on the right to health in ICHR's annual report 2012, and Ma'n Shihdi Idei's, *Medical Errors: Towards Balanced Legal Protection for the Parties to Medical Errors*, (Palestine: ICHR, 2012).

compared with (20) in 2012 and (30) in 2011.<sup>39</sup>

ICHR registered (4) deaths in detention centers, with (2) in the West Bank and (2) in the Gaza Strip, compared with (11) cases in 2012. ICHR additionally condemned these incidents and asked for an independent investigation to identify their causes and take appropriate measures to bring their perpetrators to justice. Despite that, it received no reports on the findings of the investigation committees.

### III. Women's Right to Life

In 2013, ICHR reported the deaths of (43) deaths, with (18) cases in the Gaza Strip and (25) in the West Bank. As for the cause of these cases, they were distributed as follows: (16) cases occurred under mysterious conditions; (3) in "honor killing" crimes divided as (1) in the Gaza Strip and (2) in the West Bank; (14) cases due to negligence of public safety standards; (3) in family disputes and (3) cases were due to medical errors.

In 2012, ICHR monitored (24) similar cases, (13) in the West Bank and (11) in Gaza Strip. As for the cause of these cases, they were distributed as follows: (13) under mysterious conditions, (5) in "honor killing" crimes, (2) in homicides, (2) in medical errors, (1) in a family dispute, and (1) due to negligence of public safety rules.

ICHR noted an increase in the number of women's deaths in general and those due to negligence of public safety standards in particular. For example, Zuhoor Erfia, (54) and her daughter Noor, (6) died from inhaling gas while cooking in the kitchen. On 25\9\2013, five female children suffocated to death in their family's car. Samar Dheir and her daughter Farah died of burning when a fire broke out in their house in the Gaza Strip, and Marah and Qamar Kaware' died when explosive devices went off near their house. These sort of incidents call for raising public awareness about public safety standards and regulations through media outlets and other means.

In 2013, an increase in the number of women's deaths under mysterious conditions and homicides was clear. For example, Rwaida Fakhri Yousif al-Kurdi, (30), died after her husband stabbed her in the neck. He turned himself in to the police in Jerusalem. Ayeh Fleifil, (19), was found dead in al-Ama'ri refugee camp in Ramallah with bruises on her left arm, abdomen and torso. Firial Khdeish, (37), died from a bullet wound from a gun held by her son. The number of women who died falling from heights also increased. Three (3) women died falling from the fifth floor or balconies of their houses. This calls on the competent authorities to investigate such incidents to identify if there is reasonable suspicion of criminal activity behind them.

<sup>39</sup> For more, see: Hazem Hanyeh, Tunnel-Related Deaths-Lost Rights, (Palestine: ICHR), 2012.

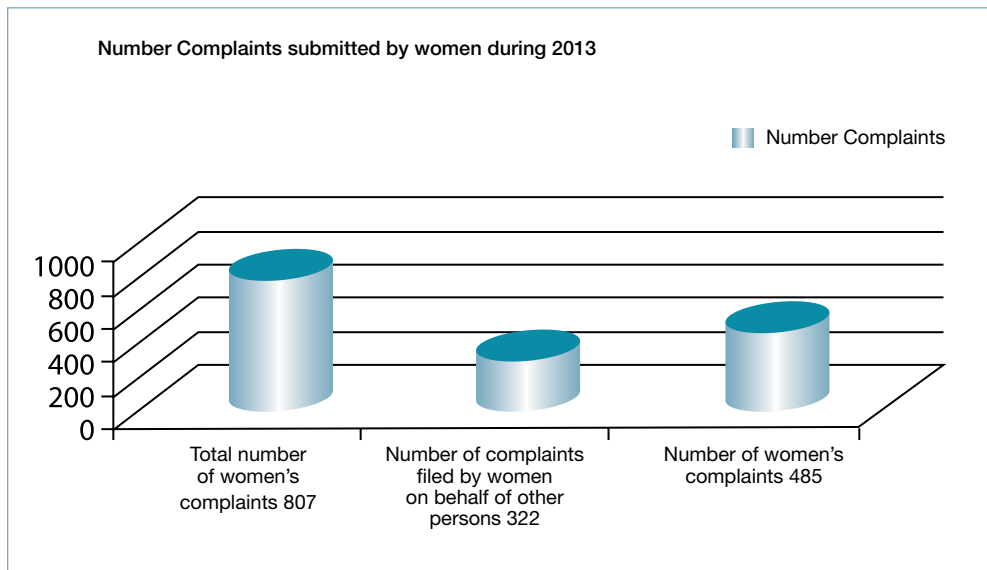


On 12\9\2013, Samar Abdulrahman Mahmoud Ede'sat, (21), from Yatta near Hebron, died of suffocation. According to the report of the psychiatrist, she was suffering from mental and physical impairment. The police arrived at the scene and opened an investigation into the incident. Her body was transferred to the Forensic Medicine Institute to identify the cause of her death. The findings of the investigation indicated that she was pregnant in her eighth month. A sample was taken from the fetus for a DNA test to determine the paternity of the child. The Public Prosecution opened an investigation into the case and seized her mother, who admitted to committing the crime. Her brother then turned himself in to the police and admitted to raping and killing her.

On 21\9\2013, Samar Munzir Zeidan (33), from Deir al-Ghsun village near Tulkarem, died of suffocation. According to the information given to ICHR, the father of the said woman killed her after (50) persons of his family issued a statement repudiating him for an action considered to be in contravention of religion and traditions. Her body was transferred to Thabit Thabit Hospital for examination. Her father turned himself in to the police and the Public Prosecution started an investigation.

### Women's Complaints

In 2013, ICHR received (807) complaints from women. These complaints were distributed as follows: (322) complaints submitted by women and (485) complaints submitted by persons on behalf of women.



#### IV. The Death Penalty in Palestine

In 2013, the laws that regulated death penalty were neither amended nor changed. The Palestinian courts continued to issue death sentences, particularly in the Gaza Strip. The courts in the Gaza Strip also carried out death sentences without approval of the President of the PNA, and this is in breach of Palestinian Basic Law, human rights conventions and the international commitment to abolish the death penalty.

In 2013, the Military Court of Jenin in the West Bank issued (1) death sentence while Gaza courts issued (16) such sentences – (9) by military courts and (7) by civil courts. Additionally, the Court of Cassation in Gaza upheld a death sentence issued in a previous year. In 2012, (6) death sentences were issued by courts in the Gaza Strip.

Although ICHR repeatedly demanded the competent authorities to cease implementing death penalties, the government in the Gaza Strip proceeded with the executions. It carried out (3) death sentences, (2) of them were issued this year and the other in a previous year. In 2012, it executed (6) persons who were sentenced to death. These sentences were carried out in contravention of the provisions of the Palestinian Basic Law, which stipulates that no death penalty issued by the civil or military courts can be carried out without being approved by the President of the PNA. It is noteworthy that the President of the PNA has not approved of any death sentences in 2013. However, the government in Gaza argues that the death sentences it carried out were done so in accordance with judicial provisions, adding that all legal appeals had been exhausted. It also argued that Palestinian law expressly allows the death penalty<sup>40</sup> since they are carried out in accordance with judicial provisions and due legal proceedings.

ICHR maintains that implementation of the death penalty in Palestine, especially by military courts, constitutes a flagrant violation of the right to life and the right to a fair trial. Although the death penalty is not banned under international human rights law, it is considered to have no deterrent influence, and so the international community has been working to abolish it and replace it with other penalties in accordance with reformation-based criminal philosophy.

In 2007, the United Nations General Assembly adopted resolution 62/149 on December 18, 2007, calling for a worldwide moratorium on executions. The resolution was adopted by an overwhelming majority of 104 UN member states in favour, (54) countries against and (29) abstentions.<sup>41</sup>

<sup>40</sup> Letter from the Minister of Interior and National Security No. 672, dated 15/12/2013.

<sup>41</sup> See ICHR's *Position of Death Penalty in the Palestinian Controlled Territory – No for the Death Penalty, July 2010*.





## Recommendations

To promote preparedness of the official bodies to investigate and bring to justice those who violate the right to life, ICHR recommends the following:

1. Pending abolition of the death penalty from Palestinian law, it is necessary that:
  - The President of the State of Palestine continues to abstain from endorsing death sentences issued by Palestinian courts and to refer all cases of civilians sentenced to death by military courts to the competent civil courts for reconsideration of these sentences.
  - The President of the State of Palestine uses his constitutional powers of amnesty to change any death sentences issued by the Palestinian courts to imprisonment.
  - The President of the State of Palestine issues a presidential decree to enforce legislative amendments, thereby legal measures which allow the amendment of death sentences issued by military courts could be adopted.
2. The Public Prosecution investigates all cases of unnatural deaths and brings perpetrators to justice. More emphasis should be placed on “honor killings” registered by ICHR this year and previously, including cases of women killed due to misuse of firearms by citizens and/or deaths under mysterious conditions.
3. The Military Prosecution to open serious investigation into allegations of the violation of the right to life and physical safety against the law enforcement staff, especially those working in the prisons. This will assist in making such cases brought before the military courts a success, and prevent the persons involved in such violations from escaping justice.
4. The Local Authorities to exercise effective monitoring over public and private places to ensure the practice of general safety procedures. They should keep an open eye on dangerous places within their jurisdiction and take the necessary safety measures to reduce deaths due to negligence of general safety standards.
5. The Ministry of Labor to play an effective, proactive role in monitoring workplaces to ensure provision of general safety measures. It should furthermore activate an inspection system in workplaces in compliance with Palestinian Labor Law. This system should be activated in buildings, construction sites, factories, and workshops, particularly given the occurrence of several deaths in these places this year.

## CHAPTER 2:

## THE RIGHT TO PHYSICAL SAFETY

All patterns of ill-treatment and torture are banned and so must be criminalized. The perpetrators of such violations must be brought to justice even after quitting or being dismissed from their official employment. This is particularly important since ill-treatment and torture are criminalized acts and do not have a statute of limitations. It should be emphasized that a culture of accountability must prevail in order to bring such violations of human rights to an end.<sup>42</sup>

### I. Violations of the Right to Physical Safety

In 2013, ICHR registered a remarkable increase in the number of complaints received on alleged cases of torture and violations involving the right to physical safety in the West Bank and the Gaza Strip. A total number of (497) cases of allegations of torture (150 cases in the West Bank and 347 cases in the Gaza Strip) were received in 2013 compared with (294) such allegations in 2012. This was in addition to another (67) cases with allegations of inhumane and degrading treatment compared with (58) such allegations in 2012.

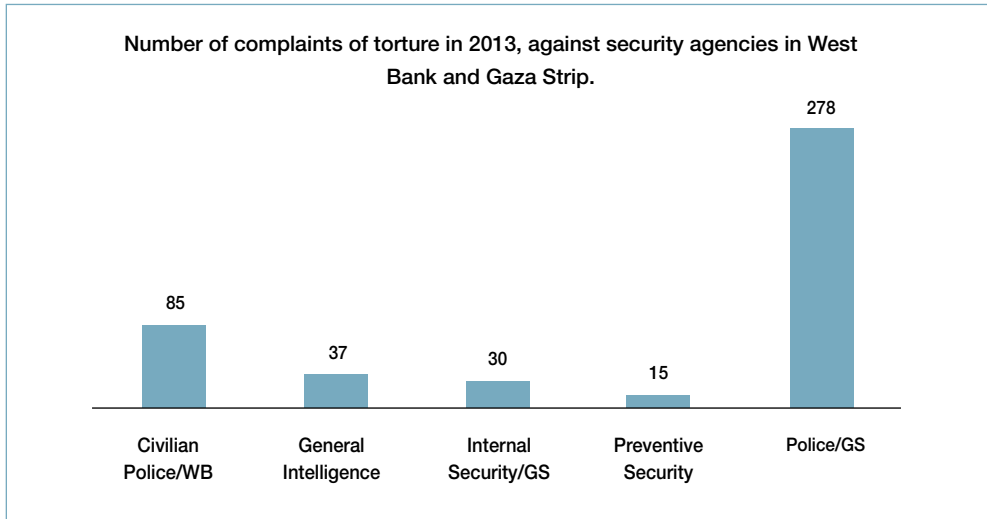
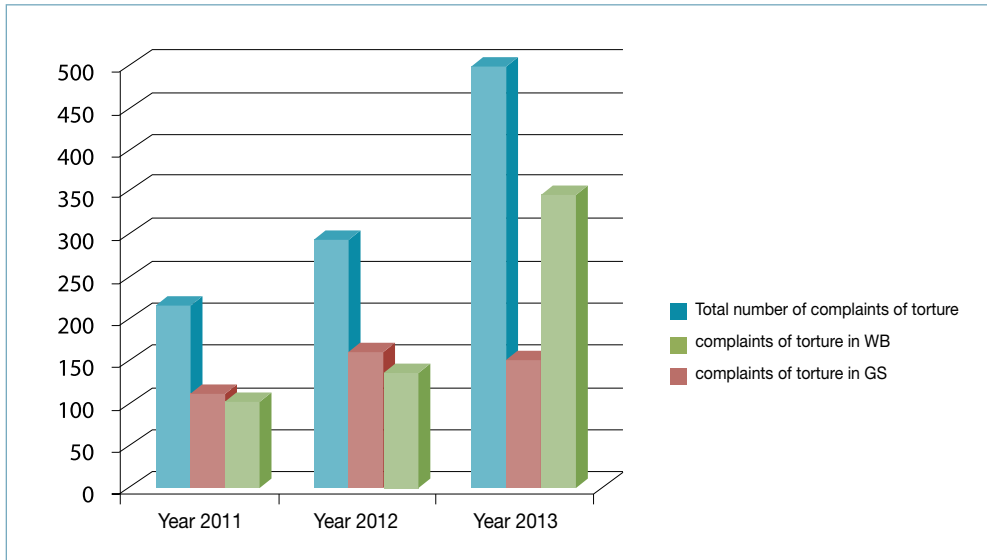
ICHR also received (158) additional allegations of physical and psychological assaults by security agencies, compared with (156) such assaults in 2012.

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<sup>42</sup> International human rights conventions guarantee the right to physical safety and legal provisions are set forth in national laws and legislation to guarantee this right. See Article (5) of the Universal Declaration of Human Rights; Article (7) of the International Covenant on Civil and Political Rights. In 1984, the United Nations drafted an independent convention aimed at criminalizing the law enforcement officials' behavior of inflicting physical or mental harm to any person to exact confession from them upon the commission of a crime or for any other reason. An optional protocol was also designated in 2000 setting forth the legal grounds for an international independent mechanism and a national one addressing the issue of visiting detention centers in every State. See also article (10) and (13) of Palestinian Basic Law of 2003. The PNA has reflected international commitment regarding criminalization of torture and ill-treatment in article (37) of the Reformation and Rehabilitation Centers' Law of 1998. Article (208) of the Penal Law of 1960 and articles (241244-) of the Penal Law of 1936 which is in force in Palestine criminalize torture practiced by the law enforcement bodies. For more, see Ma'en Id'es, Legal Review of Torture Provisions in the Palestinian Legal System, (Palestine: ICHR), 209.



### A comparison of the last three years regarding torture complaints received by ICHR



Concerning the responses ICHR received from the security agencies and the Police Agency involving complaints of the right to physical safety, the complaints were largely dismissed as untrue. The responses of the General Intelligence and Preventive Security were typical, reflecting how these agencies do not address the complaints of ICHR seriously. The standard statement they used in their responses was that

they “enforce the law and maintain the dignity, rights and security of the Palestinian citizens”, or they “maintain citizens’ rights and never subject them to any form of torture or inhuman treatment.” They would also claim that the complainants were treated according to the provisions of the law, and were examined by the military medical service to determine the condition of their health. It would also be stated that those in their care were able to often see the medical service officer, who would be able to notice if someone had been subjected to torture or any assault, and that the Public Prosecution would investigate this and release those affected. Furthermore, they claim that such complaints by ICHR raise doubt over the independence of the judicial system and its professionalism and neutrality.

The responses received from the Police Agency in the West Bank were also unacceptable, dismissing as unfounded citizens’ allegations of physical assaults they were subjected to during investigation. The statement often used in their responses was “the statement of the complainant was proved untrue since the report of the medical service indicated no torture or beating scars on his body”, or “the medical report indicated that the concerned person caused burns to his hands or limbs by himself.” They would also claim “the medical report proved that he was suffering bruises on the head from a previous traffic accident, but no scars of torture or beating appear on his body.”

It was also at times maintained “the medical report proved that he was beaten by others.” These statements sound irrational, and so investigating the case further is necessary to determine the cause of the injury. The medical report should be part of the tools used to determine that, and should not be abused.

Despite the need for an inclusive investigation into the allegations filed against the police agency to provide a rational response to ICHR, most of the responses ICHR received from the police agency do refer to disciplinary measures taken against the officers involved in breaches of the law.

In the Gaza Strip, ICHR received a number of responses in regard to allegations of violations of the right to physical safety. Most of these responses were from the Public Prosecution and a few from the police agency and the internal security. Some of them recognized that the right of some citizens to physical safety was violated by law enforcement officials. They assured that those who were involved in such violations were punished in accordance with the provisions of the law. Notwithstanding, most of the responses received by ICHR, mainly from the Public Prosecution, were predictable in that they dismissed citizens’ allegations of violations of their right to physical safety as unfounded. The main assertion they used in their responses was “he was treated according to the provisions of the law”; or “he confessed to the charges leveled at him without coercion or intimidation. The Public Prosecution has no evidence that he was subjected to physical, mental or emotional abuse.”

In light of this, ICHR affirms that the procedures for investigation into allegations of torture or ill-treatment should be developed and the findings of such investigations should be made available to the public. ICHR also contends that each case should



be handled according to its own nature and conditions, something the responses received from the security agencies seem to have missed. It also believes that the response to these allegations should be based on serious and independent investigation carried out by the competent authority. ICHR believes that the investigations conducted by the official authorities into the allegations of torture are not in accordance with clear and independent procedures. What attracts our attention is the fact that most of these allegations are related to the violation of the right to physical safety committed against the complainants or against their relatives during interrogation. Law enforcement officials violate the right to physical safety in order to exact confessions from the detainees about the crimes they are accused of. This reflects their inadequate ability to investigate crimes and perpetrators in a more appropriate and legal manner.

## II. Enforcement of the Right to Physical Safety

The competent authorities did recognize occurrence of some violations of the right to physical safety. They took penal disciplinary measures against persons involved in such violations, although the number of the allegations they recognized is small and the sanctions they imposed on perpetrators were not proportionate to the severity of the offenses.<sup>43</sup>

Human rights supporting efforts shall continue. Pursuant to the eighteenth documentary report of ICHR in 2012, the President of the State of Palestine ordered in 2013 all competent authorities in charge of detention, seizure and/or investigation to abide by the provisions of the Basic Law and other relevant laws that prohibit all forms of torture and/or degrading treatment or any behavior that undermines human dignity. He also affirmed the necessity of respect for human rights treaties, conventions and declarations.<sup>44</sup>

The effort to enforce the citizens' right to physical safety is still not sufficient, and much more is needed in this regard.<sup>45</sup>

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43 According to responses received by ICHR from the security agencies and Ministry of Interior in the WB and the responses received from the Public Prosecution in the GS.

44 For more, see «The Instructions of the President of the State of Palestine that Ban All Forms of Torture», 14 May 2013.

45 The Military Judiciary in the WB and GS has not responded to ICHR's letters regarding the number of law enforcement officers tried in 2013 on charges of violations involving the right of citizens to physical safety. These letters were sent on 2\1\2014. Neither ICHR has received a response in this regard from the Police Agency in WB, although a letter was sent 2\1\2014.

## Recommendations

To promote readiness and preparedness of official bodies to investigate and charge those who violate the right to physical safety, and to ensure that law enforcement staff, especially those who investigate crimes, do not cause physical or psychological injury to inmates, ICHR recommends the following:

1. The President of the State of Palestine and the Ministry of Interior to issue clear instructions to the security agencies not to inflict torture or ill-treatment in the detention centers, to prosecute whoever is proven to have been involved in torture of any person and to ensure physical and psychological rehabilitation for the victims of torture.
2. The security agencies should intensely investigate any allegations of torture and/or ill-treatment, take necessary measures against persons involved in such violations, respond positively to complaints related to torture filed against them, and update the ICHR on measures taken, enabling the Commission to review the relevant files.
3. The official authorities to actively aim towards reducing torture and other patterns of the violations of the right to physical safety, investigate crimes, reveal perpetrators and encourage law enforcement staff to extract confessions from the accused in accordance with the law and without violating the right to physical safety.
4. The security agencies to permit ICHR to pay regular and unannounced visits to detention centers without any impediments.



## Chapter 3:

# The Right to Personal Freedom and Due Process of Law

In 2013, ICHR received hundreds of complaints concerning violations of the right to personal freedom and due process of law in the West Bank and Gaza Strip. These violations are discussed as follows based on the complaints received by ICHR.

## I. Arbitrary Detention

Arbitrary detention<sup>46</sup> constitutes a major threat to the right to liberty and security of person. It is also considered to be the most complicated common violation of human rights since it is a composite violation that affects several fundamental rights enshrined in the international conventions. The victims of this composite violation are subjected to solitary confinement, torture and other forms of degrading and inhuman treatment. They are also subjected to deprivation of the right to contact their families and counsels and of several other civilian rights enshrined in such international conventions as the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Minimum Standard Rules for Treatment of Prisoners and other international and regional instruments. Moreover, they might also be denied the right guaranteed under the national laws and legislation relevant to the right to liberty and security of person. What exacerbates the consequences of these violations is the fact that they go beyond the victims to affect their families and the society in general. The complaints filed to ICHR and the data collected by its legal researchers and staff who visited the detention centers in the West Bank and the Gaza Strip in 2013 include such violations.

ICHR received this year (615) complaints that included allegations of violations of the right to due process of law and unlawful detention, with (393) in the West Bank, and (222) in the Gaza Strip. In contrast, for the previous year ICHR received (798) complaints in this regard, comprising (563) in the West Bank and (226) in the Gaza Strip. The security agency which was involved in such violations in the Gaza Strip was the Internal Security of the Ministry of Interior. The number of complaints received this year in this regard went down compared with the two previous years. Arbitrary detention exists in several forms, and these are reported according to classifications adopted by ICHR and covered as such in the following sections.

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<sup>46</sup> ICHR uses the term «arbitrary detention» based on the concept by United Nations Working Group on Arbitrary Detention, the mandate of which was extended (Res\ 1997\50). It defines arbitrary detention as "a. arrest or detention with no due process of law or; b. when it is carried out due to an individual's exercise of his/her protected freedoms such as freedom of faith, freedom of expression, or c. in violation of the international standards relevant to fair trial."

## 1. Political Detention

Security agencies in the West Bank and Gaza Strip dismiss allegations of political detention as unfounded, claiming they hold citizens for security reasons which have nothing to do with the freedom of opinion and expression or political affiliation. However, there is a pattern of violations committed in the context of arbitrary detention in terms of not filing indictment against detainees,<sup>47</sup> and denying detainees the right to receive visits from their families or counsels.<sup>48</sup> During its official and regular visits to the detention centers and prisons, ICHR registered (281) allegations of political detention, with (253) in the West Bank and (46) in the Gaza Strip. ICHR notes that the number of complaints in this regard increased this year in comparison with 2012, when there were (176) complaints).

ICHR received a complaint from H.K of Hebron governorate. He claimed that he was detained on 29\1\2013 by the General Intelligence Agency in Hebron on charges of political affiliation.

ICHR received a complaint from A.M, 46 years old, from the northern Gaza Strip. He claimed that he was detained on 9\8\2013 by the Internal Security without arrest warrant for political reasons.

ICHR followed up on this violation through different means. It addressed the security agencies and noted that they were exercising a kind of unlawful detention in breach of the Palestinian Basic Law, the Penal Procedure Law and international treaties which guarantee the right of each citizen to due process of law during detention, pre-trial and post-trial. These laws and treaties imposed a ban on arbitrary detention. The responses of the security agencies in this regard stressed, “the persons held in the detention centers of these agencies are detained on charges of serious crimes such as breakdown of the law and public security.”

47 Based on its observations, ICHR discovered that Hamas affiliates who were detained by the security agencies in the West Bank faced charges of arousing sectarian passions in contravention of Jordan's Penal Procedure Law of 1960, which is enforced in the West Bank, though the details of this crime are not available in the Palestinian context. It first of all requires the existence of denominations recognized by the law. It should also be intentionally aroused and the purpose of that should be determined. The denominations affected by such action should also be named.

48 Article 92 of the standard minimum rules for the treatment of prisoners state that “An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution. The principles related to the protection of all persons deprived of their freedom emphasize their right to receive visits from their families and contact with the outer world (Principle 19 of the principles related to the protection of all persons who are deprived of their freedom or imprisoned). This decision was adopted by the United Nations in 1988.





## 2. Arrest and Detention without a Warrant<sup>49</sup>

Arrest is an exercise of the power to deprive a person of his or her liberty for the purpose of interrogation, precautionary imprisonment or detention. Article (29) of the Penal Procedure Law states that “no one shall be arrested or imprisoned without an order from a legally competent authority. The dignity of the person detained or arrested must be maintained and protected against physical and/or emotional harm”. Thus, the law imposes a ban on the arrest of any person without a lawful warrant unless the circumstances make it reasonable to do so. For example, no warrant is required for the arrest of a felon caught in the commission of a crime. Article (34) of the same law states that “the custody officer must hear from the arrestee immediately. If he does not find a reason for keeping him under arrest, he must refer him\her to the competent Public Prosecutor in 24 hours.”

Based on the cases it monitored, ICHR found that the security agencies continued to practice arbitrary detention without detention warrants. In 2013, ICHR received (204) complaints of warrantless detention, amounting to (42) in the West Bank, and (162) in the Gaza Strip, reflecting a slight decrease in comparison with 212 complaints from 2012.

## 3. Unjustifiable Detention (False Accusation)

ICHR received (28) complaints from citizens held in the detention centers and prisons of the law enforcement authorities, with (22) in the West Bank and (6) in the Gaza Strip.

## 4. Detention Without Appearing before Competent Judicial Authorities

In 2013, ICHR received (93) allegations of detention ((28) allegations in the West Bank and (65) in the Gaza Strip) by the security agencies in the West Bank and the Gaza Strip that were not brought before the Public Prosecution or any other judicial authority<sup>50</sup>. A typical example is offered below:

On 12\3\2013, ICHR received a complaint from M.A of Ramallah and al-Bireh governorate. He claimed that he was detained by the Preventive Security Agency for his political affiliation. He added that he did not appear before any judicial authority.

## The Right to Presumption of Innocence

According to law, everyone charged with a penal offence has the right to be presumed innocent until proven guilty. This includes instances of a public trial, at which a person has had all the guarantees necessary for his or her defence.<sup>51</sup> This right must be

49 Arrest here is understood as: “restraint of a person for the purpose of determining legal rights as regards a criminal offense according to the law or to implement a certain sentence.” For more details regarding warrants, see Article (30) of Penal Procedure Code No. (3) of 2001.

50 Palestinian legislation regulates the investigation stage by several legal guarantees in terms of the authority that undertakes the investigation process, duration and conditions. See Articles (55), (107), (108), (119) (120) of the Penal Procedure Code.

51 See Articles (9) and (11) of the Universal Declaration of Human Rights.

respected from the first investigatory procedure through the trial proceedings up to and including the final appeal, as laid out in international laws and national legislation. ICHR received (3) complaints from citizens about how the security agencies in the West Bank treated them without presumption of innocence.

## II. Sanctity of the Home

International legislation and Palestinian legislation sets forth laws and rules that guard the right of each individual to practice private life at home and other places through his relations and communications. However, legislation allows a home to be searched when the administration of justice requires this. The law enforcement bodies are not prohibited from searching individuals and/or their homes when such action would enable them to find criminal evidence. The right to search a home is judicially sanctioned because of the sanctity of private life and the presumption of innocence. However, a search is not proscribed when its aim is to find criminal evidence that would help reveal the truth and do justice. In this context, the international, regional and national laws and legislation permit home searches without overlooking the sanctity of homes.<sup>52</sup>

ICHR monitored several violations of home sanctity in the West Bank and the Gaza Strip where the security agencies disregarded the provisions of the law relevant to home search.<sup>53</sup> It registered (72) violations in this regard. The citizens who filed these complaints claimed that the security agencies in the West Bank and Gaza Strip violated the sanctity of their homes by searching them without a legal warrant.

## III. The Right to Legal Aid and Access to a Lawyer

The person deprived of his/her freedom has the right to assign a defense lawyer at the different stages of criminal procedure.<sup>54</sup> Principle (7) of the Basic Principles Relevant to the Role of Lawyers states that “the persons deprived of their freedom have the right to immediate legal assistance by a lawyer within a period of no more than (48) hours from the time of their arrest or detention”. Likewise, article 14 (d) of the International Covenant of Civil and Political Rights states that “every detained person has the right to be tried in the presence of a lawyer, defend himself by assigning a lawyer and to be notified of his right to have a defence lawyer.” The person detained shall be entitled to these rights from the moment of his arrest through the pre-trial period of detention and investigation up to and including the final appeal. In addition, each detainee has the right to consult with his lawyer without being heard by any other person. Article (12) of Palestinian Basic Law states that the detained person shall have the right to contact a lawyer. In addition, article (102) of the Penal Procedure

52 See Article (12) of the Universal Declaration of Human Rights and Article 17 (1) of the International Covenant on Civil and Political Rights. Article (17) of Palestinian Basic Law and Articles (39) and (44) of the Palestinian Procedure Code also carefully lay out the conditions for a warrant.

53 Search warrant is understood here as a document issued by a competent Public Prosecutor mandating the judicial police to search a home in accordance with the provisions of the law.

54 Principles (10), (17), of the Principles on the Rights of Detainees.



Code states that “those charged have the right to have a lawyer to assist them during investigation.” ICHR received (6) complaints in this regard, (5) in the West Bank, and (1) in the Gaza Strip.

#### **IV. Right to Family Visits and Lawyer Contact**

In 2013, ICHR received (247) complaints in which the complainants claimed that the authorities denied them, during the period of their detention, the right to meet any of their relatives. This amounted to (232) in the West Bank, and (15) in the Gaza Strip.

#### **V. Right to Medical Care and Decent Living Conditions in Detention Centers and Prisons**

ICHR received (204) complaints, with (70) from the detainees held in detention centers and prisons in the West Bank and (134) in the Gaza Strip. The complainants asserted that the administration of these detention centers and prisons and the military medical service had not provided for them the medical services they required while in detention. They also complained about the difficult living conditions they had while in detention.

#### **VI. The Right to Private Life of Person**

The private life of men and women is one of the fundamental human rights laid out in international conventions and national legislation.<sup>55</sup> Palestinian national legislation is compatible with the international standards that guard this right. Article (32) of the Palestinian Basic Law, for example, states:

*“Any violation of any personal freedom, of the sanctity of the private life of human beings, or of any of the rights or liberties that have been guaranteed by law or by this Basic Law shall be considered a crime. Criminal and civil cases resulting from such violations may not be subject to any statute of limitations. The National Authority shall guarantee a fair remedy to those who suffer from such damage.”*

ICHR received (16) complaints in which the complainants claimed that the General Intelligence in the West Bank and the Internal Security and Police Agency in the Gaza Strip interfered with their private lives, with (1) in the West Bank, and (15) in the Gaza Strip. The example below would be characteristic of such complaints:

On 25\2\2013, ICHR received a complaint from R.F of Khan Younis claiming that she was abused by al-Aqsa University personnel in the Gaza Strip. She said that they interfered in her private life in breach of the law and regulations of the university.

<sup>55</sup> See Article (12) of the Universal Declaration of Human Rights and Article 17 (1) of the International Covenant on Civil and Political Rights.

## VII. Administrative Detention upon Governor's Order

In 2013, Governors in the West Bank issued several detention orders against citizens based on the Jordanian Crimes Prevention Law of 1954. ICHR registered (35) complaints from citizens claiming that they were held upon decisions by governors without the right to be charged or to be given a fair trial.

M.G.M.G has filed a complaint to ICHR claiming that he was detained by the Military Intelligence upon a decision issued by Ramallah and al-Bireh Governor on 23\6\2013 without bringing him before the competent judicial authority.

S.A.H filed a complaint to ICHR claiming that "she has been held in Ramallah's Reformation and Rehabilitation Center upon a decision issued by Ramallah and al-Bireh Governor since 5\6\2013 without bringing her before the competent judicial authority".

Jordan's Crimes Prevention Law of 1954, which applies in the West Bank, mandates the Governor to hold persons under administrative detention and oblige them to sign documents of good conduct. He may also keep them under house-arrest.<sup>56</sup>

The powers of the district administrative chief, according to this law, are included under the concept of administrative control which restricts the activities and freedoms of individuals to protect public order. ICHR noted, in light of the findings of its review of the complaints it received, that this law has been exercised in breach of the guarantees and rights enshrined by the Palestinian Amended Basic Law of 2003. Article (11\1) states that "Personal freedom is a natural right, shall be guaranteed and may not be violated". Article (11) of the same law states: "It is unlawful to arrest, search, imprison, restrict the freedom, or prevent the movement of any person, except by judicial order in accordance with the provisions of the law. The law shall specify the period of pre-arrest detention. Imprisonment or detention shall only be permitted in places that are subject to laws related to the organization of prisons".

<sup>56</sup> Article (3) of Jordan's Crimes Prevention Law of 1954 also carefully lays out the conditions under which a warrant may be issued.



## Recommendations

The recommendations below are divided according to the specific authorities for which they are intended.

### 1. Recommendations Concerning the Judicial Authority

The courts to scrutinize the accuracy of information received from the Public Prosecution concerning persons detained and check the information for discrepancies with the general status of the person in question before making decisions to detain him/her or extend his/her detention. They should also ensure that any information extracted from detained persons is extracted without violation of their physical safety.

### 2. Recommendations for the Public Prosecution

- The Public Prosecution to activate its monitoring role over the judicial police who, in their legal capacity, seize persons. It should also exercise its role holding law enforcement staff (Preventive Security, General Intelligence and Police Agency) accountable for being involved in violations of the right to physical safety.
- The Public Prosecution to seriously review and investigate allegations made by citizens concerning violations of their right to physical safety by the law enforcement staff.
- The Public Prosecution to seriously investigate statements and information received by the judicial police before deciding to hold any person.
- The Public Prosecution to exercise its supervisory role in all the detention centers and prisons run by security agencies to make sure that detainees or inmates are not subjected to torture, ill-treatment or any kind of pressure that may affect their psychological health.

### 3. Recommendations Concerning the Military Prosecution and Judiciary

- The Military Prosecution to seriously investigate all allegations of violations of the right to physical safety brought against law enforcement staff, especially those working in the prisons, and bring such cases before military courts to prevent guilty persons involved in such violations from escaping criminal charges.
- The Public Prosecution to exercise its supervisory role over all military detention facilities to make sure that neither detainees nor inmates are subjected to torture, ill-treatment or any kind of pressure that may affect their psychological health. It should also investigate the cases related to the subsection of inmates to torture and/or ill-treatment.
- The relevant authorities monitoring Military Prosecution to exercise effective

monitoring over the investigation of complaints relevant to the right to physical safety.

- The Military Judiciary to attach particular attention to the issues related to the violation of the right to physical safety.

#### **4. Recommendations Concerning Military Medical Service**

- The health services provided for persons in custody require inclusive review. The Military Medical Service issues the primary medical report on the health conditions of inmates and also whether inmates were subjected to physical or psychological abuse.
- The Military Medical Service must develop effective measures and set a system in place with a mandate to issue medical reports concerning the health conditions of inmates, especially the medical report which verifies whether the concerned inmate was subjected to physical or psychological abuse during detention.

#### **5. Recommendations Concerning Arbitrary Detention**

- The Public Prosecution and the Judiciary should make regular visits for the Palestinian detention centers to ensure they are in compliance with the law.
- The security agencies in the West Bank and Gaza Strip should respect human rights and fundamental freedoms, particularly the right to freedom and security of the person. They should halt political detention and abide by the relevant provisions of the law and penal procedures during detention and judicial proceedings. They should cease all forms of arbitrary detention.
- The security agencies should seriously investigate allegations of arbitrary detention and punish perpetrators of such violations.



## Chapter 4:

# The Right to Litigation and Fair Trial Guarantees

Several international human rights conventions safeguard the right to litigation. It is considered to be a cornerstone of the rule of law and protection of rights.<sup>57</sup> With regard to national legislation, Palestinian Basic Law is in accordance with the Universal Declaration of Human Rights. Indeed, article 30 (1) of the Basic Law states “submitting a case to court is a protected and guaranteed right for all people. Each Palestinian shall have the right to seek redress in the judicial system. Litigation procedures shall be organized by law to guarantee prompt settlement of cases”. Paragraph (2) of the same article states “laws may not contain any provisions that provide immunity to any administrative decision or action or against judicial review”, and paragraph (3) thereof states “Judicial error shall result in a remedy by the National Authority. Conditions and methods of such remedy shall be regulated by law.”

## I. The Right to Litigation in Palestine

In 2013, the right to litigation went through several influential developments at the constitutional judiciary and juvenile judiciary levels. Additionally, the Court of High Justice decided to halt the teachers’ strike, considering it illegal and in contravention of article (67) of Palestinian Labor Law. In addition, the High Court in the Gaza Strip decided to halt the elections of the Bar Association. The main event that affected the right to litigation was the abolishment of hundreds of decisions issued by civil and criminal courts due to abolishing the assignment of judges by Court of Cassation.

### 1. Constitutional Judiciary

In an unprecedented move, the Conciliation Court of Ramallah ruled in criminal case number 3438\2013 that article 389\5<sup>58</sup> of Penal Code No. (16) of 1960 contradicts articles (11, 20, 15, 14) of the Palestinian Amended Basic Law of 2003 in terms of its contravention of rights and public freedoms.

Pursuant to the provisions of article 27\2 of the Constitutional Court Law No 3 of 2006, it was decided to stop considering the case and instead refer it to the Supreme Court, which is temporarily mandated to consider constitutional challenges to settle a constitutional case. This decision described how article 389\5 of the Penal Code violates the right to personal freedom, the right to movement, the right to presumption of innocence and the right to fair trial. The case has not yet been cleared.

<sup>57</sup> Article (8), (10) and (11) of the Universal Declaration of Human Rights are relevant to this discussion.

<sup>58</sup> It states «who wanders in any property, in a road, street or any other nearby place in a doubtful time and conditions, his existence in that property is considered illegal or inappropriate”.

The court determined that innocence should be based on an effective constitutional principle. It is presumed, according to this principle, that judicial proceedings which end up with a conviction should be based on proof and confirmation, not doubt or predictability. The evidence of innocence is a constitutional principle stipulating that criminalization should be founded on proof elicited from the documents of the case file. It can not be based on deductive reasoning and indeterminacy. Criminal law should be assertive regarding occurrence of concrete criminal activities, not inferred with by a set of surrounding conditions. In light of this, the court maintains that article 389\5 of the Penal Code No. 16 of 1960 recognizes the occurrence of a crime on the basis of deductive reasoning. The court decided that criminalization can not be established on the basis of inference, but on the basis of proof and confirmation. Otherwise, the citizen would be susceptible to criminalization, conviction and penalty without a realistic and reliable standard that guarantees him the right to a defense and fair trial. This causes uncertainty amongst people and deprives them of the right to movement, personal freedom and self-defense. It subjects their cases to expansive interpretations that differ from one person to another. This uncertain article can not determine the criminal effect of the criminal action and the cause-effect relationship. The Supreme Court, therefore, is requested to consider its constitutionality and its contravention of the constitutional principle of the proof of innocence.

It also viewed that criminal law should not impose exhausting restrictions on the citizen which deprive him of his rights. Referring the regulation of these rights by the constitutional authority to the legislative authority does not grant the latter absolute freedom to restrict them under the pretext of public order. The legislative authority should abide by the constitutional objective controls and not squander or restrict these rights and freedoms. The statement (within the limits of the law) never was intended to mean that the law can infringe on this right; otherwise, constitutional provisions shall have no value since these rights shall be infringed on in the name of the law. If this prevails, the constitution will then be nothing more than a preamble with no potential implementation.

The decision of the court noted that the constitutional authority emphasized there is no crime and there is no punishment without law. This constitutional principle presumes the criminal law to provide for crime definitively and beyond any reasonable doubt. Its provisions should be expressly clear without any dubiousness or vagueness; otherwise, rights and public freedoms shall be susceptible to interpretations that may undermine these rights. Dubious legal provisions turn the law into a repressive tool used by the authorities whenever they want against citizens without monitoring or oversight. The court pointed out that the said article of Penal Code No. 16 of 1960 was very generic and dubious in contradiction of the constitutional provision that states there is "no punishment and no crime without law." Comparative constitutional judiciary maintains that any legislation that consists of adubious penal policy is non-constitutional, meaning it uses generic provisions aimed at allowing regulations to imply a restriction of liberties.





## 2. Juvenile Justice

The legal system applicable in the West Bank is still based on the Juvenile Reformation Law No. 16 of 1954, while in the Gaza Strip the Juvenile Delinquency Law No. 2 of 1937 is applied. These laws are relatively old, and not in line with international standards of juvenile justice nor with modern juvenile justice policy. This undercuts the ability of the judicial system and competent executive authorities to seriously address the phenomenon of juvenile delinquency. Thus, substantive amendments should be introduced into the juvenile justice system. To achieve this, the final draft of juvenile law was prepared by the National Committee on Juvenile Justice in cooperation with the High Judicial Council, the Council of Ministers and the Legal Unit of the President's Office. This draft law is well in line with international standards on juvenile justice.

In 2013, the High Judicial Council continued to appoint Justices of Peace to consider the cases of the juveniles as part of its policy to dedicate specialist judges for such cases. The Conciliation Court of Ramallah dedicates separate days for juvenile hearings. It keeps these hearings confidential in compliance with article (7) of the Juveniles' Reformation Law No. 16 of 1954. Despite that, it is still noted that some juvenile hearings are held in concurrence with adult offenders' hearings.

On 30 March, 2013, the amendment of article 67 of the Palestinian Law of the Child took effect in accordance with article (24) of Presidential Decree No. (19) of 2012, which was published in the Palestinian official Gazette, edition 101. This article increased the age of criminal responsibility to 12 years instead of 9. It states that "a child under the age of 12 years is presumed incapable of committing a crime." This supersedes the provisions of the laws previously referred to in this regard. This legislative change exempted many juveniles from criminal responsibility, even if their trial proceedings began before it took effect. This was possible since article (4) of the Penal Code No. 16 of 1960 states,

*"should the conditions of criminalization of any law be amended in favor of the defendant, these amendments must apply to the defendant even if the actions attributed to him\her are committed before these amendments took effect unless the case was cleared by the court before. Each law that amends the right of pursuit shall be applicable to previously committed crimes if it flows in favor of the defendant. Applicability of the law that is in favor of the defendant is imperative since it goes in line with international standards on the juvenile justice".*

ICHR has made several observations on this issue, the first of which concerns how the judicial system in northern districts has not implemented the new amendments though the amendment of article 67 of the Palestinian Law of the Child. This is in spite of the fact that it was published in accordance with article (24) of the Presidential Decree No. (19) of 2012, in the official Gazette, edition 101. The justices working in the northern districts have not received this edition of the official Palestine Gazette.

A second observation is that more strict measures were taken regarding juvenile detention in the Reformation and Rehabilitation Centers. A number of juveniles were detained during the following incidents:

- Riots in Jenin's refugee camp.
- Al-Fara' refugee camp incidents (15 juveniles).
- Askar refugee camp incidents (6 juveniles).
- Balatah refugee camp incidents (20 juveniles).
- The old city in Nablus where (9) juveniles were held for (5) days and (3) were released on bail.

The juveniles who were detained in Askar Refugee Camp were held for 35 days. Although one of them was an 18 year old university student, the others were students aged 13, 14 and 15. They were held under inappropriate conditions in the reformation and reahabilitation centers, 6 of them held in a room dedicated to juveniles while the others were held in the room of adult inmates since the room of juveniles has space for 6 persons only. The administration of the RRC made definite arrangements to keep them together in the same room.

Another observation is that in Salfeet governorate two juveniles were seized on the charge of breaking a window. The court released the child, 12.5 years old, on bail of JD 2000 bail pending trial. When his family could not pay that amount, he remained in custody until the Child Complaints Monitoring Program, Save the Children International and the Ministry of Social Affairs intervened. It was decided his trial was to be held in Nablus instead of Salfeet, meaning that he would not be able to report to school in order to attend judicial proceedings farther away.

Concerning the Gaza Strip, **ICHR** noted through field visits made to the detention centers and prisons that a number of juveniles from the southern areas of the Gaza Strip were in custody. Their transfer to al-Rabe' Society for Social Care was delayed, and so they remained in sections with adult inmates, facing the risks of being held with adults.

Most of the children who filed complaints to **ICHR** during 2013 claim that the police subjected them to physical and emotional torture to oblige them to confess to the charges brought against them. Such demarche constitutes a violation of the law.

In terms of overcrowding, it was noticed in Nablus that the authorities do not take into consideration the absorption capacity of holding cells. When riots broke out in Nablus, they held approximately 30 juveniles and adults in two rooms with an absorption capacity of 12 detainees only. They were forced to sleep on the floor.

### 3. Disrupting the Bar Association's Election in Gaza

The High Court in Gaza prohibited the Palestinian Bar Association from holding its election on 17\8\2013 based on a request submitted by three lawyers of the Bar Association's Council. They were opposed to registering (14) lawyers with the records of the Association. In issuing this decision it overturned a previous decision it issued



on the same case on 27\4\2013. It is worth mentioning that elections of the Bar Association have been disrupted since 2009 in compliance with decisions of the High Court.

An analysis of the situation shows how disruptive this can be to the Bar Association in the Gaza Strip. It impacts on lawyers' rights and ability to exercise their professional and union duties according to the law. It also shows how it affects the legal system that guarantees lawyers' rights to choose their representatives through free and integrated elections. In addition, it reflects how the Executive Authority and the political split affect the judiciary in the Gaza Strip.

#### **4. Decision on the Teachers' Strike and Summoning the Teachers Union**

On 4 December, 2013, teachers were summoned for interrogation on charges of breaching a decision issued by the High Court of Justice on 1\12\2013 to call off a strike launched by the Teachers Union. The court ruled that "since the provision of the article relevant to the legal procedures of public order is binding and the defendant launched the strike without following through the provisions of article (67) in breach of the constitution, teachers' dignity and students' rights, it is illegal and must be called off".

#### **5. Reducing Sentences in "Honor Killing" Cases**

The Palestinian judiciary still opts for reduced sentences in cases of honor killings, resorting to mitigating excuses and circumstances in line with articles 98 and 99 of the Penal Code No 16 of 1960 and article 18 of the Penal Code No. 74 of 1936. It was noticed that the Palestinian courts deliberately opted for reduced sentences against perpetrators of honor killings, based on a waiver of personal rights and/or fit of rage. This is done in spite of the Palestinian President's decision to abolish article 340 of the Penal Code No. 16 of 1960 and amend article 18 of the Penal Code No. 74 of 1936.

In 2013, the upsurge in the number of murders of Palestinian women by family members for "honor" was worrisome. This requires legislative intervention to amend articles (98, 99) of the Penal Code No. 60 of 1960 that allow reduced sentences in honor killings.

## II. Impediments to the Right to Litigation and Right to a Fair Trial

### 1. Occupation Policies

The occupation policies of closure, siege and military checkpoints constituted a real obstacle to implementing courts' rulings, arrest of perpetrators, delivery of judicial notices, performance of the police and movement of witnesses, litigants, judges and the Public Prosecutor.<sup>59</sup>

### 2. Political Division between the West Bank and the Gaza Strip

The ongoing political division between the West Bank and the Gaza Strip has contributed to impeding the responsibilities and development of the judicial system in both parts of the State of Palestine.

The decision of the government in Gaza to form a High Judicial Council undermined the unity of the existing judicial system, which was formed pursuant to article (100) of the Basic Law.<sup>60</sup> It is expected to be under the umbrella of the High Judicial Council. The division also placed the judicial system within the reach of the political polarization, causing offence to its independence in contravention of articles (97) and (98) of the Basic Law.<sup>61</sup> The decision of the government in Gaza to form a High Judicial Council was followed by another decision to appoint a new staff of judges and a new Attorney General for the governorates of the Gaza Strip. This split of judicial authority hindered its parallel development in both parts of the State of Palestine.<sup>62</sup>

The political division also disrupted the functions of the PLC. This affected the right to litigation because the judicial process needs vital legislative processes to make amendments to the judicial laws and promote the right to litigation. The implementation of some legal provisions proved their incompatibility with Palestinian judicial reality. In fact, some of these provisions hindered judicial proceedings and the right to litigation.

### 3. The Judiciary and Public Prosecution: Relating to other Justice Institutions

In 2013, a dubious relationship among the institutions of the justice sector continued in light of different interpretations of the nature of this relationship and its limits. Furthermore, the generality of the Judicial Authority Law of 2002, and inconsistent interpretations of its provisions concerning the authority to which the public

59 See Part I, Chapter 3 of this report regarding Israeli violations and their impact on the performance of the PA.

60 Article (100) of the Basic Law affirms "A High Judicial Council shall be created. The law shall specify the way it is constituted, its responsibilities and its operating rules. The High Judicial Council shall be consulted about draft laws relating to the Judicial Authority, including the Public Prosecution."

61 Articles (97) and (98) of the Basic Law comment on the independence and duties of the judiciary.

62 For more on the formation of the High Judicial Council in Gaza and ICHR's position on it, please see ICHR's previous reports.



prosecution is subordinate, and the increasing caseload before the courts contributed to the persistence of the current situation of the judicial system.

ICHR maintains that the independence of the judicial authority is of paramount importance, being the main safeguard of fundamental human rights and freedoms and the authority responsible for ensuring the rule of law and equality of all people before it. The full independence of the judicial authority implies that the government should not interfere with it and that no partisan, administrative or security authority or any other authority with physical or moral leverage should interfere with the work of the judicial authority or influence it in any way. No person or institution of the Executive Authority or any other authority should intervene with the judiciary regarding any case it considers. They should not place any direct or indirect pressure on the courts or the rulings they issue. The judges are expected to act conscientiously while doing their duty without being influenced by any person or authority.

It also believes that the neutrality and impartiality of the judiciary should not be affected by the political division and the struggle for power. It should not be used to prejudice the rights and freedoms of citizens. The trial of social media activists and the immediate response to the request of the Public Prosecution to extend their detention as well as the manner in which the judges responded to the charges brought against some political activists by the Public Prosecution – such as encouragement of sectarianism and possession of firearms (though no arms were found) - raises questions about the impartiality of the judiciary in Palestine. In addition, the lack of compliance of some administrative and security authorities by some courts' rulings and the increase in the number of backlogged cases compared to the number of judges has had an adverse effect on the administration of justice.

Finally, it is time to turn over the page, so to speak, and move out of the transitional phase and begin the next phase, a new era resting on some of the basic components of democracy, mainly a flexible separation between powers, independence and integrity of the judiciary, and respect for the rule of law. Pending that, ICHR believes it is necessary to start a national dialogue in which the official, legislative and judicial authorities and civil society organizations can participate in presenting an inclusive vision for a judicial authority that is capable of protecting citizens' rights and freedoms without discrimination. This should be in accordance with the principles of an independent judiciary and international principles relevant to the independence of the judicial authority, adopted by the UN's Seventh Conference on Crime Prevention, and full respect for the provisions of the Amended Basic Law of 2003.

### III. Infringement of the Right to Litigation and Fair Trial

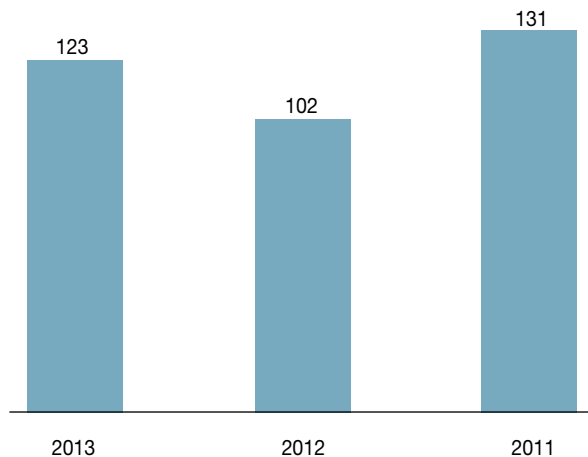
#### 1. Delays in Implementing Courts' Decisions

In 2013, ICHR received (123) complaints about the security and civilian executive authorities delaying implementation of courts' decisions. Such conduct undermines the judicial authority and weakens the Palestinian citizens' trust in it. Furthermore, it is a flagrant violation of the Palestinian legislation, mainly the Basic Law. Following on that, the Palestinian legislation imposes sanctions on whoever refrains from implementing court rulings. The philosophy behind the Palestinian legislation is to ensure respect from the Executive Authority for the judicial authority and the principle of separation between the different powers. To this effect, article(106) of the Palestinian Amended Basic Law of 2003 states,

*“Judicial rulings shall be implemented. Refraining from or obstructing the implementation of a judicial ruling in any manner whatsoever shall be considered a crime carrying a penalty of imprisonment or dismissal from position if the accused individual is a public official or assigned to public service. The aggrieved party may file a case directly to the competent court and the National Authority shall guarantee a fair remedy for him”.*

This shows that the Basic Law guarantees redress for the victims of non-implementations of courts' decisions by the executive authority, especially with regard to conditional release or acquittal, which would be due to innocence or insufficient evidence of criminal offence.

A comparison of the last three years with respect to non-implementation of courts' decisions:





## 2. Delegation

Over the past few years, several problems related to the delegation of judges arose. Delegated judges continued to consider cases even after the expiration of their delegation period. They also covered criminal and civil cases despite the expiration of their mandate thereof.

The Palestinian Court of Cassation issued tens of rulings overturning previously issued rulings and referring cases to the competent authority for appropriate legal proceedings due to the expiration of the mandate of some members of the judicial panels. The Court of Cassation ruled that these rulings were issued by a panel constituted in contravention of the law. The main statement of its rulings was “the High Judicial Council can delegate judges from time to time for a duration of not more than (6) months, renewable for one time only. Judges can not be delegated or seconded but in compliance with the provisions of the law.” Since then, delegation was legislated exceptionally and according to accurate judicial controls in terms of duration, condition and manner. Should these controls be violated, the delegation would be nullified because of its link with the judicial regulation. The court itself should challenge that since it is related to public order, which goes beyond the interest of the litigants.

This problem is related to the weakness of the judiciary’s decisions that are not based on definite legal durations laid out in laws. The absence of that element renders these decisions weak and easy to challenge before the Court of Cassation.

## Chapter 5:

## Public Freedoms and Rights

**The Right to Freedom of Opinion, Expression and Peaceful Assembly**

The right to freedom of opinion and expression is a fundamental human right that is the mark of a free society and a democratic political regime. It is laid out in international conventions and national legislation due to its paramount importance. In 2013, the right to freedom of opinion and expression was subjected to violations in Palestine. This is discussed in the context of freedom of the media, freedom of expression, freedom of peaceful assembly and violations of the rights of human rights defenders in Palestine.

**I. Press and Media Freedoms<sup>63</sup>**

In 2013, the personal freedom of Palestinian journalists was subjected to several assaults even though Palestinian Basic Law guards this right and criminalizes any assault on it (article 11). ICHR monitored several patterns of violations the Palestinian journalists and media were subjected to. These patterns involve suppression and restriction of the press and media freedom by different practices of the security agencies in the West Bank and the Gaza Strip. They pursued and detained journalists illegally, pressured and tried them, and prohibited publication of some newspapers in contravention of the provisions of Palestinian laws. They also expropriated journalistic material and equipment belonging to journalists, and subjected them to beatings and serious threats. Such measures which restrict the freedom of the media and the press are carried out in contravention of Palestinian Basic Law (articles 19, 27), the Universal Declaration of Human Rights, two international covenants, international conventions and UN resolutions in this respect.

Legally speaking, efforts to enact laws relevant to media and press activities are underway. Draft law on the right to access to information has been in progress and ICHR is member of the committee formed to consider the suggested draft law.<sup>64</sup> Practically speaking, ICHR documented several violations of the freedoms of the media and press, as discussed subsequently.

63 ICHR provides some examples of violations of media freedoms, but does not purport to have documented all the violations from 2013 in this regard.

64 For more on the suggested draft law, see [http://www.article19.org/data/files/medialibrary/37405/Palestinian-Draft-Law-on-the-Right-to-Access-Information-\(2012\).pdf](http://www.article19.org/data/files/medialibrary/37405/Palestinian-Draft-Law-on-the-Right-to-Access-Information-(2012).pdf)





## 1. Arrest, Interrogation and Detention of Journalists

Regarding violations of the freedom of opinion and expression, which are guaranteed under Palestinian Basic Law and international human rights

conventions, ICHR monitored the detention of not less than (32) journalists in the West Bank and the Gaza Strip. These detentions overshadowed the work of journalists, making many of them hesitant to fulfill their duties in fear of detention, which is part of the overall “gag” policy.

The detention and questioning of journalists, which for some of them lasted for several days and sometimes months, were carried out with no appropriate legal procedures or fair trial. Many of them also claimed that they were subjected to torture and ill-treatment. They were, according to their statements, interrogated about their professional work and journalistic activity, including the coverage of events, filming, editorials, preparing written or visual reports or reporting to satellite channels and radio stations banned from broadcasting in the West Bank, such as al-Aqsa Channel and al-Aqsa Radio. Although the ban was later lifted, some still face harassment. The security agencies imposed a ban on the printing and publishing of some newspapers and magazines in the West Bank, such as al-Risalah and Falasteen, issued from Gaza<sup>65</sup>

ICHR received a number of complaints from the journalists who were detained by the security agencies arbitrarily. They were subjected, according to their statements, to beatings and ill-treatment in detention. They added that they had not appeared before the Public Prosecution<sup>66</sup>

In the West Bank, ICHR received a number of complaints concerning the detention of some journalists. On 11\5\2013, the Preventive Security Agency in Hebron detained Omar Abu Arqub, Editor of Israeli Affairs at “al-Quds Calling” Network. He was held for two days. On 12\3\2013, the Preventive Security Agency in Nablus summoned Tareq Yousif Khaled Sarkaji and questioned him about his editorial and journalistic activity<sup>67</sup>

65 According to a complaint filed to ICHR.

66 According to the complaints filed to ICHR by the detained persons or by their families

67 ICHR addressed the Preventive Security concerning this case and received the following answer in response «Tareq Yousif Khaled Sarkaji's complaint\Nablus: Allegation: the said citizen claims that the Preventive Security summoned and questioned him while he was on his way back from Jordan. He was questioned about an article he wrote on Facebook in commemoration of the martyrdom of his father. He was also questioned about his participation in a training course held by al-Jazeera Satellite Channel in Qatar.

Response: After investigating the allegations of the complaint by the competent authorities of the agency, we concluded that: on 21\11\2012, the said citizen was summoned and heard about actions committed in violation of the law, security and public order. He was not questioned about his work as a journalist. Also, he was treated by the competent authority in accordance with the law. After answering the questions brought to him, he was released according to the law. The Preventive Security is a judicial police agency according to law and so has a mandate to search, investigate, gather information, summon persons and hold them for not more than 24 hours in accordance with the provisions of the law.”

On 20\4\2013, the General Intelligence Agency detained Tareq Abu Safeera and questioned him about his journalistic activities. He was released after several hours of detention. Additional examples are offered below:

- 26\4\2013, Khaldun Zakaria Abdulrahman Mazlum was detained by the Preventive Security Agency in Ramallah and questioned about his journalistic activities. He was released on 28\4\2014 without appearing before court.<sup>68</sup>

- 16\7\2013, Khaled Ma'li, a freelance journalist, was detained by the Preventive Security Agency in Salfet and questioned about his journalistic activities for 4 and a half hours.<sup>69</sup>

- 3\11\2013, ICHR received a complaint from Sami Saed Abdel Al-Sae', a reporter for Wattan TV. He claimed that the Preventive Security Agency in Tulkarem summoned him on 12\11\2013 and held him in solitary confinement for several hours. Before he was released, he was questioned about his work for Wattan TV.<sup>70</sup>

- 14\9\2013, the General Intelligence Agency in Ramallah, detained Dahir al-Shamali, who works for Hiad News Agency, at his house<sup>71</sup>.

- 29\9\2013, the Preventive Security in Hebron detained Mustapha al-Khawaja, a reporter for al-Quds Satellite Channel. He was questioned about his work for the channel.<sup>72</sup>

- 4\10\2013, the General Intelligence Agency detained a correspondent from al-Anadul News Agency, Ala' Hassan al-Reemawi, at his house in Abu Dis near Jerusalem and questioned him about his journalistic activities.<sup>73</sup>

ICHR sent several letters concerning the complaints it received from the journalists detained by the security agencies. The responses received were as expected, claiming that the journalists were detained on charges of breaking down public order, even though the complainants stated that they were interrogated by the security agencies about their work. However, some of the responses ICHR received were positive, exemplified by the release of some of the journalists and the return of their confiscated equipment. The Preventive Security called on ICHR to take part in investigating some of the complaints filed by journalists.

In 2013, the security agencies of the Ministry of Interior of the government in the

68 See, ICHR's Monthly Report of May 2013, published on ICHR's website: [www.ichr.ps](http://www.ichr.ps).

69 [www.madacenter.org/report.php?lang=2&id=1327&category](http://www.madacenter.org/report.php?lang=2&id=1327&category).

70 See, ICHR's Monthly Report of November 2013, published on ICHR's website: [www.ichr.ps](http://www.ichr.ps).

71 <http://www.google.ps/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CDQQFjAC&url=http%3>

[%2F%2Fwww.madacenter.org%2Freport.php%3Flang%3D226%id%3D135426%category\\_id%3D1326%](http://www.google.ps/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CDQQFjAC&url=http%3)

73 <http://www.maannnews.net/arb/ViewDetails.aspx?ID=644916>



Gaza Strip detained many journalists and media institution employees on charges of working with banned media institutions in the Gaza Strip and instigation against the government. It stated that some media websites and institutions use media as a cover-up for their security activities. These websites and institutions were identified as: Palestine Press, al-Ahd Website, Amad Website, Fatah Forum, Firas Press, al-Kufia Press, Central Information Website of Fatah, Wafa News Agency and Palestine TV.<sup>74</sup>

The security agencies in the Gaza Strip carry out such policies with no judicial orders. ICHR confirms that the security agencies of the Ministry of Interior in the Gaza Strip detained a number of journalists and media institutions' employees in 2013. It received some complaints from the journalists who were detained arbitrarily by the security agencies and without applying for appropriate legal procedures. Complaints were also received from the journalists who were subjected to assaults or prohibited from covering certain events. Some journalists were prohibited from travelling, too.

Several journalists who were summoned or detained in the Gaza Strip were questioned about their journalistic activities, including coverage of events, and filming or reporting to broadcast stations banned in the Gaza Strip. They were questioned about how they deal with these stations and about their relationship with the radio stations, satellite channels and media outlets of Fatah Movement and the government in Ramallah. They were also questioned about sending media material to these media outlets in the West Bank, especially if these materials were related to violations of human rights committed by the security agencies of the Mol or coverage of events that the government does not want to publish and therefore publicized. In addition, they were questioned about writing reports on the situation in the Gaza Strip to the Palestinian dailies or electronic websites. The security agencies in the Gaza Strip prohibited several journalists from entering into or exiting from the Gaza Strip. Many of the journalists who were detained by the security agencies of the Mol in the Gaza Strip claimed in their complaints filed to ICHR that they were subjected to torture, ill-treatment, beatings and threats. For example, on 21\1\2013, the Internal Security detained Ashraf Jamal Abu Khsewan, from Deir al-Balah, journalist, working for al-Kitab Satellite Channel. It also detained Munir Juma' al-Mnirawi, from al-Bureij Refugee Camp, Secretary of the Palestinian Journalists Syndicate and Juma' Adnan Abu Shumar from Deir al-Balah, working for the Voice of Freedom Broadcast Station and Aswar Press Agency. Other instances are summarized below.

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74 [http://www.fnpn.net/ar/news/41890\\_%D8%A3%D8](http://www.fnpn.net/ar/news/41890_%D8%A3%D8)

One example took place on 23\1\2013, when Mustapha Muhammad, Omar Muhammad al-Dwahedi, from Gaza, working for Aswar Press Agency and Magdi Abdulazeez, from Gaza, working for al-Karama Electronic Website were detained by the Internal Security. According to ICHR's information, the said journalists were detained from their homes and interrogated about their journalistic activities before being released five days later on 28\1\2013. Their PCs and mobile phones were also confiscated.

Another example can be observed from 21\1\2013, when the Internal Security summoned Hassan Abdel Jawad Karsu', from Gaza, working for Aswar Press. He was questioned about his journalistic activities and his PC was confiscated. Before being released, he was asked to report to the office of the Internal Security once again on 30\1\2013. On the same date, Abdul kareem Fathi Hiji, from Gaza, also working for Aswar Press, was summoned for questioning about his journalistic activities and his relationship with Fatah Movement. His laptop was confiscated. Before being released, they asked him to report to their office again on 31\1\2013. He was questioned about the same issues and released on the same day.<sup>75</sup>

The Investigation Agency in Khan Younis summoned Hatem Abedrabu Abu Daqa, from Abbasan al-Kabeera, working for Wafa News Agency on 16/7/2013.

On 24\1\2013, the Internal Security detained Muhanad Ahmad Saleem Kahlut and questioned him about his journalistic activity. They confiscated his PC and mobile phone without a legal warrant.

The Internal Security in Gaza detained a number of journalists working for Karama Press on 23\1\2013. Among them were Mo'yad al-Asali, Muhanad al-KAHLUT, Hisham Ji'b, Ala' Dwahidi, Shadi Shaheen and Issam Madi. They were questioned about their journalistic activity.

On 1\8\2013, the Internal Security in Gaza detained Abdullah Ebeid correspondent of al-Falasteenia Network, and Amgad Yaghi, correspondent of Karbula' al-Iraqia, while they were covering a rally organized in solidarity with the Bedouin citizens of the Negev in the Unknow Soldier Square.<sup>76</sup> They were released after two hours of detention.

On 26\8\2013, the Internal Security summoned the Manager of al-Ghad al-Arabi channel, Saif al-Din Shaheen and questioned him about hosting a member of Tamarud Movement at a program. It also summoned Nasir Abu al-Ful on 2\9\2013.

<sup>75</sup> See Monthly Report of ICHR, December 2013: [www.ichr.ps](http://www.ichr.ps)

<sup>76</sup> See Monthly Report of ICHR, March 2013: [www.ichr.ps](http://www.ichr.ps)



*On 8\9\2013, the Internal Security summoned the correspondent of Wafa News Agency, Muhammad Khaleel Abu Fayyad.*

*On 3\9\2013, the Internal Security summoned Hatem Abdullah Salamah, journalist and blogger. He stated that he was questioned about the article he had written against the Muslim Brotherhood.<sup>77</sup>*

## 2. Assaults on and Interference with Journalists

A number of journalists and media institutions were subjected to assaults by the security agencies in the West Bank. They were beaten and verbally harassed while doing their duties. For example, Mahmoud Nuh Hreish, working for TransMedia Company, was subjected to assault while he was filming a rally organized by Hamas Movement in al-Bireh in solidarity with the Muslim Brotherhood in Egypt. He told ICHR that on 23\8\2013 when he was filming the event, policemen in plain clothes struck him on the legs with clubs.<sup>78</sup> ICHR also received a complaint from Ahmad Abdelafiw Milhim, working for Wattan TV. He said that on 23\8\2013, when he was filming a rally organized by Hamas in solidarity with the Muslim Brotherhood, he was beaten, his camera was confiscated and the photos saved in it were deleted.<sup>79</sup>

ICHR addressed the Chief of the Preventive Security Agency on this matter. The letter sent to him stated “the said citizen claimed that while he was covering a solidarity gathering organized by Hamas in al-Bireh on 23\8\2013, he was beaten, his camera was confiscated and the photos saved in it were deleted though he showed his press card.” Their response claimed, “ the findings of investigation indicated that he didn’t present any credentials showing he was working as a journalist. He was having a dispute with some persons there, and so the security officers intervened to end that dispute. They took the memory of the camera and asked him to report to the Preventive Security office in Ramallah, afterwards. When he reported to the office, we told him he should present credentials showing he is working as a journalist and we treated him respectfully. The Spokesman of the government was following up this case, and we don’t mind if ICHR would like to participate in investigating the case of the said citizen<sup>80</sup>.

In the Gaza Strip, a number of journalists and media institutions were subjected to assaults by the security agencies of the Ministry of Interior while covering some events in there. for example, on 17\3\2013, Mateen Muhammad Kaya, Turkish journalist working for Anadol News Agency, was assaulted by policemen. He told ICHR that while he was covering a story with other journalists at Beit Hanun, involving

<sup>77</sup> See Monthly Report of ICHR, September 2013: [www.ichr.ps](http://www.ichr.ps)

<sup>78</sup> According to complaint filed by him to ICHR.

<sup>79</sup> According to complaint filed by him to ICHR.

<sup>80</sup> The response of the Preventive Security to ICHR

the arrival of Ayman Sharawneh who was freed from Israeli prisons but deported to the Gaza Strip, the police obstructed journalists' work and prevented them from filming. He was beaten by a policeman on the head.<sup>81</sup>

On 30\10\2013, Ahmad Emad Deeb, working as a cameraman for the Italian News Agency was beaten by policemen while waiting for the arrival of freed prisoners at Beit Hanun crossing. He said that policemen beat him harshly and broke his mobile phone and camera. He was taken to Balsam Military Hospital and then to Kamal Udwan Hospital in Beit Lahia. He also filed a complaint to the Police Security Agency in Gaza and another complaint to the Information Office of the Ministry of Interior.

### 3. Ban on Daily Newspapers and Weekly Magazines

The Law of Prints and Publications No. (9) of 1995 regulates the legal framework of newspapers in Palestine and identified the means of licensing and the authorities that have jurisdiction in this respect. Article 42\1 of the law<sup>82</sup> provides for measures to be taken in the event of contravention of the provisions of the law and the means of filing an action of public right with respect to periodical and non-periodical crimes. This article also shows that the executive authority has a regulation mandate, but not a mandate to close or prohibit publication of any newspaper or magazine in Palestine unless it has a judicial warrant from the competent authority.

*The security agencies in the West Bank have been banning the print and publication of a number of newspapers (al-Risalah, Falasteen, Minbar al-Islah) since the start of the political division, 14\6\2007. Neither the Ministry of Information of the government in the West Bank, nor the judiciary itself has issued any decision banning publication of said newspapers. It is worth mentioning that these newspapers have an official license from the Ministry of Information and other relevant authorities to function in Palestine.*

*The security agencies of the Ministry of Interior of the government in the Gaza Strip banned publication of three dailies (al-Quds, al-Hayyat al-Jadeeda, al-Ayyam), accusing them of partiality, non-professionalism and allegiance to one political party at the expense of the other.*

### 4. Closure of Media Institutions

Several media institutions were subjected to closure in the Gaza Strip. For example, on 25 July, 2013, the Attorney General ordered the closure of al-Arabiya Satellite Channel and Ma'an News Agency bureaus. According to ICHR's information, the closure order

81 ICHR's Monthly Report, Sep, 2013, [www.ichr.ps](http://www.ichr.ps).

82 Article 42\1 states that "the competent court considers all contraventions committed in breach of the provisions of the law and the Attorney General undertakes investigations into these cases in accordance with the mandates and procedures laid out in the effective penal codes."



from the Attorney-General was delivered to al-Arabiya Bureau Chief by security forces, claiming that it had published false news and rumours which threatened civil peace and caused harm to the Palestinian people and the image of Palestinian resistance. Concurrently, the General Investigation Agency informed the staff of Ma'an News Agency in Gaza City of the order of closure and asked them to evacuate the office.

The Attorney General in the Gaza Strip ordered the closure of Lens Company for Media Production. According to the Attorney General's statement, the order of closure was issued based on a decision by the Council of Ministers in Gaza which imposes a ban on the activities of the news agencies that collaborate with the Israeli occupation. It added that "Lens Company" has collaborated with an Israeli channel, and so the order of its closure was legal. According to the statement of Lens Company's Manager in Cairo, it collaborated with an Israeli channel to bring some equipment and other devices to be able to begin its work.

ICHR condemned the order of the closure of Maan News and al-Arabiya Channel and called on the Attorney General in Gaza to reverse his decision and keep media institutions away from partisan and political polarization.<sup>83</sup> Both offices were reopened in November 2013.

## 5. Prohibition of Media Coverage

In 2013, the security agencies in the West Bank prohibited some journalists and media institutions from covering certain events. For example, on 16 August 2013, the security agencies in Hebron prohibited journalists from covering a demonstration organized by Hamas in protest against the Egyptian army's operation to break up camps of supporters loyal to the Muslim Brotherhood in Rabaa al-Adawiya. On 23 August 2013, the security agencies in Ramallah prohibited journalists from covering a similar event near Jamal Abdul Nasir mosque. On 2 July 2013, ICHR received a complaint from Yousif al-Shayeb, journalist. He claimed that on 30 June 2013, a number of policemen prohibited him from filming a citizen trying to set fire to himself near the Ministry of Finance in Ramallah. He said that they took him off the premises of the Ministry and questioned him about his journalistic activity before releasing him.

On 24 November, 2013, ICHR received a complaint from Nael Sulaiman Rajoub and Ibraheem Muhammad Anqawi, journalists, working for Wattan News Agency. They claimed that while they were filming for a report next to Jameel Center near the presidential headquarters "Muqata", security servicemen in plain clothes prohibited them from doing so and confiscated their camera. They were taken to the Muqata' and questioned about their work for three hours, and then taken to the police center in Ramallah afterwards. They were told that the presidential guard filed a criminal complaint against them; they were released late at night without being able to retrieve their tape.<sup>84</sup>

<sup>83</sup> For more, see: <http://www.ichr.ps/ar/11068/4/>

<sup>84</sup> ICHR's Monthly Report, October 2013, [www.ichr.ps](http://www.ichr.ps)

In the Gaza Strip, the security agencies of the Ministry of Interior prohibited journalists and media institutions from covering events. For example, on 6 April 2013, a group of women gathered near the internal security office in Rafah protesting the detention of their Salafist relatives. While journalists were covering the activity, a force from the Internal Security prohibited them from filming and seized the camera of Firas Judeh, working for Maan News Agency. They returned the camera to him on the following day.

On 7 May, 2013, the police agency in Gaza assaulted participants of a peaceful assembly that was organized by the Popular Front for the Liberation of Palestine to denounce the Israeli raid on Syria. They confiscated cameras and tapes from Ahmad Ghanim Abdul Azeez al-Afeefi, Udai Abu Shahmeh, Muhammad Abu Taha and Eyad al-Baba. These journalists were also subjected to assault and some of them were seized.

On 9 May, 2013, ICHR released a statement condemning this assault. It emphasized the right to peaceful assembly and freedoms of media which are guaranteed under the Palestinian Basic Law, the Public Assembly Law No. 12 of 1998 and international human rights conventions. In light of this, ICHR maintains that the official authorities should abide by laws and guarantee public freedoms, including the freedom of peaceful assembly and media activity. They should punish the violators of these rights and freedoms in accordance with the law to stop harassment of journalists and media institutions.<sup>85</sup>

## 6. Journalists' Right to Travel and Not be Subjected to House Arrest

In the context of restricted media freedoms, the Ministry of Interior in the Gaza Strip has forbidden a number of journalists to leave the Gaza Strip. On 4 March, 2013, the Ministry of Interior forbade Wisam Hatem, journalist, working for Sakreen Company for Media Production, to leave the Gaza Strip. He told ICHR that he applied through the Ministry of Interior offices in Gaza to travel to Cairo for a training course held by the IFJ. They had declined his application because the training course was organized by the Palestinian Journalists Syndicate in cooperation with the IFJ. On 4 March 2013, the Internal Security also prohibited Sami Muhammad Abu Salem from travelling to Egypt via Rafah crossing to participate in the same training course held by IFJ in Cairo.<sup>86</sup> Almost two weeks later,

on 17 March 2013, the staff of the Residence and Foreign Nationals Affairs Office of the Ministry of Interior in Gaza declined Magid Ismael's application to travel to Ramallah. And on 21 October 2013, the Internal Security forbade Munir Juma' al-Mnerawi, administrative manager of the Palestinian Journalist Syndicate, to travel via Rafah crossing to Egypt.<sup>87</sup>

<sup>85</sup> ICHR's statement: <http://www.ichr.ps/ar/14/?d=2013#>

<sup>86</sup> According to a complaint filed by him to ICHR.

<sup>87</sup> ICHR's Monthly Report, October 2013, [www.ichr.ps](http://www.ichr.ps)





*ICHR believes that the resort to measures not regulated by law (such as imposing house-arrest on journalists) constitutes a flagrant violation of Palestinian Basic Law, mainly article (11), which states that “personal freedom is a natural right that shall be guaranteed and not violated. The restriction of freedom and/or the right of movement of any person, with no judicial warrant issued in accordance with the provisions of the law, shall be prohibited”, and article (20) of the same law states that “freedom of residence and movement shall be guaranteed within the limits of the law.” Likewise, the Palestinian Penal Procedure Code No. (74) of 1936 does not provide for such a measure as a penalty regulated by the provisions of the law. So, this measure contravenes the legal rule which states that “there is no crime and/or penalty without a law.” In the same breath, Penal Procedure Code No. (3) of 2001 does not provide for the penalty of house-arrest.*

ICHR followed up numerous complaints concerning restriction of journalists’ freedom of travel, and was able to solve many of them.

## 7. Prosecution of Journalists and Media Institutions

The Public Prosecution filed lawsuits against some journalists in the Gaza Strip on charges of defamation and libel. On 28 February, 2013, the Public Prosecution summoned Deputy President of the Palestinian Journalists Syndicate, Tahseen al-Astal in Gaza City. He was charged with defamation and libel for writing an article entitled “Police Against Law”<sup>88</sup>. He was interrogated from 10:00 am until 13:30 pm, but denied the charges brought against him.<sup>89</sup>

In the West Bank on 28 March 2013, Bethlehem First Instance Court sentenced Mamdouh Muhammad Rasheed Hamamreh, correspondent for al-Quds Channel, from southern West Bank, to one year in prison. He told ICHR that the charge they brought against him was that one of his friends shared with him on Facebook an offensive image of the President. He categorically denied that he commented on the photo or shared it with any other person. On the contrary, he said he had deleted it.<sup>90</sup>

In another case which took place on 3 June, 2013, the Public Prosecution in Bethlehem held George Qanawati, Director of Bethlehem Radio, for 48 hours. He said that he was summoned by the Public Prosecution at 11:30 am and held there for 48 hours on charges of broadcasting a false statement for Shuhada’ al-Aqsa Brigades. He reported that refused to disclose the source of the statement in line with the requirements of journalistic professionalism.<sup>91</sup> And on November 19, 2013, the

88 [http://fparchive.mydannews.com/ar/articles/109734\\_%D8%B4%D8%B1%D8%B7%D8%A9\\_%D8%B6%D8%AF\\_%D8%A7%D984%D982%D8%A7%D986%D988%D986.htm](http://fparchive.mydannews.com/ar/articles/109734_%D8%B4%D8%B1%D8%B7%D8%A9_%D8%B6%D8%AF_%D8%A7%D984%D982%D8%A7%D986%D988%D986.htm)

89 [http://www.pjs.ps/index.php?option=com\\_content&view=article&id=7363%A201328\\_58--07-03-03-&catid=423%A2010-02-56-12-28-11&Itemid=58&lang=ar](http://www.pjs.ps/index.php?option=com_content&view=article&id=7363%A201328_58--07-03-03-&catid=423%A2010-02-56-12-28-11&Itemid=58&lang=ar)

90 ICHR-s Monthly Report, March 2013, [www.ichr.ps](http://www.ichr.ps)

91 ICHR-s Monthly Report, June 2013, [www.ichr.ps](http://www.ichr.ps)

Public Prosecution in Bethlehem summoned Eyad Nimir Abdul Qadir Maghribi, from Bethlehem, working for AP. He was sued by the Governor of Bethlehem for certain activities on Facebook. His case has not been cleared yet.<sup>92</sup>

ICHR attended trial sessions held for journalists and editors in the West Bank to ensure appropriate judicial proceedings were followed. The General Intelligence Chief issued instructions aimed at facilitating journalists' work. According to these instructions, it is prohibited to summon, detain or question any journalist without a direct order from the Chief of the General Intelligence due to the sensitivity of the issue. Should this happen, it should be in coordination with the PJS. A member of the PJS can attend the investigation session should the interviewee agree to that. These instructions were also inclusive with regard to the respect of human rights and freedom of expression. However, the General Intelligence Agency denied that it had detained journalists for their journalistic activity. It stressed that they were detained for security issues.<sup>93</sup>

## II. Freedom of Opinion and Expression<sup>94</sup>

The right to freedom of opinion and expression is a fundamental human right which distinguishes democratic societies and other political regimes. It is safeguarded by international conventions and national laws and legislation in recognition of its paramount importance. In 2013, this right in Palestine was subjected to violations due to the internal political division of the Palestinian political regime.

The Universal Declaration of Human Rights states, "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."<sup>95</sup> Likewise, the International Covenant on Civil and Political Rights states,

*"everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.<sup>96</sup> The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary in respect of the rights or reputations of others and "the protection of national security or of public order, or of public health or morals"<sup>97</sup>*

92 ICHR's Monthly Report, November 2013, [www.ichr.ps](http://www.ichr.ps)

93 Interview with the Legal Advisor of the GIA, Hisham Jara, Ramallah, Palestine, 3/2/2014.

94 ICHR provides some examples on the violation of the right to freedom of opinion and expression throughout the relevant reports on its website.

95 See Article (19) of UDHR adopted by UNGA's resolution No. 217 (d-3), dated 10/19/48/12/.

96 Article (19) of the International Covenant on Civil and Political Rights, adopted by the UN in Resolution No. 2200, December, 1966.

97 Article (19), paragraph (3) of the International Covenant on Civil and Political Rights.



The provisions and articles of Palestinian Amended Basic Law also stress freedom of opinion and expression. These provisions and articles are necessary for ensuring the basic guarantees of exercising and promoting this right. It states, “freedom of opinion may not be prejudiced. Every person shall have the right to express his opinion and to impart it orally, in writing or in any form of expression or art, with due consideration to the provisions of the law<sup>98</sup>; and “freedom of belief, worship and the performance of religious functions are guaranteed, provided public order or public morals are not violated.”<sup>99</sup> It also stresses, “it is not allowed to impose restrictions on fundamental rights and freedoms when declaring a state of emergency except to the extent necessary to fulfill the purpose stated in the decree declaring the state of emergency.”<sup>100</sup>

Despite that, Palestinian Basic Law allowed restrictions on the exercising of human rights in this case pursuant to a decree issued by the President of the PA. It states, “the President of the National Authority may declare a state of emergency by decree when there is a threat to national security caused by war, invasion, armed insurrection or in times of natural disaster, for a period not to exceed thirty (30) days.”<sup>101</sup> It also confirmed that “infringement of personal freedoms shall be considered as a crime that shall not be dropped by virtue of statute of limitation.” It further declares,

*“Any violation of any personal freedom, of the sanctity of private life , or of any of the rights or liberties that have been guaranteed by law or by this Basic Law shall be considered a crime. Criminal and civil cases resulting from such violations may not be subject to any statute of limitations. The National Authority shall guarantee a fair remedy to those who suffer from such damage<sup>102</sup>.*

In 2013, the right to freedom of opinion and expression in the West Bank was subjected to several violations by the security agencies. The internal political division has overshadowed freedom of opinion and expression. Several restrictions were imposed on this right and many persons were subjected to detention or assault due to exercising it.

On 22 September, 2013, ICHR received complaints from Abdul Haleem Nasar al-Til and Thaer Ahmad Abu Qbeiteh from al-Dahria near Hebron. They claimed that they were pursued by the Mayor of al-Dahria and the security agencies for asking the municipality through their Facebook page to fulfill its duties towards the citizens of the town regarding water and other public services. They were summoned by the General intelligence Agency and questioned about their publications on Facebook. The Police Agency also summoned them on 21 September 2013 and the Public Prosecution accused them of encouraging sectarianism. They were referred to Dura

98 Article (19) of the Amended Basic Law of 2005.

99 Ibid.

100 Article (111) of the Amended Basic Law of 2005.

101 Ibid; and Article (32) of the Amended Palestinian Basic Law of 2005.

102 See Article (32) of the Amended Basic Law of 2005.

Conciliation Court, which acquitted them of the charges brought against them.

Abul Haleem al-Til claimed that he was subjected to torture by the General Investigations Unit in al-Dahria. He added that they are still pursued for that activity despite the court's decision.<sup>103</sup>

**In the Gaza Strip**, the government imposed numerous restrictions on the freedom of opinion and expression. For example, on 23 May 2013, the Internal Security in Gaza City siezed Ibrahim Abrash, lecturer at al-Azhar University and former Minister of Culture. He told ICHR that after receiving an appearance notice, he went to the Office of Internal Security. He was humiliatingly interrogated about an editorial in which he criticized the government, particularly with respect to the visit made by Sheikh Qardawi to the Gaza Strip. He was asked to apologize but refused. He was released on the same day but requested to appear again on 26 May 2013. When he did not show up at their office at the time required, they arrested him from home. He was interrogated for half an hour about his editorials and then released.<sup>104</sup>

On August 26, 2013, the Internal Security summoned Khadir Atyah Mihgis, from Jabalia in northern Gaza, author and university lecturer. He was questioned about his editorials and press interviews. He said that he was affronted and ill-treated. They covered his head with a bag and punched him. After hours of interrogation he was released upon an order issued by the Minister of Interior. He added that the Minister of Interior was not informed of his detention before interventions by some well-known people. The Public Prosecution in the Gaza Strip also summoned Talal Al-Shareef on 6 August 2013. He was questioned about his editorials and criticism of Hamas government.<sup>105</sup>

### III. The Right to Peaceful Assembly<sup>106</sup>

The Universal Declaration of Human Rights confirms that "everyone has the right to freedom of peaceful assembly and association." The International Covenant on Civil and Political Rights also attaches great value to this right in article 21.<sup>107</sup> The Amended Palestinian Basic Law of 2005 is in accordance with the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.<sup>108</sup>

103 ICHR's Monthly Report, September 2013, [www.ichr.ps](http://www.ichr.ps)

104 ICHR's Monthly Report, April 2013, [www.ichr.ps](http://www.ichr.ps)

105 [http://www.madacenter.org/report.php?lang=2&id=1342&category\\_id=13&year=](http://www.madacenter.org/report.php?lang=2&id=1342&category_id=13&year=)

106 ICHR published a report on the Right to Peaceful Assembly. See <http://www.ichr.ps/ar/1159/9/>

107 Article 21 states, "the right to peaceful assembly should be recognized. No restrictions shall be imposed on exercising this right, save those imposed in accordance with the law where it is necessary in a democratic society to maintain national security, public order, public health, decorum or protection of the rights and freedoms of others"

108 Paragraph (5) of Article (26) of the Basic Law, for example, holds "the Palestinians shall have the right to conduct private meetings without the presence of police members, and to conduct public meetings, gatherings and processions, within the limits of the law".



In addition, the articles of Law No. (12) of 1998, which are relevant to public meetings, are in conformity with the provisions of Palestinian Basic Law and the International Covenant on Civil and Political Rights. Article (2) of that law confirmed this right, stating “the citizens have the right to hold public meetings, symposiums and marches freely. This right shall be exercised with no restrictions outside the frame of the law”. Despite binding the organizers of peaceful assembly to notify the Governor or the Police Chief of where, when and why the assembly shall be held, they can not apply any measures that might cause prejudice to the freedom of assembly.<sup>109</sup>

In 2013, the right to peaceful assembly was subjected to several violations in Palestine. These violations were committed in light of the political division which resulted from incidents that occurred in the Gaza Strip in 2007. The security agencies in the West Bank and in the Gaza Strip continued to prohibit the organization of peaceful assemblies such as sit-in protests, public meetings and marches. If they were organized, journalists would not be permitted to cover the event. Even worse, the Governors and the MoI sometimes imposed a ban on this right.

In the West Bank, the right to peaceful assembly was subjected to numerous violations. In 2013, ICHR received several complaints about violations of this right and its researchers documented several others. The security agencies broke up such assemblies with the use of force.

On 16 August, the security agencies in Hebron forbade a rally of (300) participants to arrive at Averroes Square. This rally, which was organized in solidarity with Egypt, was broken up by the security agencies (police, special police forces, National Guard, Preventive Security, General Intelligence) with force. They beat some participants and forbade journalists to cover it. Furthermore, they forced the journalists who were able to take some photos to delete them.<sup>110</sup> Just four days later, on 20 August 2013, ICHR received a complaint from Hazen Khadir Nimir Fakhouri, from Hebron. He claimed that the General Intelligence Agency searched his home in the city for participation together with his wife, Lama Khatir, in the rally organized in solidarity with Egypt.

On 23 August 2013, citizens organized a peaceful assembly next to Jamal Abdul Nasser in Ramallah and al-Bireh governorate, in solidarity with the Muslim Brotherhood in Egypt. Plainclothes officers from the security agencies broke up the assembly with the use of force. ICHR received complaints from the citizens who were subjected to beating during the event. It received a complaint from Faraj Abdul Raheem Rumaneh. He claimed that he was beaten and pulled by five policemen. He was beaten with clubs and held for one hour in a vehicle belonging to the Preventive Security Agency. A complaint was also received from Gamal Muhammad at-Taweel. He claimed that security servicemen in plainclothes beat him and tore his clothes to forbid him from participation in the assembly. Another complaint was made by

<sup>109</sup> Article (5) of that law stresses, “the measures which might be taken by the authorities shall not cause any prejudice to the freedom of the participants in the assembly or its course. The aim of these measures might be to organize traffic according to article (4) thereof.”

<sup>110</sup> See, ICHR's Monthly Report, May 2013, [www.ichr.ps](http://www.ichr.ps)

Fayez Ahmad Yousif Wardeh. He claimed that he was beaten and pulled by security servicemen who forbid him to participate in the assembly. He added that they held him for an hour in the bus parking area.<sup>111</sup>

In 2013, the right to peaceful assembly was subjected to several violations in the Gaza Strip, too. The internal political division overshadowed this right, which was restricted by the Ministry of Interior. ICHR documented numerous violations of the right to peaceful assembly, including the breaking up of a women's sit-in protest called for by women's organizations and the Palestinian Women's General Union to lobby for national reconciliation. This took place on 12 November 2013 and was broken up by the Internal Security and General Investigations. According to a statement by Iktimal Hamad, Member of the Palestinian Women's General Union, while the participants were preparing for holding the sit-in protest, a security serviceman asked them to cancel the activity because of the emergency state. The security agencies also notified a public transportation service in the different cities of the Gaza Strip not to provide transport to the women who would come to Gaza City to participate in the weekly protest.

ICHR followed up the assaults citizens were subjected to and the violations of their right to peaceful assembly with the relevant authorities. Despite the official statements of the official authorities which emphasize their respect for citizens' right to peaceful assemble, what was happening on the ground was different. ICHR documented and received numerous complaints about the violations of this right.

#### IV. Human Rights Defenders

A number of human rights defenders in Palestine were subjected to threats and harassment. Some of them were forbidden to do their tasks and the documents and materials they use for documenting and monitoring human rights violations were confiscated. Others were assaulted by the security agencies to directly or indirectly obstruct their work. In the West Bank, they were forbidden to visit detainees held in the Palestinian prisons for their political affiliation or expression of opinion. Furthermore, legal actions were filed against some human rights defenders because of their rights-based activities.<sup>112</sup> This chapter presents a brief overview of the violations human rights defenders and human rights institutions were subjected to in the West Bank and the Gaza Strip.

**In the West Bank**, some human rights defenders were subjected to harassment by the security agencies in 2013. For example, on 8 June, 2013, Nizar Khaleel Muhammad Banat, political and youth activist from Hebron, was severely beaten by a group of known persons near Bethlehem University that was hosting a conference on the boycott of Israel. He infuriated the Minister of National Economy when he criticized President Abbas for security coordination with Israel. When he left the

111 According to the complaint filed to ICHR.

112 For more details about international and national protection of human rights, refer to, Yasser Alawna, International and National Guarantees for Protection of Human Rights Defenders, ICHR, Ramallah, Palestine, 2011.



conference, he was beaten as a result. ICHR addressed the Ministry of Interior to open an investigation into the incident and to punish the perpetrators. ICHR learnt later that Nizar Khaleel dropped his case after some reconciliation.

**In the Gaza Strip**, criticism of human rights defenders and incitement against human rights and women's organizations continued throughout the year of 2013. On 19 June, 2013, the Police Agency prohibited the Palestinian Center for Independence of the Judiciary and Legal Profession (Musawa) from holding the 5th Annual Justice Conference under the title of The Political and Legal Palestinian System. According to Musawa's coordinator's statement, on 10 June 2013 he sent a letter to the Police Chief in Gaza applying for permission to hold the conference via video conference with Ramallah in the Grand Palace Hotel on 25 June. On 19 June, the Police Chief Office informed him of declining his application, warning that if the order was disobeyed he would be held to account.<sup>113</sup>

On January 16, 2013, Aysha Organization for Women and Child Protection in Gaza was broken into and items were stolen from it. In her statement to ICHR, the Executive Director of the organization said that she received a telephone call from the guard of the organization telling her that unknown persons assaulted and sedated him. Then they broke into the office and stole cameras, laptop and other devices. She informed the police of the attack. The police arrived at the scene and opened an investigation into the incident.

The Al Mezan Center for Human Rights, which is located in Jabalia, was broken into on 29 January 2013 and items were stolen from it. In his statement to ICHR, the director of Al Mezan Office reported that when the employees arrived at the office in the morning, they saw how different items were scattered. They discovered that two computers and a printer were stolen. The police arrived at the scene and opened an investigation into the incident.

On 12 May, 2013, the Internal Security forbade Eyad al-Alami, Deputy Director of the Palestinian Center of Human Rights for Legal Affairs and Muhammad Bseso, Officer of the Legal Department of the Center, to travel via Beit Hanun crossing. They were told to refer to the Ministry of Interior in Gaza to attain a permit in compliance with a decision issued by the Ministry of Interior on 27 February 2013. According to this decision, no citizen shall travel via Beit Hanun crossing without having a permit from the Ministry in advance. Human rights organizations rejected this decision because it constitutes a violation of the freedom of movement and travel. ICHR then issued a statement condemning the incident and asking the Internal Security of the Ministry of Interior to backtrack on its decision and facilitate the travel procedures of the Palestinian Center for Human Rights' delegation. It also asked it not to restrict citizens' freedom of movement and travel in contravention of Palestinian Basic Law. Additionally, it asked the Ministry of Interior in the Gaza Strip to backtrack on its former decision concerning citizens' need for a permit to travel via Beit Hanun

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113 ICHR's Monthly Report, June 2013, [www.ichr.ps](http://www.ichr.ps)

crossing because it restricts their right to freedom of movement and travel.<sup>114</sup>

In 2013, ICHR received (34) complaints about violations involving the right to freedom of opinion and expression, with (25) complaints in the West Bank and (9) in the Gaza Strip. Of these 34 complaints, (23) involved freedom of the press and media, with (16) in the West Bank and (7) in the Gaza Strip.

In regard to violations of media freedoms involving detention of journalists, ICHR registered (34) detention and summons cases, with (23) in the Gaza Strip and (11) in the West Bank. These violations also involved assaults on journalists and impediments to their work. ICHR registered (24) cases of assault on journalists and impediment to their work in the Gaza Strip and (2) such cases in the West Bank. Some media institutions were also subject to closure; ICHR registered (3) such cases in the Gaza Strip. Six (6) daily newspapers were banned in the West Bank and Gaza Strip and many journalists were threatened due to their journalistic activities. There were also (2) female journalists threatened in the West Bank because of their work.

The security agencies in the West Bank and Gaza Strip continued to infringe on citizens' rights to peaceful assembly. ICHR received (23) complaints in this respect, with (20) in the West Bank and (3) in the Gaza Strip.

In 2012, ICHR received (110) complaints of violations involving freedom of opinion and expression, peaceful assembly, freedom of thought and belief and the rights of human rights defenders. These complaints were distributed as follows:

- (37) complaints regarding violations of the right to freedom of opinion and expression;
- (52) complaints regarding violations of the right to peaceful assembly;
- (21) complaints regarding violations of freedom of thought and belief.

ICHR also received for the same year (22) complaints regarding violations of the right to freedom of opinion and expression, the right to peaceful assembly, freedom of belief and defenders of human rights in the Gaza Strip. These complaints were distributed as follows:

- (11) complaints regarding freedom of opinion and expression;
- (11) complaints regarding the right to peaceful assembly.

ICHR addressed the Ministry of Interior, Police Agency and Internal Security in the Gaza Strip regarding these complaints but did not receive any response. ICHR noted a decline in the number of complaints it received this year regarding public freedoms compared with the previous year.

114 <http://www.ichr.ps/ar/14/?d=2013#>





## Recommendations

### 1. Freedom of Media

Below are recommendations for government in both the West Bank and Gaza Strip:

- The security agencies (General Intelligence, Preventive Security) should stop the detainment and summoning of journalists in the West Bank.
- The security agencies of the Ministry of Interior (Interior Security) should stop detainment and summoning of journalists in the Gaza Strip.
- The security agencies in the West Bank (General Intelligence, Preventive Security) should allow journalists to do their work without any kind of restrictions.
- The security agencies in the West Bank (General Intelligence, Preventive Security and Military Intelligence) should lift the ban imposed on the publication and distribution of magazines (Al-Risalah, Palestine) and allow them to resume their work as freely as before the political division which occurred in 2007.
- Independent commissions from human rights organizations and journalists' syndicates should be formed to investigate violations committed against journalists and to hold the perpetrators of these violations accountable in the West Bank and in the Gaza Strip.
- The ban imposed by the security agencies in the Gaza Strip (Police Service, Internal Security) on the publication and distribution of newspapers (Al-Ayyam, Al-Hayyat Al- Jadeeda) should be lifted.
- The security agencies in the Gaza Strip (Internal Security, Police Service) should lift all restrictions imposed on journalists. They should allow them to attend to their duties without hindrance.
- The security agencies (Internal Security, Police Service) should allow entry and exit of journalists to and from the Gaza Strip.

### 2. Freedom of Opinion and Expression

- Below are recommendations for government in both the West Bank and Gaza Strip:
- The security agencies (General Intelligence, Preventive Security) in the West Bank should cease questioning and detaining citizens for expressing their opinions.
- The security agencies (Internal Security, Police Service) in the Gaza Strip should remove all the restrictions on the right of the citizens to freedom of opinion and expression.

- The security agencies (Internal Security, Police Service) in the Gaza Strip should cease questioning and detaining citizens for expressing their opinions.

### 3. Right to Peaceful Assembly

- The security agencies (General Intelligence, Preventive Security, Internal Security, and Police Service) in the West Bank and Gaza Strip should cease detaining or summoning citizens for their participation in peaceful assemblies
- The security agencies (General Intelligence, Preventive Security, Internal Security, Police Service) in the West Bank and Gaza Strip should cease prohibiting peaceful assemblies and dispersing them by force.
- Independent investigations should be conducted into the assaults that targeted participants in peaceful assemblies in the West Bank and Gaza Strip. The findings of these investigations should be made available to the public and the recommendations made thereto should be implemented.

### 4. Defenders of Human Rights

- The competent authorities in the West Bank should investigate the cases of violations committed by the security agencies against human rights defenders and bring the perpetrators of these violations to justice.
- The Ministry of Interior should reopen the human rights organizations that were closed in the West Bank and Gaza Strip.
- The Ministry of Interior in the Gaza Strip should allow human rights defenders to visit the detainees held by the internal security and the police.



## Chapter 6

# The Right to Movement and Travel

In 2013, violations of the right to movement and travel continued due to the ongoing political division and its repercussions. The violation of this right is part of the violation of other rights and freedoms of the citizens. The Palestinian people do not enjoy this right even though it is a fundamental human right and not a privilege to be granted. ICHR calls for the need to end the political conflict between the divided parties, and if it is difficult to achieve that in the near future, the Palestinian citizens should at least be exempt from the polarizing politics which interfere with this basic human right.

In 2013, ICHR received (34) complaints related to violations of the right to mobility. These violations were distributed as follows: (3) complaints against the Ministry of Interior; (23) complaints against the Internal Security of the Ministry of Interior in the Gaza Strip and (8) complaints against the security agencies in the West Bank. In 2012, ICHR received (36) complaints related to violations of the right to mobility. These violations were distributed as follows: (18) complaints against the Ministry of Interior; (3) complaints against Public Prosecution; (4) complaints against the security agencies in the West Bank.<sup>115</sup> While these violations involved patterns similar to those of the previous years, some new patterns were observed as well.

## I. West Bank

### 1. Security Clearance Conditions

The Ministry of Interior in Ramallah continued to deprive citizens of their right to obtain or renew their passports upon recommendation by the General Intelligence Agency.<sup>116</sup> ICHR also received numerous complaints of violations involving the right to movement and travel. One example is from February 2013, when ICHR received a complaint from Muhammad Mazen Ayad (24) from Gaza. He claimed that he applied to the Ministry of Interior in Ramallah through a travelogue services office in Gaza for the replacement of his lost passport. He applied in October, 2011 but received no answer. On 28 June 2012, he renewed his application but to no avail. In another complaint from March 2013, ICHR had contact from Rami Tawfeeq Abu Zreeq (35) from Nuserat Refugee Camp in which he claimed that he applied to the Ministry of Interior in Ramallah through a services office in Gaza to issue him a passport. His application was declined for the second time upon recommendation of the General Intelligence Agency in Ramallah.

<sup>115</sup> See, ICHR's 18th Annual Report.

<sup>116</sup> This constitutes a violation of the Palestinian Amended Basic Law: articles (9), (11), (20).

It is worth mentioning that the number of complaints against the Ministry of Interior in this regard decreased from (18) complaints in 2012 to (3) in 2013. This suggests there is an effort by the parties to bring about an end to this problem and the hardships experienced by the people of Palestine in this regard.

## 2. Prohibition of Travel by the Security Agencies

In March 2013, ICHR received a complaint from Raed Hmedan Sharabati, (41), from Hebron. He claimed that the Preventive Security Agency in Hebron seized his identity card after summoning him regarding political motivations. He added that he was released on 18 December 2012, but his ID was still being held by the Preventive Security. ICHR contacted them on 13 February 2013, but there was no response. On 7 October 2013, ICHR received a complaint from Ya'kub Iskafi, from Hebron, who claimed that the Preventive Security Agency detained him for five days for his political affiliation. When he was released, he was not handed back his identity card. ICHR addressed the Preventive Security concerning this case, but once more there was no response.

It is clear that the said patterns of violations constitute a blatant violation of international human rights conventions<sup>117</sup> and national laws which guarantee citizens' rights to movement and travel.<sup>118</sup> It is important to note that the problem caused by the refusal of the Ministry of Interior in Ramallah to issue passports to the governorates of the Gaza Strip is still unresolved. It has not heeded the recommendations of ICHR's sixteenth annual report of 2010 to provide passport books for the Ministry of Interior in the Gaza Strip in accordance with the decision issued by the President of the State of Palestine on 25 August 2008. However, this problem was resolved on the procedural level only in 2011 by issuing passports in the West Bank to applicants from the Gaza Strip.<sup>119</sup>

## II. Gaza Strip

### 1. Prohibition of Travel by the Internal Security and Police Agency

In 2013, the Internal Security of the Ministry of Interior in the Gaza Strip forbade a number of citizens to exit the Gaza Strip through border crossings. ICHR received numerous complaints about violations of citizens' rights to movement and travel for their political affiliation in flagrant breach of the Palestinian Basic Law, mainly article (9), which confirms that all Palestinians are equal before law and before the judiciary. Among the similar cases monitored by ICHR in this regard was one which was reported to ICHR on 24 February 2013 by Amal Tawfeeq Hamad, from Khan Younis, a member of Fateh Central Committee. She claimed that policemen manning a checkpoint close to Beit Hanun Crossing informed her that she was prohibited from

117 See article (13) of the Universal Declaration of Human Rights and article (21) of the International Covenant on Civil and Political Rights.

118 See articles (11), (20) of the Palestinian Amended Basic Law of 2003. Also article (111) of the Civil and Commercial Courts' Law No.2 of 2001.

119 See ICHR's annual reports of 2011, 2012, and 2013.



travelling based upon a political decision. There was also a complaint filed to ICHR on 19 August 2013 from Zakaria Ibraheem al-Agha, (73), from Gaza, also a member of Fateh Central Committee. He claimed that policemen manning the checkpoint close to Beit Hanun Crossing forbade him to travel to Ramallah for political reasons. He was allowed to travel two days later after ICHR's intervention.

Two other complaints were reported in March and October. On March 4, 2013, ICHR received a complaint from Wisam Hatem al-Eshi, (33), from Gaza, cameraman for Sakreen Company for Media Production. He claimed that he was denied the right to travel to Cairo to take part in a training course organized by the IFJ under the pretext that the training course was organized in cooperation with the PJS in Ramallah. And in October 2013, ICHR received a complaint from Hatem Mahmoud al-Ashqar, (47), from Beit Lahia Camp, Preventive Security Officer. He claimed that since June 7, 2013, he was prohibited from travelling through Rafah Crossing to Egypt. When he asked the Internal Security for the reason why, they told him that he is prohibited from travelling for political reasons. According to ICHR's information, this problem was resolved on December 10, 2013.

It is worth mentioning that the complaints received by ICHR this year against the Internal Security regarding restriction of citizens' freedom of movement and travel increased, totalling (23) complaints compared with (11) in the previous year. This demonstrates that the competent authorities have dismissed the recommendations of ICHR reports over the past several years. This calls for bringing the policy of denying citizens the right to travel to an end.

## **2. Ministry of Interior's Permit Procedure on Beit Hanoun Crossing**

The Ministry of Interior decided on February 27, 2013, not to allow citizens to travel through Beit Hanoun Crossing without first obtaining a permit from the Ministry's General Administration of Residence and Foreign Nationals Affairs. This decision includes the citizens who travel to the West Bank and 1948 OPT, students who study in Arab and foreign universities, and the citizens who travel abroad through Jordan and the airports of 1948 OPT. This decision constitutes a violation of all the national laws and legislation which guarantee freedom of movement and travel.<sup>120</sup> It also constitutes a violation of international human rights law, including the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights. Additionally, this decision infringes on other relevant rights such as the right to health and education. This calls for a harmonization of administrative and organizational decisions with the laws and standards that regulate the right to movement and travel.

ICHR has addressed the Prime Minister and the Minister of Interior in the Gaza Strip and updated them on the main violations arising from such a decision. It also called on the government in the Gaza Strip to call off its restrictions.

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<sup>120</sup> See, articles (11) and (20) of the Palestinian Amended Basic Law.

## Recommendations

### 1. West Bank

- The Ministry of Interior in the West Bank should implement the order issued by the President on August 25, 2008 to provide passport books for the people of the Gaza Strip in a manner that would meet the needs of the citizens in Gaza. The Ministry of Interior should also coordinate with competent authorities to enable the citizens to obtain passports.
- The security agencies of the Palestinian government in the West Bank, especially the General Intelligence Agency, should cease denying citizens the right to obtain passports under security pretexts.

### 2. Gaza Strip

- The government of the Gaza Strip should cease drafting administrative procedures in breach of the law (i.e. advance requirement for permission from the Ministry of Interior to travel through Beit-Hanun/Erez Crossing). Such procedures constitute a flagrant violation of citizens' right to free movement.
- The government should stop denying citizens the right to travel and enable them to enjoy their right to movement and abide by the legal procedures, disciplines and jurisdictions relevant to depriving any citizen of the right to movement and travel.
- The government should enable all citizens to exercise their legal rights, especially the civil and political rights enshrined in Palestinian Basic Law.



## Chapter 7

# The Right to the Highest Attainable Standard of Health

The level of citizens' enjoyment of their right to health is a significant indicator of their state's development and its ability to upgrade their status. It is also an indicator of a state's ability to ensure a decent life and good healthcare. Different countries worked jointly and individually to establish a legal framework for citizens' rights to the highest attainable health care within their national legislation and international treaties in general.<sup>121</sup>

## I. The Status of the Right to Health

In 2013, ICHR received (126) complaints relating to violations of the right to enjoyment of the highest attainable standard of health in the West Bank and Gaza Strip. These complaints were distributed as follows: (9) complaints about unavailability of vaccines; (80) complaints about unsuitable health services; (7) complaints about lack of functioning health facilities in outlying areas; and (26) complaints about medical negligence. This section focuses on the two major patterns of violations of the right to health based on the complaints ICHR received: occurrence of medical error and failure of the MoH to guarantee the availability of certain medicines.

### 1. Medical Errors

ICHR received (30) complaints in 2013, compared to (25) complaints in 2011 and (25) in 2010. The responses from the Ministry of Health to these complaints are still insufficient.<sup>122</sup> The mechanisms for handling these complaints have not yet improved since the investigations conducted by the MoH have not been satisfying. Citizens still feel that the incidents they or their relatives experienced following medical treatment were not within normal, acceptable bounds.

Although the phenomenon of medical errors does exist in different countries in the world, in these other countries it is recognized and necessary steps are taken to address it and handle its impact. How this is addressed in Palestine is different, and the competent authorities still claim that what the patients suffer from or otherwise experience is normal. They refuse to admit the possible existence of medical negligence or indifference. Their responses to ICHR inquiries consistently assert that the medical teams perform their duties perfectly, and with no errors.

ICHR noted that the number of responses it received from the MoH to the relevant complaints this year not only decreased but were repetitive, and mostly failed to

<sup>121</sup> At the international level, International conventions attach great value to the right to health, such as in article (25) of the Universal Declaration for Human Rights and the International Covenant on Economic, Social and Cultural Rights.

<sup>122</sup> For more, see "Responses of the Ministry of Health to ICHR's Complaints related to the Right to Health in 2013".

admit to any shortfalls. It did admit to one case of vacuum delivery in which the baby sustained a skull fracture. The response of the MoH regarding this case claimed that pediatricians examined the case and discovered the baby suffered from a skull fracture, hemiplegia, and occipital bone and temporal bone fractures, and that the medical staff did what was required to handle this case.<sup>123</sup>

In addition to following up on the above mentioned complaints, ICHR and some civil society organizations<sup>124</sup> met with the Parliamentary Committee on Social Affairs in the West Bank. It was presented with a version of the 2012 report on medical errors.<sup>125</sup> This report discussed the issue of medical errors in the Palestinian health sector and the measures that must be taken by the official authorities to minimize this phenomenon in the public and private health sectors. It also highlighted the importance of regulating the process of forming investigation committees to examine reported cases of medical errors through a decision issued by the Council of Ministers.

### Lack of Medicine and Medical Needs

Over (60) of the complaints filed to ICHR in 2013 were related to unavailability of medicines and medical devices necessary for patients, especially those who suffer from multiple sclerosis, hemophilia, epilepsy, pancreatic diseases and some other disabilities. The supplier for the MoH often will halt the provision of technical services and medicines due to the MoH's accumulating debts. This often undercuts its ability to fulfill its obligations towards patients.

ICHR concludes the main reason for this lack of medicine and medical devices and the resulting inability to treat certain conditions and diseases is due to the MoH's limited budget. Its share of the government's general budget is less than 10.8%. It is noteworthy that two thirds of this budget is used for paying employee salaries.<sup>126</sup>

## II. Formal Policies Regarding the Right to Health

The former Health Minister<sup>127</sup> discussed the achievements and shortcomings of the MoH during the period between 2012 and the first half of 2013. He said that it recruited a number of specialist physicians within the framework of its policy of supporting and developing primary healthcare, and it inaugurated new clinics, healthcare directorates and mobile clinics in the governorates. He pointed out that

123 Response of MoH in the West Bank, 222013-4-.

124 ICHR met, through the committee formed by al-Quds Center for Legal Aid and Human Rights and Aman Coalition for Integrity and Accountability in Ramallah, with the Parliamentary Work Group for Health Issues headed by law-maker Muhib Awad on 62013-11-. They discussed several issues, including medical errors, investigation committees, and unsatisfying results of their investigation into medical errors cases since they do not contribute to solving problems arising from medical negligence in the public and private sectors.

125 For more, see Mae'n Idie's, fn38.

126 For more, see the General Budget 2013, which is approved pursuant to the decision with the power of Law No. (2) of 2013; 302013-3-.

127 According to al-Quds Newspaper from 14 August, 2013, penned by Hani Abdeen, Former Minister of Health of the government that resigned in 2013. On 5 January, 2013, ICHR asked the Minister of Health to provide information about the achievements of the Ministry of Health in 2013, but received no response.





a number of agreements were signed with Arab and European Ministries of Health for training Palestinian physicians in different medical areas such as general surgery, emergency care, family care and anti-narcotics. He explained that the MoH set forth draft regulations for health insurance, medical staff incentives, drugs, and health facilities licensing procedures, medical referrals for treatment in medical facilities other than those of the government, medical errors and penal sanctions.

He also explained the increase in the debt of the MoH due to medical referrals to medical facilities other than those of the government and the cost of medical supplies that amounted to ILS 650 million or about US\$190 million. The annual spending of the MoH on medical referrals to private medical facilities amounted to \$120 million.<sup>128</sup>

The problem of the shortage of medical staff<sup>129</sup> and medical equipment was also brought up. At the same time, he highlighted the need for reviewing health policies, the imbalance in distribution of health services among Palestinian governorates, cities and towns, and the need for well-defined referral standards and policies.

The current Minister of Health decided in the first half of 2013 to enforce the decision of the Council of Ministers that bans job duality<sup>130</sup> in compliance with the provisions of the Civil Service Law.<sup>131</sup> The physicians of the public health facilities are to have incentives to implement this decision and stop working for private sector institutions at the same time.

Despite the positive impact this decision will have on the medical services of the public sector, ICHR has not yet expressed its opinion regarding its positive and negative impact on the right to the highest attainable standard to health. It is worth mentioning that there are conflicting opinions and views concerning this decision and the ability to achieve the desired goal.

The official authorities also set forth a number of regulations relevant to the health sector, including the instructions of the Minister of Health in relation to the practice of the speech therapy profession, the decision of the Council of Ministers concerning medical waste management and its decision concerning the regulation of the Palestinian Medical Council Law.

<sup>128</sup> The number of medical referrals to private medical facilities in the first half of 2013 reached 29,648 with a value of 257 million shekels. Twenty-four thousand cases of them were referred to Palestinian private medical facilities and 5 thousand cases to hospitals outside Palestine. For more, see: Health Report-Palestine-first half of 2013, (Palestine: MoH, Health Information Center, 2013), pp. 126133-.

<sup>129</sup> ICHR mentioned in a previous report that 40% of the MoH staff is administrative, though an acceptable percentage at the international level in this regard should be 1520%- only. See: Maen Idei's, Ahmad al-Ghul, Aisha Ahmad and Waleed al-Sheikh, Status of the Right to Health in Palestinianian controlled territory, (ICHR), 2008.

<sup>130</sup> Minister of Health's decision, 2013.

<sup>131</sup> Article 67 of the Palestinian Civil Service Law of 1998 states that "public sector employees shan't be allowed to "occupy, personally or through a second party, another job besides their job in the public sector."

## Recommendations

Within the framework of official efforts which should be made to enforce the right to the highest attainable standard of health, the Ministry of Health should take the following steps:

1. Develop and approve a special system on medical errors, and on procedures for investigation of complaints filed by citizens who were exposed to harm or injury due to medical errors. These policies should include the procedures and methods of the technical investigation committees, documentation of all the steps of the investigation process and the administrative measures to be taken with respect to the health staff or health institutions which may be responsible, and the redress procedures thereof.
2. Develop clear policies relevant to ensuring medicine and treatment for all the patients who suffer from chronic diseases in the West Bank and the Gaza Strip.
3. The budget of the Ministry of Health should be increased by the Council of Ministers to meet citizens' needs for medical services in accordance with fair and transparent standards.
4. The Council of Ministers should regulate the committee or committees formed to investigate issues of medical neglect.



## Chapter 8

# The Right to Work and Occupational Safety

## I. Background Summary

In 2013, ICHR monitored (15) worker deaths on construction sites and in workplaces. Worker fatalities were mostly concentrated in the construction sector. The geographical distribution of worker deaths in workplaces and construction sites was as follows: (10) in Ramallah; (2) in Hebron and Bethlehem; (2) in Jerusalem and (1) in Gaza. Worker deaths also took place on construction sites in Rawabi city and al-Ghadeer housing project, which are large investment enterprises in Palestine. Two workers died in Rawabi city and one in al-Ghadeer. Two examples would be that of Arafat Abdullah Sidir, from Hebron, who died from falling into a quarry in the industrial zone of the city; and Salah Hussein Shabaneh from Singil village, who died when a winch fell on him while working in a concrete plant in Rafat village.

These deaths were due not only to negligence of occupational safety procedures in the construction sector, but also because they also took place at private businesses. When such accidents take place, the contractual relationship between the affected worker and the employee becomes null and void. In addition, the competent authorities do not exercise any follow-up monitoring over the workplace or site in which the accident happened.

These accidents reveal several shortcomings in the work environment, including absence of occupational safety and health preventive procedures, absence of occupational safety conditions, weakness of inspection of mechanisms and weakness of punitive sanctions imposed on the employers who breach the provisions of the law.

At the national level, according to Palestinian Labor Law No. (7) of 2000, upon the recommendations of the Minister of Labor in coordination with the concerned bodies, the cabinet issued occupational health and safety regulations as well work environment regulations, particularly including the following:

- *personal protection devices for occupational hazards and diseases;*
- *health conditions required in work places;*
- *first aid devices for laborers*<sup>132</sup>

Additionally, in accordance with this body of law and the regulations issued accordingly, the establishment is to issue occupational health and safety instructions and the relevant listing of penalties endorsed by the Ministry. These instructions are

<sup>132</sup> Article (90) of the Labor Law \ section 5\ chapter 4.

to be posted in a visible location at the work establishment.<sup>133</sup>

The Council of Ministers issued several regulations for occupational safety and health that bind the employer to ensure all necessary measures to protect workers against work hazards and occupational diseases. They also bind him to ensure preventive devices necessary for personal protection of workers and train them on using machines, mechanical equipment such as winches, tractors, elevators and other devices. They should also be trained on how to deal with noise, dynamic electricity, ventilation, humidity, ionic radiation, electric networking, chemical hazards and gas and petroleum materials. These regulations also provide for ensuring safety devices in construction work (scaffolding), electrical systems, and demolition and excavation works.<sup>134</sup> The employer shall be penalized for violating any provision of the law or regulation issued accordingly by paying a fine ranging from 100 - 300JOD. The penalty shall multiply pursuant to the multiplicity of the violation and it shall be doubled in case of repetition.<sup>135</sup>

The Minister of Labor has the right to temporarily or permanently close the concerned establishment and/or prohibit using any machine or equipment until the establishment owner remedies the situation. These penalties are not sufficient in comparison with the consequences of the violation of the occupational safety and health conditions since workers could die or sustain severe injuries due to violations or oversights.

## II. Formal Policies Regarding the Right to Work and Occupational Safety

Inspection of workplaces is necessary for protecting workers' rights and their occupational safety. It is also necessary for raising employers' awareness about the rights and obligations stated in the law. The aim is to guarantee workers' rights and enforce the provisions of the law.

Monitoring is not the only task of the inspection system to ensure compliance with the provisions of the law: it should also ensure the implementation of preventive measures through raising awareness of workers and employers about the provisions of the law relevant to occupational safety and health conditions. The Ministry of Labor has a leading role in implementing Palestinian Labor Law No. 7 of 2000 and ensuring the implementation of these provisions in accordance with the Palestinian Amended Basic Law of 2003.

Given the importance of workplace inspections, ICHR has been following up the

<sup>133</sup> Article (91) of the Labor Law \ section 5\ chapter 4.

<sup>134</sup> Decision of the Minister of Labor No. 2 of 2004 relevant to banning employment of women in hazardous or hard work; Decision of the Council of Ministers No. 169 of 2004 relevant to vocational orientation and training; Decision of the Council of Ministers' No. 49 of 2004 relevant to protection of workers against work hazards and occupational diseases; Decision of the Minister of Labor No. 6 of 2005 relevant to the protection of persons working in gas and petroleum facilities; Decision of the Minister of Labor No. 6 of 2005 relevant to safe levels of lighting in workplaces; Decision of the Minister of Labor No. 1 of 2005 relevant to precautions necessary for the protection of workers in construction works and engineering establishments; Decision of the Minister of Labor No.1 of 2005.

<sup>135</sup> Article (131) of the Labor Law.



role of the Ministry of Labor in this regard since 2009. The weakness of this role in establishments and workplaces was clear and can be attributed to several reasons, including lack of sufficient human resources, lack of financial resources necessary for facilitating the inspection process, and logistical problems that hinder inspectors' efforts. In 2009, the Ministry of Labor had (38) inspectors in the West Bank. Meanwhile, the number of economic establishments subject to the Law of Labor amounted to (82,871) in 2007. There were also (498) establishments under construction. The budget allocated by the Ministry of Labor for the General Inspection Administration was not sufficient due to the small budget allocated for it by the government.<sup>136</sup>

Four years have passed since ICHR began to follow up the role of the Ministry of Labor regarding workplace inspection and to then present its recommendations thereto;<sup>137</sup> however, it has hardly changed for the better. The number of inspectors rose only to (42) inspectors while the number of establishments that are subject to labour law in general rose to (100,000). Thus, it is difficult for the inspectors to visit all these establishments and sites, particularly in light of the logistical problems they face. They also do not have vehicles to facilitate their movement.<sup>138</sup>

The patterns of worker deaths on construction sites indicates an absence of occupational safety conditions. Local and municipal councils grant construction permits without taking into account occupational safety and health conditions. This shows how important it is for all stakeholders to create a national occupational safety and health system aimed at ensuring a safe work environment.

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<sup>136</sup> For more information, see special report on "Workplaces' Inspectors' Role in Protecting Workers' Rights", issued by ICHR in 2009; prepared by researcher Khadeeja Hussein Nasir.

<sup>137</sup> The recommendations focus on promoting the government's attitudes towards the role of the Ministry of Labor in effecting the balance necessary for encouraging economic investment. They also focus on the provisions of the law which guarantee the interest of workers. Investment can not be encouraged at the expense of the working class. In addition, they focus on activating the role of the Ministry of Labor in following up implementation of the Labor Law, identifying its role in inspecting economic establishments through allocating sufficient financial resources for it, giving priority to workers' safety through implementing procedures that promote the status of the inspectors and achieve workers' interests, and allocating a sufficient budget for the Inspection Administration and Units to upgrade the profession of inspection. Vehicles should be made available to facilitate inspectors' movement in the different governorates. Also, the number of inspectors working in the different departments and directorates of inspection and work protection should be increased to keep pace with the increasing number of economic establishments. The number of women inspectors should also be increased.

<sup>138</sup> Interview with the Director of the General Administration of Inspection and Labor Safety of the Ministry of Labor, Mr. Abdul Kareem Daraghma. Interviewed 27 January 2014, at the Ministry in Ramallah.

## Recommendations

1. The Ministry of Labor should set up a national system for occupational safety in partnership with employers and workers, and with a view to ensuring protection and occupational safety for workers.
2. The Ministry of Labor should set up a national strategy for health and occupational safety. It should also allocate a budget necessary for upgrading occupational health.
3. The Council of Ministers and the Ministry of Finance should allocate the budgets necessary for developing a work inspection system by increasing the number of inspection staff and providing them with logistics services.
4. The Ministry of Labor should amend the relevant labor laws to tighten sanctions and penal procedures on violations of health and occupational safety conditions.
5. The Ministry of Local Government should ensure the principles of occupational safety through municipal and local councils. They should not grant a license any construction unless occupational safety measures are met.



## Chapter 9:

# The Right to Development

The right to development is a concept of inalienable fundamental human rights that every human person should enjoy since they are the central subject of the development process. They are entitled to participate in and contribute to setting all the plans and programs aimed at protecting their right to comprehensive and sustainable development. Development policies must be mainstreamed into the different economic, social, political and cultural areas to enable all people to enjoy the benefits of development policies, but without distinction relating to race, religion, language, disability or other forms of discrimination.

In December, 2012, the Palestinian Ministry of Justice organized, in cooperation with the Office of the High Commissioner of Human Rights in Palestine, a national conference in which the participants recommended the preparation of a technical document during 2013 that would focus on the four main sectors of the Palestinian development plan: governance and institution building, social development and protection, economic development and employment, and infrastructure. They also recommended an assessment study in each area in order to understand the status of human rights in the different development sectors and then to compile these studies into one technical development report that would identify their needs and submit achievable recommendations to be integrated into the Palestinian national plan.

## I. Overview of the General Budget for 2013

Palestinian President Mahmoud Abbas approved a \$3.8 billion budget for 2013, including \$350 million for development financing and \$1.88 billion for wages. Deviations in the 2013 general budget arose because most of its items are influenced by fluctuating external factors. Available data indicate that revenues for 2013 was \$182 million lower than their prorated target, and this was largely due to slower than expected growth of clearance revenues (down \$36m) and higher than anticipated tax refunds (up \$107m). Total external financing for development expenditures amounted to \$106 million, which was short of what was needed to cover the services that are dependent on foreign aid.

The education and health sectors were not given the required attention while the security sector was prioritized at the expense of all other sectors, taking up the lion's share of the general budget. It is easy to understand that through reviewing the distribution of the budget, which was as follows: security sector with (NIS3,620,500), 27% of the total budget; education with (NIS2,177,329), 16%; Ministry of Health<sup>139</sup> (NIS1,443,478),

<sup>139</sup> Citizen's Guide to the National Budget of 2013, p 13. This guide was prepared in cooperation with the General Budget Administration of the Ministry of Finance and Aman Coalition for Accountability and Integrity.

11%; and (NIS1,418,432), 11% for the Ministry of Social Affairs.<sup>140</sup> Moreover, 80% of the current expenses is used for paying public sector employees' salaries. It is noteworthy that (85,000) of the public sector employees work for the security sector, (55,000) for the education sector and (30,000) for the health sector. A large percentage of the budgets of the health and education sectors is also spent for covering employees' salaries and operating expenses, which undercuts development expenses.

## II. Official Efforts for Implementing the Right to Development

In 2013, the Palestinian government in the West Bank and Gaza Strip adopted numerous steps to enforce the right to development. This right is considered one of the new central pillars of rights and freedoms which all citizens should enjoy. Although ICHR appreciates the government's efforts in this regard, it also insists that there is need to further develop these efforts to meet citizens' needs and protect the rights and freedoms that are guaranteed by national laws and legislation.

### 1. A Rights-based Plan (West Bank)

The Office of the High Commissioner for Human Rights prepared, in cooperation with the Ministries of Justice and Planning, a national plan for human rights rooted in the human rights-based approach. This plan constitutes a document of reference for civil and security institutions to perform their roles in line with human rights principles and standards. It would also be considered as a reference for national development plans. ICHR commends the decision to mainstream gender and development issues into the national human rights plan. In light of ICHR's review of that document, the following observations are stressed:

- a. A lack of harmony exists among the four sectors (governance, justice, rule of law, economic development and social development) since each sector uses a different methodology. This calls for redrafting the document to guarantee harmony among the different sectors and a single structure of the document. For example, some parts of the document focus on the five pillars of the human rights-based approach<sup>141</sup> while other parts therein ignore all or some of these principles.
- b. The impact of the political division on the document is obvious in that it covers the West Bank without the Gaza Strip, except for some parts that superficially refer to the Gaza Strip. Besides being a technical document specific to the West Bank only, it does not outline the interactive role of the governmental departments and civil society organizations with the different forces and bodies in the Gaza Strip. Since it is a plan aimed at mainstreaming human rights into the national document, it should have clear mechanisms for its implementation in the Gaza Strip.

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<sup>140</sup> Ibid.

<sup>141</sup> The human rights-based approach is a theoretical framework of a human rights-based development process focusing on human rights protection. The five principles of the human rights-based approach are: legal obligation, participation, accountability, non-discrimination towards marginalized groups and empowerment.





- c. The document does not include any reference to developing or amending criminal justice laws or relevant policies that should be consistent with international human rights standards.
- d. There are no references to the principle of accountability nor to identifying the responsibilities of the different components of the justice sector.
- e. The budgets allocated for the (4) sectors are unspecified. Although it is essential that they should be sufficient for the social and economic sectors that promote respect for human rights and public freedoms, there should also be clear mechanisms for consultation with the PLC and civil society organizations concerning allocation of budgets to guarantee the principles of participation and accountability being two fundamental principles of the human rights-based approach. Accordingly, it should explicitly call for allocating budgets required to implement plans in line with the human rights-based approach.
- f. The document should emphasize citizens' rights to access to information. It should also emphasize the importance of enacting a law to regulate access to information and creating an automated database to which citizens and relevant institutions can have access to obtain information on statistics and judicial courts decisions. This database should be gender-sensitive to cover all information related to gender-based violence and the murder of women. It should also cover the information about marginalized groups (women, children, PWDs) to help shed light on violations patterns, monitoring and documentation. The document should also highlight the significance of promoting an electronic network specific to complaints and human rights units within the different ministries with a view to making a database available that is helpful for monitoring the status of human rights in cooperation with the all stakeholders, including PCBS.
- g. The document is largely based on the policies pertaining to law enactment, legal reform and amendment of basic legislation despite the dysfunction of the PLC and limited powers of the President to issue decree laws in accordance with article (43) of the Palestinian Basic Law. In addition, it has not considered the (74) decree laws issued by the President in the West Bank in accordance with that article and the (35) pieces of legislation promulgated in the Gaza Strip. These legislative interventions increase the legal gap between the two wings of the homeland. Thus, these interventions should stop and focus should be placed on urgent legislation that needs to be issued in light of the internal division and dysfunction of the PLC.
- h. There is a lack of clarity regarding legal responsibility and accountability in case of disregard for these responsibilities.
- i. The indicators of impact measurement, impact standards and verification should be redrafted with more accuracy. Additionally, a draft version of a national human rights plan should be elaborated through further specified implementation programs within the suggested timeline and include the volume of anticipated achievements.

## 2. Social Protection (West Bank)

Gender is an important aspect of social protection. Women's participation in the development process faces several obstacles related to social concepts which weaken women's ability to benefit from development or to actively participate in it. The vision of gender aims to make sure that not only do those who are more fortunate benefit from the returns of development, but that targeted marginalized groups of both men and women also benefit from these returns. It also aims to ensure that the efforts of development shall lead to better social conditions in all areas of life to give everyone the opportunity to participate in the development process.

### III. Social Protection Strategy during 2013

The Ministry of Justice began preparing an action plan for implementing the strategy of gender justice (2-11-2019) in 2013. This strategy arose from the vision of the thirteenth Palestinian government, which included ending occupation and establishing a state. This strategy is based on human rights treaties, women's rights and gender issues for further developing the rules of justice and rule of law, ensuring a fair environment for gender justice on the basis of the goals of the reform and development plan, the thirteenth government platform, international conventions concerning the rights of women, the International Convention on the Rights of the Child, and United Nations Millennium Development Goals. It also takes into consideration the findings of the analysis of the status of gender justice, the needs assessment program, the priorities required to fill in gaps, reaching the long-term vision in the strategy for eliminating violence against women and the achievement of gender justice. The strategy aims to guarantee respect for gender rights with regard to justice in compliance with international conventions, ensure the availability of a preventive and remedial litigation environment for gender justice in line with international conventions, empower the institutions that work in the area of gender justice and develop, unify, and monitor the implementation of a fair and inclusive legal framework for gender.

All gender and social protection plans were based on the National Development Plan of 2011-2013 that aimed to achieve social justice and social equality among all citizens. For example, the action plan of the Ministry of Justice included the strategic goal of "empowering women and promoting their participation in public life." It also outlined the obligations of the PNA's departments towards making a comprehensive review of all effective laws and legislation in Palestine to guarantee women's rights and make certain that the policies and plans of the public sector institutions take several considerations into account. These would include the principle of gender equality, following a zero tolerance policy regarding gender-based violence, and ensuring financing for independent research aimed at monitoring the progress made by Palestinian society towards gender equality. In 2013, the Ministry of Women's Affairs (MWAs) completed the National Strategy to Combat Violence Against



Women for 2011-2019.<sup>142</sup> The importance of this strategy arises from the fact that it encompasses the following:

- a general framework regulating the functions of all the parties and identifying their roles and interrelated activities among the competent authorities to combat violence against women;
- aims to promote the principle of the rule of law to do justice to women and improve the institutional mechanisms in Palestinian society to protect and support abused women in order to strive for a society free of all forms of gender-based discrimination;
- the adoption of numerous policies aimed at promoting protection mechanisms and empowering Palestinian women subjected to Israeli occupation violations, activating international protection mechanisms and improving the quality of the services provided for these women;
- promotes a legal framework and institutional mechanisms aimed at protecting women from violence, integrating the concept of combating violence against women, mainstreaming a gender-sensitive budget into national plans and identifying the role of all stakeholders in combating violence against the Palestinian women living in area (C), East Jerusalem, 1948 lands and the Palestinian controlled territory;
- helps develop and amend local laws for protecting women from violence; abolishes or amends unfair articles of the Penal Procedures Code; builds a complaints system to receive complaints from abused women; prepares protocols and codes of conduct identifying mechanisms of addressing abused women cases; improves social protection and social support provided for abused women; improves health services provided for abused women; improves the police agency mechanisms for handling abused women's cases; and improves regular courts' performance regarding abused women's cases;
- promotes the role of research and documentation in combating violence against women; increases community awareness about combating violence against women; enhances networking among the different organizations working in the areas of protecting women from violence; disseminates a culture of gender equality; and builds a monitoring and evaluation system for both NGOs and GOs.

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<sup>142</sup> Though the Strategy to Combat Violence against Women was completed in 2012, preparing the action plan that is connected with the work of the Ministries and official institutions did not begin until early 2013. This is based in the Ministries of Health, Education, Interior and Social Affairs, though the goals of the strategy are connected with all the ministries in partnership with civil society organizations. The Ministry of Women Affairs revealed some difficulties from the start for preparing the action plans that are necessary for strategy implementation. The other Ministries have not demonstrated any interest in the strategy.

The cross-sector national strategy for gender equality and women empowerment for 2014-2016 was completed in 2013. This strategy has a wide range of aims, from institutionalizing gender in the different government departments and increasing women's participation in the labor market to developing women's health protection mechanisms and improving educational services in Palestine from a gender perspective. It also includes activating women's effective political participation and decision-making, minimizing violence against women, empowering Jerusalemite women to preserve their right to residence and citizenship in the capital of Palestine, and empowering women to enjoy their civil rights that guarantee equality and justice.

In 2013, the social sector strategy for 2014-2016 was completed. This strategy aims to develop social assistance systems, empower poor and marginalized groups, develop social services provision for weak and marginalized groups, and develop a national social security system. There are also plans to support, protect, rehabilitate and empower prisoners, freed prisoners and their families as well as martyrs' families, promote social protection sector governance and develop institutional structures. The following programs are included in order to serve these objectives: an anti-poverty program, family and marginalized groups care program, marginalized groups protection and rehabilitation program, national pension program, and martyrs and injured persons' families protection and empowerment program.

In 2013, the Gender-Sensitive Budgets National Committee<sup>143</sup> started preparing their bylaws. The aim of this committee is to recognize a reference framework and action plan. It also aims to establish a specialized and well-trained staff in each Ministry, for example, to ensure gender-sensitive budgets are in place, follow up the implementation of the action plan, approve of the outputs of the committee activity, and review and develop the budget preparation process. In addition, the committee is also to develop general budget forms, make available general budget-related information, develop governmental institutions' capacities with regard to ensuring financial support for implementing the action plan, prepare assessment reports on gender-sensitive budgets, and guarantee harmony and integrity among budget-related initiatives.

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<sup>143</sup> The committee is comprised of the Ministries of Women's Affairs, Finance, Planning, Local Government, Education, Health, Labor, and the Palestinian Central Bureau of Statistics, the Palestinian General Union of Women, Miftah Foundation, Women's Studies Institute, Birzeit University, Budgets Department/PLC, budgets' local expert, MAS, ICHR, UN Women.



**Based on its participation in preparing these plans and providing its advisory opinion, ICHR has made the following observations:**

1. A weakness exists in the government's commitment to completing and implementing these plans.
2. There has been a failure to link these plans with the government's development budgets in light of financial hardships.
6. There is also a failure to identify sectoral priorities; such a step is necessary to start with to allocate the budgets necessary for implementing the said plans. Otherwise, they would be unachievable theories.
7. Another failure has been to set definite strategies for development plans, to link them with the government's capacity to implement these plans, and to link them to actual achievable budgets;
8. There is a problem in linking the implementation of these plans to foreign financing, which renders them susceptible to political changes and undercutting the government's ability to implement them using local resources. This would adversely influence citizens' rights, especially in light of the financial hardships hitting the government.

## **2. Main Steps Adopted by the Government in the Gaza Strip**

The government in the Gaza Strip recognized the first Development Plan for 2014-2016 after the Ministry of Planning finalized and submitted it to the PLC for approval and according to the law. The plan divided the government's departments into four sectors: productive sector, social sector, security and good governance sector and infrastructure sector. Infrastructure projects took up the majority of the plan followed by the social and security sectors. While ICHR appreciates the steps adopted by the government in the Gaza Strip, it has made the following observations:

1. Because the development plan targets the future, development plan efforts should be unified through promoting joint coordination mechanisms between the two Palestinian governments. It must be based on the principle of legal and geographical unity between the West Bank and Gaza Strip.
3. There is a failure to consider the importance of coordination between the government and civil society organizations working in the Gaza Strip, and this is in spite of the fact that it targets four different sectors that involve numerous civil society organizations.
5. There is also a failure to not only mainstream human rights into the plan as part of development plans but also to give attention to the sectors working in this area.

7. There is a focus on the economic sector and infrastructure sector at the expense of other social sectors, specifically social protection, marginalized groups, women and gender.
9. There is significant linking the implementation of these plans to foreign financing, rendering them susceptible to political changes.



## Recommendations

### 1. General

- The government should consider the comments of ICHR in regard to the development plan, and particularly with more emphasis on the primary categories, including women, children, and persons with disabilities. Particular attention should be attached to the Gaza Strip.
- Legislative amendments should be conducted to match plans and programs in a way that would ensure the government's commitment to their implementation.
- Implementation mechanisms should be developed and programs and indicators should be established to ensure the realization of the vision of the guiding principles of the human rights national action plan into the three-year development plan, with those principles reflected in the general annual budgets.
- The State of Palestine to sign and ratify international human rights treaties and conventions, especially the Covenant on Civil and Political Rights and the Covenant Economic, Social, Economic and Cultural Rights.

### 2. Women's Right to Development

- The Council of Ministers should prioritize sectoral plans over non-sectoral plans to take into consideration the Ministries' priorities and reflect them into budget programs.
- Mainstreaming gender issues into the government's plans and strategies to indicate the interest of the government on gender issues needs to be put into action. The government should allocate financial resources to implement these plans and strategies, and this should be reflected in the annual budgets.
- These strategies and plans should be realistic and achievable. While the Palestinian Legislative Council is not functioning, they should aim to amend fundamental legislation, including the Penal Code and the Code of Personal Status.
- These plans and strategies should be monitored and evaluated to identify gaps, weaknesses and areas for implementation. The participatory approach towards their implementation should be promoted to engage official Ministries and civil society organizations.

## PART III

### Priority Groups







## Chapter 1:

# The Right to Develop, Protect and Promote Children's Rights

This chapter focuses on the rights of the child as put forward under international and national legislation as well as national strategies and plans.<sup>144</sup> It highlights four policy plans: child with disability case management; Palestinian child political participation and representation; safe and fair access to quality education; and Palestinian child general health. It also highlights the indicators for Palestinian child's rights, child's rights in the general budget and sub-budgets, transparency and ICHR's role in handling children's complaints and monitoring their cases in courts.

## I. Child Protection Framework: International and National Levels

### a. International Human Rights Law

Influenced by various legal systems and cultural traditions, the United Nations Convention on the Rights of the Child (UNCRC) is a universally agreed set of non-negotiable standards and obligations. These basic standards, falling within the remit of human rights, established minimum entitlements and freedoms that should be respected by governments. They are founded on respect for the dignity and worth of each individual, regardless of race, colour, gender, language, religion, opinions, origins, wealth, birth status or ability, and therefore apply to every human being everywhere.

With these rights comes the obligation for both governments and individuals not to infringe on the parallel rights of others. These standards are both interdependent and indivisible; we cannot ensure some rights without, or at the expense of, other rights. The United Nations Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights: civil, cultural, economic, political and social rights. In 1989, leading international organizations and individuals agreed that children needed their own specific convention since people under 18 years of age often need special care and protection that adults do not, and these special considerations needed to be codified to ensure children receive those rights.

The Convention sets out these rights in fifty-four articles and two Optional Protocols. It spells out that the basic human rights children everywhere have are: survival; to develop to the fullest possible extent; protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The four core principles of the Convention are non-discrimination; devotion to the best interests of

<sup>144</sup> This part of the report is extracted from the manual *Child's Rights between Reality and Law*, prepared by Save the Children International and ICHR.

the child; the right to life, survival and development; and respect for the views of the child.<sup>145</sup> Every right spelled out in the Convention reflects a child's inherent human dignity and the need for the harmonious development of every child. The Convention protects children's rights by setting standards in health care, education, and legal, civil and social services. In addition, the rights of the child or juvenile in conflict with the law are stated in other conventions as well, including the United Nations Guidelines Concerning the Juvenile Justice System, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules Relevant for the Protection of Juveniles Deprived of their Liberty.

## b. Legal Framework for the Rights of the Palestinian Child

### 1. Palestinian Basic Law

Palestinian Basic Law confirms the necessity of respecting the rights of the child in the second part of the document, Rights and Public Freedoms. Article (29) asserts the following:

Maternal and childhood welfare are national duties. Children shall have the right to: comprehensive protection and welfare; not to be exploited for any purpose whatsoever, and not to be permitted to perform work that might damage their safety, health or education; protection from harmful and cruel treatment; not to be subjected to beating or cruel treatment by their relatives; to be segregated from adults in cases where they are sentenced to a penalty that deprives them of their freedom; and to be treated in a manner that is appropriate to their age and aims of their rehabilitation.

### 2. Palestinian Child Law

The interest of Palestinian legislation in ensuring respect for human rights can be observed through Palestine's Child Law No. (7) of 2004, which could be considered a model law upgrading the legal and social status of the Palestinian child. The International Convention on the Rights of the Child was referred to by the Palestinian legislation as the legal basis for the the Palestinian Law of the Rights of the Child. Article (2) of this law, for example, states,

*"This law aims to advance childhood in Palestine, strengthen the child's feeling of national and religious identity, enable him/her to enjoy sound morals and to lead a free responsible life. It also aims to protect the rights of the child to survival, development, safety, freedom and an advanced life and to raise public awareness about the rights of the child and engage him/her in the areas of social life."*

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<sup>145</sup> States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.



### 3. Juvenile Reformation Law No. (16) of 1954

This is enforced in the West Bank, and along with Juvenile Criminal Law of 1937, and neither is in harmony with current criminal policies. They criminalize the child instead of treating him/her as a victim in need of rehabilitation. However, the Ministry of Social Welfare prepared, in co-operation with the relevant ministries and institutions, the Juvenile Protection Draft Law, which is compatible with the provisions of international treaties and advanced criminal policy. This draft law is still pending approval by the President of Palestine.

### 4. The Penal Procedure Law of 2001

Currently in force in the West Bank and the Gaza Strip, this law does not allow a child under (15) years to file a complaint with the court. Article (6) states, “a child under the age of (15) years can not file a complaint with the court except through his/her guardian.”

Concerning another legislative development in relation to child rights, on 16 July 2013,<sup>146</sup> the Council of Ministers issued Decision No. (10) of 2013, relevant to child custody and parenting.

## II. National Plans and Strategies for Children’s Rights

The government has numerous plans and policies, but its emphasis on children, particularly marginalized children, is limited due to lack of financial and specialist human resources. There is no specified budget for children even though they make up more than 50% of the Palestinian population. Moreover, it is difficult to implement the government’s plans and policies when there is so much dependence on foreign aid. Apart from that, the deteriorating Palestinian political, economic and social situation resulting from Israeli occupation policies and practices, the division of Palestinian land and absence of Palestinian sovereignty on borders and resources undermine the government’s ability to implement long-term plans. What adds insult to injury is the absence of an effective national body for monitoring Palestine’s policies, plans and budgets and their harmonization in regard to the rights of the child.

Palestine has issued a diverse host of plans such as the development, emergency, humanitarian and national plans. Each planning frame has different principles, objectives, purposes, implementation mechanisms, indicators and monitoring systems. This inconsistency makes it difficult to evaluate what was achieved, by whom, when and where. The absence of impact analysis for any of the above mentioned plans demonstrates that clearly. Furthermore, there is no central approach for assessing children’s needs and identifying their rights. As long as the government has its own plan and other parties have their own humanitarian and development plans, the implementation system shall continue to suffer from expanding gaps. Moreover, duplication or overlap and ineffective use of local and international resources shall persist.

146 For more, see: <http://www.lab.pna.ps/ar/cp/plugins/spaw/uploads/files/magazine/22102013102.pdf>

The main challenges and gaps facing planning for child's rights are: lack of harmony between legislation and policies; lack of awareness, knowledge of and skills for translating the objectives of child's rights into national plans; and miscalculation of plan costs. This calls for better use of data and information for identifying targeted groups and beneficiaries, training on how to set policies and make calculations, and adequate knowledge of the resources available for children to prioritize their needs.

What should also be addressed is the absence of children's role in preparing national sectoral plans. They are not treated as a category targeted by national plans and programs, and so they are not involved in the preparation of these plans. Concerning the government's plans and policies, it issued four policies aimed at improving the status of children in Palestine during the years of 2012 and 2013. These policies are discussed below.

### **1. A Support System<sup>147</sup> for Children with Disabilities**

This policy paper focused on the protection of children even though the policy of the Ministry of Social Affairs covers children with disabilities only. It was envisaged to include all children since they represent the most marginalized and most vulnerable category of society. For this reason the Ministry planned to ensure systemic, integrated and inclusive services that would meet all children's needs. Such services and programs would need great efforts to amend the laws and legislation relevant to children with disabilities. They also would require regulations and policies that ensure integration of all the services provided for children with disabilities into all sectors.

The strategy of the Ministry of Social Affairs focused on four trends to enforce the rights of children with disabilities. These trends are: developing the laws and policies that safeguard the rights of children with disabilities to promote their support in society; supporting their economic independence to ensure their integration into society, especially labor markets; ensuring and developing necessary services for them; and promoting the institutions which provide their support.

Meeting the rights of children with disabilities requires effort and time since it is a continuing progressive process. The Ministry of Social Affairs began some steps such as issuing a disability identification card, approving allocation of funds for a PCBS survey study of PWDs' situation in 2011 in cooperation with the Ministry, and the Council of Ministers' approval of revitalizing the Higher Council for Affairs of Persons with Disabilities in 2010.

### **2. Participation and Representation Policy<sup>148</sup> for Palestinian Children**

Planning in the area of child's rights arises from the importance of treating children as an important category of society and as decision-makers. The vision of the Higher Council of Youth and Sport was founded on that norm to enable youth from different

147 For more, see: [http://www.lidf.ps/documentsShow.aspx?ATT\\_ID=7382](http://www.lidf.ps/documentsShow.aspx?ATT_ID=7382)

148 For more, see Child's Participation and Representation Policy, Save the Children International, 2013.



categories of the society to act responsibly and have access to information and development services as well as learning self-reliance and critical thinking.

Palestinian society still does not take children's opinions and views seriously, and this explains why plans and programs aimed at promoting children's participation are hardly taken into account. The treatment of children in Palestine is not rights-based in terms of ensuring necessary opportunities for reviewing relevant plans and policies, though it is integrated into some cultural programs. Apart from that, children hardly have the opportunity to express themselves, and have neither participation nor representation in several organizations working in the areas of human rights. In order to realize the right of children to participate in public activities, their protection should first be guaranteed to ensure that they would not be subjected to harm for expressing their views and opinions. Their right to raise their voice is a fundamental right enshrined in international laws and conventions. They are the most capable of describing their needs and expressing their wishes, so their participation would promote their self-confidence and allow them to develop their communication and cooperation skills. It is noteworthy that the programs aimed at engaging children and youth are highly significant, but they still need more attention in terms of implementation and development to become a philosophy of life.

Children's participation policy focuses on preparing programs aimed at upgrading public awareness about the importance of children's participation and empowering them to express themselves and listen to others, particularly in the marginalized areas in which they have no participation in decision-making. At the same time, this policy allows adults to become familiar with the thoughts and prospects of children and youth.

### 3. Policy of Safe and Equitable Access to Quality Education<sup>149</sup>

This policy was adopted in line with the vision of the Ministry of Education, which is

*"to prepare citizens who are proud of their religious values, national identity, country, and their Palestinian, Arab and Islamic culture; who contribute to the development of their society; who think critically and actively seek knowledge, innovation and creativity; who interact positively with the requirements of scientific and technological development and are capable to compete; who are open to other cultures and regional and international markets; who are capable of building a society based on equality between males and females and upholding human values and religious tolerance; and build up an education system which is accessible, diversified, multiple, flexible, effective, efficient, sustainable, responsive to local needs."<sup>150</sup>*

Complying with the main policies of the Ministry of Education which emphasize the right of all children to education, the Ministry of Education envisaged, in partnership with the stakeholders, the development of a national policy focus on quality education.

<sup>149</sup> For more about the report, see: [http://www.lcf.org.ps/documentsShow.aspx?ATT\\_ID=7384](http://www.lcf.org.ps/documentsShow.aspx?ATT_ID=7384)

<sup>150</sup> Cross-sector education sector, MoE (2011/2013-).

This would include teachers' rehabilitation, minimizing poverty through ensuring educational services for all (with affirmative action for marginalized areas), linking education with the needs of the labor market, broadening the range of technology use in the education system, involving the private sector through consultation in the area of policies and programs, encouraging investment in Jerusalem, and improving partnerships between governmental institutions and civil society organizations. This national policy aims to ensure safe and equitable access of all children to quality education in Palestine, especially in marginalized areas. This could be achieved through an appropriate legal, social, institutional and empowering environment. Such an environment would allow development of educational methodology, reduction in the rate of dropouts, and provide the child and family with the mechanisms necessary for ensuring compulsory education at the central and non-central levels.

This policy also discussed priorities in respect to developing mechanisms, protocols and systems necessary for handling the factors that hinder children's enrollment, such as poverty, early marriage and child labor. It also calls for amending Palestine's Education Law and identifying the responsibilities of the Ministry of Education and its partners regarding compulsory education. In addition, it should include identifying the responsibilities of the family, civil society, private sector and UNRWA in regard to compulsory education and development of quality education in order to arm the child with the best skills and knowledge, increase the funds allocated for the educational sector, raise awareness and build up support for developing the levels of education, and ensure access to education for all Palestinian children, especially in marginalized areas.

#### **4. Public Health Policy for Palestinian Children**

The Palestinian territories suffer from complicated conditions due to Israeli occupation practices that led to the deterioration of the health conditions as well as the geographic division (lack of contiguity) of the Palestinian territories due to Israeli military checkpoints and zones on the one hand, and the political division between the West Bank and Gaza Strip on the other. The above situation has had negative effects on the health status of children, especially in marginalized areas and within marginalized groups. This situation has also led to a health system with multiple service providers who are not sufficiently coordinating and sharing information among themselves.

This policy focus is based on prevention programs targeting children and their lifestyles in parallel with curative interventions. Early and proper detection, diagnosis and intervention will help alleviate the suffering of many children and their families in the future, and will constitute a cost-effective strategy for the government in economic and social terms. This requires enhancing the natural and social environment of children and their families, and equipping them with life skills that they will need to make the right decisions, and adopt healthy lifestyles and behaviours in order to enhance their health as active members rather than passive recipients of the service.

The strategy of the Palestinian public health policy for the future aims to develop



a health action plan for the the next ten years, identify health needs, combat the adverse influences of poverty and low living standards, and establish special funds for marginalized children or for the children who suffer from NCDs or disabilities. This strategy also includes plans to develop a broad sectoral approach with a budget allocated for children, a review of Public Health Law and other relevant legislation to guarantee the rights of children in general, and with affirmative action for marginalized children. It also aims to increase the funds of the health sector that target the children, computerize their files, appoint specialists in planning, evaluation and monitoring as well as health supervisors and educators, and develop a code of conduct in regard to the health staff's responsibility for children and their rights. There is also a need to develop definite systems for handling medical negligence, establish an early detection/diagnosis system and monitoring mechanism, develop a comprehensive national database and classified indicators, and set up a system for the management of marginalized children's cases in cooperation with the relevant Ministries and institutions.

Preparing and developing comprehensive plans and strategies for children based on the International Convention on the Rights of the Child is a prerequisite for realizing the rights of the child. These plans and strategies should closely relate to the National Development Strategy, with sufficient financial resources for their implementation. Monitoring and evaluation mechanisms should also be created for full implementation of the action plan, including facilitating progress in the measurement and identification of gaps. This should be carried out in cooperation with all stakeholders with a view to establishing a comprehensive strategy for children and ensure its incorporation into the National Development Strategy. The comprehensive strategy for children should include guidelines and resources necessary for child protection local mechanisms to evaluate, implement and monitor the national policy and action plan of children and adolescents, and guarantee a national action plan relevant to the children of minorities, such as refugee children.

The State should meet a number of conditions while preparing plans. Some of these conditions are pertinent to laws and legislation amendments since these plans should be based on local and international laws. They may also have a role in reviewing and amending these laws, when necessary, to ensure children's rights, secure the best for them without discrimination, ensure their participation, minimize all forms of violence against them and establish and develop children's institutions and clubs. Encouraging children's participation starts from the first stage of identifying their needs through the stages of supervision, implementation and evaluation. It is worth mentioning that children's programs and projects have not reached marginalized areas and marginalized groups yet. Thus, these programs should target all levels to reach to all children without discrimination.

Priority should be given to children with disabilities, delinquent juveniles, marginalized children, children languishing in Israeli prisons, refugee children and to the children who suffer because of violence and the armed dispute. Concurrently, capacities of the competent authorities should be developed in the following areas:

planning, implementation, monitoring and evaluation of children's rights programs, ensuring friendly environment for all sectors, coordination and cooperation with all stakeholders, sufficient utilization of resources, setting a national framework to be used as a guideline by the decision-makers working in areas of childhood, and creating programs for all age groups, taking into consideration the basic principles of the rights of the child.

### III. The Rights of the Child and Budget Inclusion

The budget allocated for the realization of the rights of the child is extremely limited. Moreover, an effective mechanism to monitor the resources allocated for that purpose and the impact of the available national and international resources from a child's rights perspective is lacking. Thus, the State should allocate sufficient funds from the budget in compliance with article (4) of the Convention on the Rights of the Child relating to children's right to survival, development, protection and participation. The State's budget should take into consideration the rights of the child through a system set to monitor the resources allocated for children's issues and the extent of investment in the area of childhood. This could be achieved if the State uses the monitoring system to make an assessment of how investments would influence any sector for the maximum benefit of the child. International support should be required for this also, when necessary. Moreover, inclusive assessment of social needs in the governorates that are affected by the armed dispute should be conducted, and definite funds should be allocated to overcome the differences in the living standards of children.

The State should guarantee transparency and participation in preparing budgets based on a participatory approach that involves the public, especially children. It should also monitor the local authorities and embody the principle of accountability therein, introduce strategic items into the budget to help the most vulnerable children and adopt positive social measures in this regard, such as birth registration and nutrition. These items must be safeguarded and implemented, even in cases of crisis. The State should allocate an independent budget for children in line with the resources it has.

The State should also adopt inclusive steps on the different governmental levels to guarantee children's interests as a priority in the economic and social plans and the budget-related decisions. In addition, it should ensure children's protection from the negative impact of any political and economic policies and translate those policies and political obligations into expenditures. It should fulfill its financial obligations towards children in compliance with the UNCRC to improve targeting and guarantee spending sustainability to realize children's rights. The realization of these rights should not be connected with the donor countries' support, although it is fundamental for such programs' sustainability.

Given the current situation in Palestine and the government's dependence on foreign aid to support its development goals, it does not allocate special resources for





children's issues. It also does not have a specialist staff to monitor and analyze the budget to provide information about the funds allocated for children from the national budget, either. Thus, it should set up a committee to allocate resources and analyze the budget in the current political context and economic situation resulting from it. The economic development tools of the developed and developing countries (monetary and financial policies, control of natural resources and borders) are lacking in the Palestinian territory since it is still under occupation. Human rights organizations with a child rights mandate, such as ICHR, should have a role in monitoring and reviewing the general budget. ICHR presents its observations regarding the general budget before being approved to ensure the allocation of resources for children to meet their needs as much as possible.

#### **IV. Indicators of the Rights of the Palestinian Child**

Most children's rights implementation indicators in Palestine are welfare-based rather than rights-based. Achieving children's rights governance requires dissemination of reliable and disaggregated data and information about children's lives, identification of institutions' and individuals' responsibilities and obligations towards implementing children's rights, and realization of the principles of children's participation and equality. It also requires achievement of children's interests through incorporating them into the national policies, legislation and plans.<sup>151</sup> Children's rights indicators should be developed and monitored to ensure the government's commitment to fulfilling its obligations towards children's rights and specify the extent to which it implements the laws and legislation related to the protection of the child. These indicators also guarantee the achievement of transparency and accountability on the basis of targets specified in the national plans, policies and programs, and constitutes a guideline that can be used by policy-makers to improve the status of children and develop their capacities. In addition, they help specify the standards for identifying the basic priorities of each sector of child development. Availability of reliable indicators enables the relevant institutions to compare and identify the progress achieved, evaluate the different interventions and the reasons behind their success or failure, and identify the gaps and weaknesses in the area of children's rights.

It is important to stress that the Palestinian children's rights indicators document is not aimed at institutionalizing all indicators today. Instead, it aims to systematically and progressively develop them through a medium and long-term policy that specifies clear national definitions and methods and what may be necessary from databases for submitting periodical reports and monitoring the status of the children's rights in the occupied Palestinian territory within a reasonable period of time.

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151 Child Rights Good Governance Analysis Tool, March, 2012, Save Children International.

## V. Transparency and Accountability

Parents have the primary responsibility for raising their children, and the government, being the representative of the people, has to fulfill its responsibility in this regard, too. Although the Convention addresses governments in general to fulfill their obligations towards children, it also addresses each individual to shoulder his/her responsibility as well. The standards of the Convention can not be implemented unless they enjoy respect by all, including, guardians, family members, schools, public and private institutions, persons working in the areas of childhood and courts. Each of these categories should perform its role, taking into consideration the standards set by the Convention. The Convention refers to the family as the basic unit of society and the natural environment for children's advancement and well-being. Governments should respect the rights and responsibilities of families to direct and guide their children through providing care, financial assistance and support programs for them. Decision-makers should exercise a maximum effort to prevent children from being separated from their families unless it is detrimental to them.

## VI. Children's Complaints Monitoring System

Children make up about 50% of the Palestinian population, falling within the vulnerable groups that need special representation and protection due to their special needs and rights. The children's complaints monitoring system was established to respond to that situation and maintain children's rights through emphasizing these rights in the laws, legislation, the state's agencies and institutions and through monitoring and documenting any action committed in breach of these rights.

ICHR envisaged, through its rights-based approach, to introduce this program into its strategic and operating plan as part of a special vision targeting the most vulnerable groups. It formed a committee of researchers in the West Bank and Gaza Strip within the framework of monitoring and overseeing on the the governmental institutions dealing with children, including detention centers and prisons.

In the same context, ICHR monitors the performance of the police units in charge of juvenile and family protection. It also monitors the performance of the probation officer and child protection networks, including the Ministry of Social Affairs, since it is legally mandated and responsible to follow up on the issues related to the protection of people under the age of 18 years. Caring for children and protecting their rights is an interrelated and interdependent process that has different forms and dimensions.

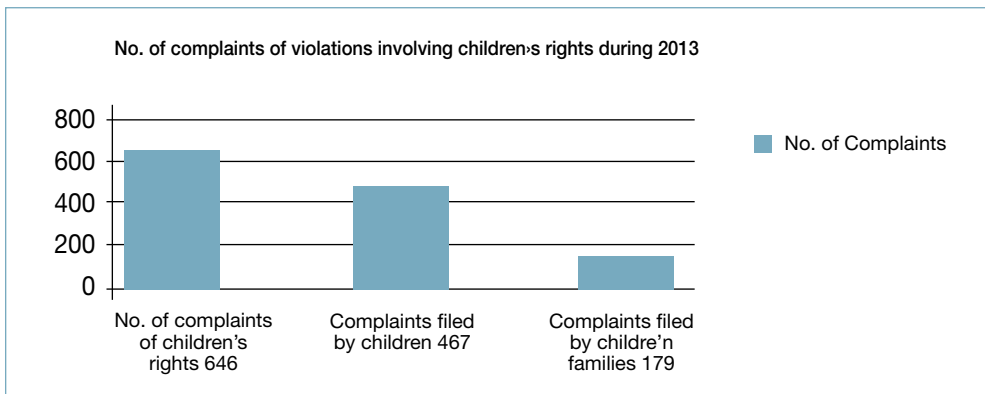
Regarding the Gaza Strip, the government has not established a specialist police unit in charge of children and family issues. Thus, children in conflict with the law are treated as adults. They are denied the right to fair trial guarantees simply by being a vulnerable group unaware of its fundamental rights which are guaranteed by national laws and international conventions. In light of this, it is imperative to urge the law enforcement authorities to establish a police unit specializing in juveniles cases and primary investigations to ensure justice and maintain the rights and protection of the child.



ICHR hopes that the State of Palestine would, following ratifying and joining international conventions and treaties, including those on the rights of the child, amend the national laws and legislation in a manner consistent with the provisions of these conventions and treaties.

## VII. Children's complaints filed to ICHR during 2013

In 2013, ICHR received (646) complaints related to violations of children's rights. These complaints were distributed as follows: (467) complaints filed by children themselves; (179) complaints filed by children's families.



## Recommendations

### 1. Legislative

- Urge the State of Palestine to sign and ratify the UN Child Rights Conventions, and upon its accession, develop by-laws to ensure they legally abide with the Conventions through identifying responsibilities attached to ministries and official institutions.
- Ministries to review Palestinian legislation to ensure compliance with amended Palestinian Child Rights Law and international human rights treaties, including the UN Child Rights Conventions, to further enhance the protection and promotion of children's rights.
- Consolidate efforts to formulate the Higher Council of Children's Rights in accordance with the amended Palestinian Child Rights Law to monitor the implementation of children's rights by all duty-bearers.

### 2. Policy, Strategy, Planning and Budgets

- Call on the Ministry of Planning and Development, (in cooperation with other ministries such as the Ministry of Social Welfare, the Ministry of Education, the Ministry of Health and the Ministry of Labor) to review all relevant strategies, plans and policies, and take necessary measures to ensure the mainstreaming of children's rights and the best interest of the child in a clear way into all relevant strategies and policies.
- Call on the Ministry of Finance in cooperation with all other Ministries to allocate funds for the protection and promotion of children's rights in the annual budgets.
- Call on all Ministries to involve children and encourage their participation in developing national plans and identifying priorities.
- Call on the Ministerial Cabinet, in cooperation with all relevant Ministries, to develop national systems and procedures to ensure the monitoring and the protection of children's rights, including inter-alia, systems related to data collection and analysis, and national referral systems, and systems for monitoring and evaluation.
- The development of a clear plan for human, financial and technical resources required to address the needs of vulnerable groups, especially of children with disabilities, for example.
- Call on the Government to develop a clear plan reflecting responsibilities of official duty-bearers in combating poverty, child labor, and violence as well as neglect of children.



- Call of the Palestinian Bureau of Statistics to provide information, statistics and reliable indicators on the status of children in all fields and identify existing gaps, and ensure that those gaps are brought to the attention of decision makers and official duty-bearers.
- The development of a clear plan for the human, financial and technical resources required to address the needs of vulnerable groups, especially of children with disabilities, for example.
- Call on the Government to develop a clear plan reflecting the responsibilities of official duty-bearers in combating poverty, child labor, and violence as well as neglect of children.

## Chapter 2:

**Persons with Disabilities (PWDs)**

Persons with Disabilities are persons equal before and under the law and are entitled without any discrimination to the available services and respect for their inherent personal dignity and individual autonomy.

**I. National Legislation and Policies Relevant to PWD Rights****International Human Rights Law**

The rights of PWDs are based on the general principles of human rights that guarantee equality and non-discrimination among all human persons. The principle of non-discrimination is a fundamental safeguard for peoples' enjoyment of all freedoms and rights enshrined in international conventions and treaties. Following on that principle, all PWDs are entitled to enjoy the right to civil, political, economic, social and cultural rights enshrined in laws and on an equal basis with other persons.<sup>152</sup> International and regional conventions and national legislation pay great attention to the rights of PWDs, and allocate significant provisions and articles for them, especially through the decisions, declarations and conventions proclaimed by the United Nations General Assembly and regional authorities relevant to human rights. These documents confirm respect for the rights of PWDs and governmental commitments to include the issues of PWDs into the development plans, policies and strategies to improve their conditions.<sup>153</sup>

**2. National Laws and Bylaws for Regulating the Right of PWDs to Work**

At the national level, the range of legislation enforced in Palestine addresses the rights of PWDs through several decisions issued by the Ministries and the President's Office in addition to drafting special legislation.

**a. Palestinian Amended Basic Law of 2003**

Fundamental rights constitute general principles of Palestinian Basic Law, which explicitly provides for the principle of equality among citizens. Article (9) of that law states "Palestinians shall be equal before the law and the judiciary, without distinction

<sup>152</sup> See Sallah Abdel Ati, Manual of the Rights of PWDs, ICHR 2012.

<sup>153</sup> See the following resolutions, declarations and conventions issued by the UNGA: Res/28561971/, relevant to mentally retarded persons; Res/34471975/, relevant to equitable rights of PWDs on equal basis with other persons; Res 371982/52/, relevant to International Work Program for PWDs; Res/8231/ issued on 131976/12/. Declaration of the period between 19821992- as an International Decade for PWDs; Res/481993/96/, relevant to the definite rules for achieving equitable opportunities for PWDs. Declaration on the Rights of PWDs of 1975; Report of UN Secretary General on Implementation of the International Platform Relevant to PWDs (15762//A); International Convention on the Rights of PWDs of 2006. Also see Article (40) of the Arab Convention on Human Rights.



based upon race, sex, color, religion, political views or disability.” Article (10) of the same law guarantees protection of human rights. It stresses “basic human rights and liberties shall be protected and respected, and the Palestinian National Authority shall work without delay to become party to regional and international declarations and covenants that protect human rights.” Palestinian Basic Law does not include a specific article ensuring PWDs’ right to work, but article (22/2) asserts “maintaining the welfare of families of martyrs, prisoners of war, the injured and the disabled is a duty that shall be regulated by law. The National Authority shall guarantee these persons education, health and social insurance”. And article (25) states “Every citizen shall have the right to work, which is a duty and honor. The Palestinian National Authority shall strive to provide work for any individual capable of performing it.” It also stresses that work relations are to be regulated in a manner that guarantees justice to all and provides workers with welfare, security, and health and social benefits.

#### **b. Disability Rights Law No. (4) of 1999**

The PLC approved the Disability Rights Law in 1999 and its executive bylaws in 2004. It provides for a set of rights of PWDs, enabling them to live in dignity. In 2004, the President of the State of Palestine issued a decree to establish the Supreme Council of Disability to follow up implementation of the Disability Rights Law, set policies and plans and monitor attitudes implementation.

The general framework of the issue of PWDs is still centered on partial application of Disability Rights Law No. 4 of 1999, depending on the understanding and responsiveness of the official in charge in each Ministry. This entails that these Ministries and departments still have no institutional mechanism or methodology for implementing this law and allocating special funds for that purpose in accordance with a definite timeline.

The Palestinian legislature focused on the right of PWDs to work. The provisions of disability law require the allocation of 5% of jobs in large institutions to persons with disabilities. Article (10) of the law stipulates that governmental and nongovernmental institutions should absorb a number of PWDs in not less than (5%) of the jobs available at each of them. It also calls for adapting workplaces to the needs of PWDs. Disability Rights Law No. 4 of 1999 also encourages private sector institutions to employ PWDs through discounting a rate of their income tax for the benefit of these institutions.

#### **c. Palestinian Labor Law No. (4) of 2000<sup>154</sup>**

This law is consistent with the Disability Rights Law regarding the right of PWDs to equitable job opportunities in the private sector. Article (1\1) of this law defines PWD as:

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154 Ziad Amre, PWDs’ Rights, issued by ICHR, 2001.

*The person who sustains a physical, sensory or mental disability occasioned from an illness, on accident, congenital defect or a hereditary factor rendering him disabled to continue working or seeking a work promotion, or weakening his ability to perform one of the other basic functions in life without care and rehabilitation required to have him integrated or reintegrated in the society.*

Article (13) of the Disability Rights Law states that “public and private institutions shall reserve 5% of jobs for PWDs. This article applies to large institutions that employ not less than 20 persons.” This keeps the possibility of discrimination against PWDs active since the employment levels of most of institutions in Palestine is less than that.

#### **d. Palestinian Civil Service Law No. (4) of 1998155**

The focus for this law is on the rights of PWDs by providing for them in a number of its articles. For example, article (1) states

*The Council of Ministers defined by a decision a percentage of jobs to be allocated for freed prisoners and persons injured in resistance operations, provided that they can do their jobs. The decision also describes the injured entitled to this right and the rules of occupying these jobs; 2. It is possible to employ the spouses of the injured, one of their brothers or sisters in charge of supporting them in the event that they can not do these jobs by themselves.*

## **II. National Strategic Plans**

National policies perform a significant and complementary role with respect to implementing national legislation through setting strategies, programs, general policies and implementation and monitoring mechanisms. These mechanisms are important to monitor the extent to which the competent authorities are complying with national legislation. The measures taken in light of the national policies are divided into two parts: governmental measures taken by the competent ministries and departments and non-governmental measures taken by quasi-governmental institutions, unions and relevant civil society organizations. These measures are described below.

### **1. National Development Plan for 2011-2013**

This national policy platform of the PNA<sup>156</sup> focuses on the development of the social services sector, citizens’ access to basic services in the education and health sectors, and ensuring basic social protection with a view to protecting marginalized

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156 Palestine was accorded Observer State status at the United Nations with 138 states voting in favour, 9 against and 41 abstentions; 29/2012-11-.





groups and putting an end to poverty.<sup>157</sup> The plan emphasized the importance of realizing social justice and equality among all the people of Palestine and paid special attention to developing social protection and empowerment of marginalized groups during 2011-2013. To that end, when the government earmarked (\$37) million to broaden and guarantee the quality of the services provided to PWDs, it included those who suffer from one or several disabilities. It is worth mentioning that this is the first time a national plan has referred to disabilities at all. This indicates the beginning of decision-makers paying attention to disability issues in national plans and strategies.

## **2. Strategic Framework of the Disability Sector in Palestine (2013)**

The Ministry of Social Affairs announced a strategic framework for the disability sector in Palestine on the basis of a human rights approach. This approach was adopted by the Supreme Council of Disability as the body responsible for planning and monitoring the affairs of PWDs with a social protection vision based on a human rights approach rather than a social or humanitarian approach.<sup>158</sup> This framework, which is a national reference binding to all the relevant authorities at the national level, unifies the vision, policies and objectives in a manner that enables the competent authorities to draw out national programs and interventions, guarantees the unity of the national efforts and community vision of the programs designated for PWDs, and supports efforts to adopt a human rights based approach instead of a social approach. The human rights-based approach addresses disability via their strategic program in regard to five significant issues: disability and policies; disability and rights; disability and poverty; disability and attitudes; disability and access to available opportunities. ICHR participated in the workshops and meetings held to discuss this strategy, doing so as an observer member of the Supreme Council of Disability.

## **3. Social Protection Sector Strategic Plan 2011-2013**

The development plan of the Ministry of Social Affairs for 2011-2013, which is aimed at reformulating its programs and interventions with respect to protection and empowerment of vulnerable and marginalized groups such as the poor, persons with disabilities and the elderly, is complementary to the strategy of social protection which was approved by the Council of Ministers in mid 2010. This strategy comes in the context of implementing the national policies platform and defining priorities of the social protection sector. It also came in the context of the government plan for 2009-2010 (ending occupation, building the state), allowing the Ministry to redefine its roles and responsibilities as a leader and organizer of the social protection sector.

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<sup>157</sup> National Development Plan, 2011-2013; MoPAD, April, 2011.

<sup>158</sup> Ministry of Social Affairs announced the strategic framework of the disability sector in a ceremony organized at the Palestinian Red Crescent premises entitled "Together towards a Unified Society". Prime Minister Fayyad, Minister of Social Affairs; Magida Masri, Representative of Red Crescent Committee, Diakonia; and various NGOs participated in this ceremony on 23/2012/12/.

Regarding the rights of PWDs, the plan has emphasized the importance of promoting the policies and laws that guarantee their rights and inclusion into society through developing the legislation. More emphasis needs to be placed in this regard on reviewing and amending Disability Rights Law. The plan also emphasized the importance of improving the basic infrastructure of the educational tools, training teachers and supervisors as well as ensuring other services in schools and adapting them to the needs of PWDs. This should be accomplished in partnership and cooperation with the Ministry of Education. It emphasized the necessity of empowering PWDs to achieve their economic independence and inclusion into society, especially in the labor market. Additionally, it emphasized the importance of strengthening the institutions concerned with PWD issues through developing them. This requires from the concerned parties studying their needs to fill in the gaps<sup>159</sup> and building partnerships with them.

### **III. The State's Role and Responsibility Implementing PWD Rights**

The state is responsible for creating appropriate national conditions to enforce the right to development, contribute to enabling the environment, and guarantee justice and equality for all PWDs. To that end, the issues of PWDs should be mainstreamed into the policies and programs of all the different ministries. Such a process is much more difficult in Palestine than in more affluent countries in light of scarce resources, especially since the the right to development is so strongly linked to the right to self-determination, which would include full sovereignty over natural resources and wealth. However, the Israeli occupation and its daily practices undermine these rights and complicate the process of development. What aggravates the situation more is the Israeli occupation's arbitrary measures and control over the land, borders, resources and wealth. In addition, dismembering Palestine geographically and encouraging the repressive settlement building policy poses serious threats to the existence of the Palestinian people and any ambition to achieve development in general, and for PWDs in particular. These occupation policies hinder improvement for the Palestinian people's lives and deprive them of the right to enjoy life. In addition to that developmental baseline or starting point, the cultural attitude towards disabilities in Palestinian society hinders integration of PWDs into society because of its social based approach rather than a human rights approach.

The disability sector receives its main support from the governmental institutions and CBOs since the legislative and executive institutions of the government are responsible for planning, formulating policies and laws and implementing these laws. They also lead coordinating efforts since they preside over committees formed to coordinate among the different organizations with respect to definite issues, including disability. These committees include the Supreme Council of Disability and

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159 See Strategic Plan of the Social Protection Sector 20112013-: <http://www.mosa.pna.ps/ar/index.php?p=9>



the National Committee on the Disability Identification Card, chaired by the Ministry of Social Affairs. The different governmental institutions also implement specialist programs or policy trends relevant to PWDs, each within the sphere of its mandate. These programs are diversified, but most of them are related to service-delivery. They can be categorized as rehabilitation and counseling, facilitating and adapting, empowering and mainstreaming programs and are described in detail below.

### **1. Supreme Council of Disability**

The PNA worked to elaborate a strategic policy towards upgrading the status of PWDs by adopting a series of steps, including establishing the Supreme Council of Disability, to follow up implementation of the Disability Rights Law, set forth plans and policies, monitor implementation of policies, and guarantee maximum integrity among different societal components and activities. As part of the official national effort in this regard, based on the Presidential Decree of 2012, issued on 1\1\2012, and relevant to an amendment related to the Supreme Council of Disability, the Council was revived pursuant to that Decree under the chairmanship of the Ministry of Social Affairs and membership of (16) representatives of governmental and private organizations, including ICHR as an observer member.

### **2. The Role of the Ministry of Social Affairs in Promoting the Rights of PWDs**

The Ministry of Social Affairs is responsible for improving the living conditions of the different categories of people within Palestinian society, including PWDs. It provides numerous services, including social care, vocational training through social centers and employment of PWDs through rehabilitation loans from the Disability Credit Fund. It provides economic assistance through earmarking an emergency monthly budget for supporting persons in need of assistive devices.

The Ministry of Social Affairs is one of the governmental institutions concerned with promoting the rights of PWDs. It plays a leading role in preparing plans, developing strategies, drawing up policies and coordinating social services and aids for vulnerable groups and PWDs.<sup>160</sup> It also performs a number of activities aimed at empowering PWDs to carry out their daily activities, facilitate their movement and have access to public services. It helps adapt their homes and provides wheelchairs, walkers and canes for them. It is noteworthy that the PNA exempts such devices from customs fees and that the ministry purchases some services for persons with severe disabilities whose families are poor, especially when these services are not available at the PWD centers that it runs.<sup>161</sup>

The development plan of the Ministry of Social Affairs for 2011- 2013 is complementary to the strategy of social protection which was approved by the Council of Ministers

160 See the report issued by the PNA and the Ministry of Social Affairs, Work Strategy 2011\2013-; April 2011.

161 See this website: <http://www.mosa.pna.ps/ar/index.php?p=31>

in mid 2010. This strategy comes in the context of implementing the national policies platform and defining the priorities of the social protection sector. Thus, the Ministry was able, in coordination with other partners in the social protection sector such as governmental institutions, international and civil society organizations and the private sector, to realize the social protection strategy for 2011-2013 on the basis of a participatory approach. The vision, mission and objectives of the sector were reconsidered to guarantee a decent life for the Palestinians towards sustainable development, citizenry rights and social justice<sup>162</sup> in Palestine.

Following on from there, the ministry reformulated its programs and interventions with respect to protection and empowerment of vulnerable and marginalized groups such as the poor, persons with disabilities, the elderly, children, women, and victims of social plights. It performed this in partnership with local and international partners, and the programs aimed at eliminating poverty, combining direct relief intervention, and economic development and empowerment-based interventions.

Working to realize national reconciliation paved the way for laying applicable national plans which would improve the situation of the social protection sector in Palestine on grounds of coordination, integrity, partnership and respect for roles. This was clearly demonstrated during preparation of the strategy of the social protection sector, as it went beyond all that to embody genuine partnership with the Supreme Council of Disability.

### 3. The Ministry of Labor and Enforcement of the Right of PWDs to Work

Palestinian Labor Law No. (7) of 2000 binds the Ministry of Labor to ensure that public and private institutions are committed to employing a number of qualified disabled laborers in jobs appropriate to their disablement at a percentage not less than 5%. It is also bound to prepare and qualify a technical cadre from the different categories of PWDs and ensure their right to join rehabilitation and vocational training facilities according to effective laws and regulations on the basis of opportunity equity.

The ministry has recently set plans, policies and mechanisms aimed at including and mainstreaming PWDs into society. It has also organized activities as well as short and long term programs to develop their status through implementing article (13) of Palestinian Labor Law No. (7) of 2000. It addressed employers and representatives of institutions, factories and non-governmental organizations to warn them to allocate 5% of the jobs available at their organizations for PWDs. The ministry does not have programs and plans for employing PWDs, but it encourages their employment and recruits some of them for jobs that suit their capacities and qualifications. It works towards employing, empowering and protecting PWDs and has a positive trend for creating strategies to ensure jobs and open vocational training facilities for them.<sup>163</sup> Also taken into consideration is the fact that these facilities must be adapted to meet

162 See: <http://www.maannews.net/arb/ViewDetails.aspx?ID=390418>

163 WHO and the World Bank's International Report on Disability, 2011, P261. For more, see [http://whqlibdoc.who.int/publications/20119789240685215/\\_eng.pdf](http://whqlibdoc.who.int/publications/20119789240685215/_eng.pdf)



the needs of PWDs. Being represented in the Supreme Council of Disability, the ministry monitors violations of the rights of PWDs since it is supposed to monitor, during the process of inspection, any breach of these rights. In that connection, it addresses all employers, encouraging them to employ PWDs and ensure protection for them. Concerning joining its programs and activities targeting this category of the society, disability is the main and first standard it considers.

#### 4. The General Personnel Council Regarding Employment of PWDs

The General Personnel Council monitors the extent to which the different ministries are committed to implementing civil service law. It emphasizes that allocating not less than 5% of the annual job opportunities for PWDs is enshrined in the national laws and legislation, including the civil service law and its executive bylaws. Additionally, it too included numerous steps during 2012 to bind the governmental institutions to appoint PWDs upon taking into consideration the requirements of the jobs available.

### IV. Disability Indicators

World surveys indicate that around 15% of the world's population lives with some form of disability. Between 785 and 975 million of working-age persons with disabilities, 15 years and older, have significant difficulties in functioning.<sup>164</sup> Most of them live in developing countries where the informal economy employs a significant rate of the labor force. PWD participation in the labor force is rather low in several countries. The recent statistics of UNOECED indicate that about half of working-age persons with disabilities are not employed, compared to one out of five of persons without disabilities of the same age.<sup>165</sup>

PWDs are the people most vulnerable to exclusion, isolation or marginalization exercised by society in general. They constitute the largest minority in the world and the most deprived of all as well. Surveys indicate that 20% of the world's poorest people have some form of disability and 89% of disabled children in developing countries are not enrolled in schools. Moreover, PWDs are the most vulnerable to unemployment. They represent the highest rate of unemployed people, and when they are employed they are paid lower than those who have no disability. World health surveys show that the rate of employment among men and women with disabilities is lower than that among those without disability. It reached 53% among men and 20% among women with disabilities compared to 65% and 30% among men and women with no disability, respectively.<sup>166</sup>

A study carried out by UNOECED indicates that working-age persons with disabilities in (27) Member States are more affected by the disadvantages of the labor market than those without disabilities. The median rates of employment (44%) among persons

164 165WHO and the World Bank's International Report on Disability, 2011, p 261. For more, see [http://whqlibdoc.who.int/publications/20119789240685215/\\_eng.pdf](http://whqlibdoc.who.int/publications/20119789240685215/_eng.pdf)

165 Ibid.

166 « .

with disabilities are slightly higher than half of the employment rates among those without disabilities (27%). Meanwhile, the rate of unemployment among persons with disabilities is double that of those without disability (40%, 20%), respectively.<sup>167</sup>

Persons with disabilities constitute a significant category of the Palestinian society. The findings of a disability survey conducted by PCBS and the Ministry of Social Affairs in 2011 indicates that mobility disability is the most common disability in Palestine, with a higher rate in the West Bank than in the Gaza Strip. This survey indicates the rate of disability in Palestine is based on a wide definition of the disabled person, which states “a disabled person is a person who suffers from some difficulty or several difficulties or can not function at all”, while according to the narrow definition, it is “a person who suffers from several difficulties or can not function at all.”<sup>168</sup>

According to the wider definition of disability, the prevalence of disability in Palestine was about 7%, with a similar prevalence in the West Bank and Gaza Strip. Using the narrow definition, the prevalence of disability was 2.7% in Palestine, distributed as 2.9% in the West Bank and 2.4% in the Gaza Strip. In terms of gender, it was 2.9% for men and 2.5% for women. The disability with highest prevalence is categorized as “mobility”, as 49% of disabled persons in Palestine, with 49.5% in the West Bank compared to 47.2% in Gaza Strip. The category of “learning disability” comes second at 24.7%, divided as 23.6% in the West Bank and 26.7% in the Gaza Strip. Regarding the impact of disabilities on the life of disabled persons aged 18 years and over, the survey indicated that 76.4% of them do not use public transportation due to absence of necessary adaptations to the infrastructure, 34.2% can not perform their daily activities at their homes, 22.2%, or just over a fifth of all disabled persons dropped out of school, and 8.7% avoid performing certain activities because of others’ attitude towards them. It also indicates that more than one third of disabled persons aged (15) and over never enrolled in school, and that 53.1% of them are illiterate. A troubling 87.3% of the total number of disabled persons were not employed during the implementation period of the survey.<sup>169</sup> A report prepared by UNICEF revealed that 1.5% of children in Palestine live with a form of disability, especially motor disability. According to the report, 48.44% of children with disabilities in Palestine suffer from motor disability.<sup>170</sup>

Different public and private institutions are still not committed to implementing the Disability Rights Law which binds institutions to reserve not less than 5% of jobs for PWDs. However, some institutions employed a number of PWDs over the past few years,<sup>171</sup> taking this step without having a national strategy or a definite program set

167 See the website of the Arab Organization for PWDs: [http://www.aodp-lb.net/\\_report.php?events\\_id=55](http://www.aodp-lb.net/_report.php?events_id=55)

168 WHO and WG on Disability Statistics developed a general disability measure. It recommended a narrow definition of disability and a broad or wide definition as well.

169 A survey by PCBS and MoSA, 2011

170 See AL Quds newspaper website: <http://www.alquds.com/news/article/view/id/440908>

171 GPC emphasized that allocating not less than 5% of the annual job opportunities for PWDs is enshrined in the national laws and legislation, including civil service law and its executive bylaws. Additionally, it took numerous steps during 2012 to bind the governmental institutions to appoint PWDs, taking into consideration the requirements of the jobs available. There are no documented statistics clarifying the rate of PWDs employed in the public sector.



by the government. This was due to the individual efforts of PWDs themselves. Up to the present, government has had no vision for implementing the provisions of the law (5% quota), particularly since it decided to reserve this rate of jobs for PWDs before approval of the relevant executive bylaw.<sup>172</sup> Despite the effort to push the institutions to employ PWDs in accordance with the provisions of the law, the rate of PWDs employed in these institutions is not more than 3%.<sup>173</sup> The failure to adapt the workplace in a way that facilitates PWD access to them is the main obstacle to implementing this law.

## **V. ICHR Promoting and Protecting the Rights of PWDs in 2013**

The rights of PWDs have been the subject of attention for ICHR since its inception in 1993, but its Strategic Plan for 2011-2013 placed exceptional focus on this issue. It launched a comprehensive national inquiry into the different aspects of life for this category in Palestinian society to examine the extent to which the public and private sector institutions are committed to reserving 5% of jobs for them, in line with article 12 of the Executive Bylaw of the Disability Rights Law.

In 2013, ICHR received (344) complaints of violations of the rights of PWDs. Most of these complaints included allegations of violations involving the right to work, the right to hold public office, the right to adapt public places and other rights linked to the rights to health and social security as well as rights enshrined in Palestinian Basic Law and Disability Rights Law.

ICHR maintains that the official authorities should abide by the provisions of the law relating to reserving 5% of institutions' jobs for PWDs, adapting public places to ensure PWDs' access to them and implementing the law relevant to the social services provided for PWDs. Based on its role in intervening and ensuring protection for PWDs, ICHR addressed the competent authorities to solve the complaints filed against them.

## **VI. National Inquiries on PWDs Right to Decent Work (2011-2013)**

Based on a number of indicators and data monitored and documented by ICHR in recent years regarding violations involving the rights of PWDs, and following national consultations held at the start of 2011 with relevant duty-bearers, rights-holders representatives of civil society organizations, unions and associations, ICHR launched in 2011 a special national inquiry on the right of PWDs to decent work. It intensified its effort with relevant civil society organizations, specialist organizations concerned with the rights of PWDs and official duty-bearers to implement the general

<sup>172</sup> Interview with the Advisor the General Union of PWDs, Nizar Baslat, 14\12\2011, Ramallah, Palestine.

<sup>173</sup> Ibid.



rights of PWDs with affirmative action towards the right to decent work. It used a number of verification tools in the process, including a field study that shed light on the status of this right through revealing legal, legislative and administrative gaps of the public policies and programs that hinder PWDs from exercising their right to decent work. It also submitted recommendations concerning administrative measures that should be taken by decision-makers and legislators, elaborating policies and plans aimed at eliminating obstacles to PWDs' participation in the labor market, adopting appropriate steps to enable PWDs to exercise this right that is guaranteed under international and national laws and legislation.

The national inquiry aimed to achieve social integration, economic empowerment and equality of opportunity for PWDs and raise their awareness about their rights through promoting a human rights culture. It also aimed to highlight the status of PWD employment in society and their work conditions in terms of public safety and accessibility. The national inquiry aimed to reveal the progress achieved at the legislative, policy and procedures levels with respect to PWD employment in Palestine, the region and the world. In this context, the national inquiry proposes to consider mechanisms for activating the laws and regulations relating to PWD employment and remind official institutions, the private sector and CBOs of their legal responsibility to adopt appropriate steps to enforce this right. Additionally, ICHR aimed through the national inquiry program to raise public awareness about and draw attention to the status of PWD rights, accelerate the national effort to put an end to the social and economic exclusion they are subjected to, and develop the legislative policies and executive levels relating to their rights. The purpose of it all is to promote PWDs' opportunity to exercise their rights, especially in the areas of work, vocational training, education and adaptation of facilities to facilitate their access. All this should be founded on the principle of equal opportunity and non-discrimination in accordance with the International Convention on the Rights of PWDs of 2006 and national legislation and laws, mainly the Disability Rights Law No. 4 of 1999, Law of Labor and its relevant executive bylaws.

In light of this, ICHR's initiative to launch a national inquiry on the right of PWDs to decent work ensures an appropriate environment for discussing the main challenges hindering them from exercising this right. It also contributes to an encouraging atmosphere for sharing thoughts and experiences in this regard in order to ask for adopting appropriate legislation, policies, plans and strategies that help eliminate the barriers and obstacles to employment of PWDs.

## **VII. Field Study Findings on the Right of PWDs to Work**

The study revealed that negative trends, stereotypes and employers' attitudes towards the ability of PWDs to perform their jobs' tasks are the main obstacle to enabling them to exercise their right to decent work on an equal basis with others. It also revealed that the present infrastructure and transportation services are not adapted to PWD needs. There are also environmental barriers that hinder them from exercising their right to equal opportunity on an equal basis with others as well as





other obstacles to reserving 5% of an institutions' jobs for them in compliance with the provisions of the law.

This study was based on quantitative research consisting of two questionnaires. The first one covered (1520) responses from persons with disabilities while the other covered (200) responses from employers. It revealed that the rate of unemployment among the responses from persons with disabilities was 78%. It also revealed that 22% of the same sample were employed while 57% of them have never been employed. In addition, it revealed that the persons with motor disabilities were the most likely to get employed in the different economic sectors (59%), followed by persons with seeing and hearing disabilities. The least fortunate with regard to finding employment were the persons with mental disabilities.

Regarding distribution of employed persons with disabilities within the work sectors, they were distributed as follows: 22% of the respondents are working for governmental institutions; 23% work within the private sector; 18% are employed by CBOs; 19% have independent businesses; 18% work in other sectors such as agriculture and sewing.

The study also focused on the reason why persons with disabilities quit their jobs. It pointed out that the main reasons were: limited contracts; lack of assistive devices and tools; lack of reasonable accommodation; inaccessible workplaces and lack of employment promotion.

In addition, it indicated that 3.2% of persons with disabilities working in the three sectors (public, private and CBOs) are illiterate. They have low status jobs such as correspondents, janitors, and production line workers. It notes that they do not exercise their right to education due to several obstacles, including lack of reasonable accommodation at schools and their families' fears of allowing them to join educational institutions. At the same time, the study indicated that the public sector has a larger capacity for recruiting persons with disabilities with lower educational achievement due to the nature of the available jobs.

Concerning the nature of the professions occupied by persons with disabilities, the study indicated that 49% of the respondents are working for CBOs and 45% for the private sector in administrative and secretarial areas. It also indicated that some of the respondents are working on production lines, in sanitation service, agriculture, administrative and office services and some others as teachers and physicians. In addition, it indicated that some respondents are working in vocational careers and in administrative and office areas in the public sector.

The study also confirmed that some governmental, private and community-based organizations still are not committed to implementing Disability Rights Law No. (4) of 1999 in terms of reserving 5% of its jobs for persons with disabilities. However, a number of them were employed, according to the findings of the study, over the last few years due to their individual efforts and not to a national strategy or certain programs established by the government. When this study was carried out, the rate of persons with disabilities working for the public sector was 3%. It emphasized

that personal connections and “wasta” play a sensitive role in employing persons with disabilities, especially in the public and private sectors. Concerning employment in CBOs, it was based on temporary disability-focused projects funded by external donors, especially in the Gaza Strip.

The study highlighted the absence of assistive devices required to enable persons with visual and/or hearing impairment to work in institutions. It also noted an increase in unemployment rates in Palestine due to an increase in the number of university graduates, high labor market competitiveness and deteriorating economic and political conditions. This situation has adversely affected the employability of persons with disabilities.

Finally, the study indicated that the unemployment rate among women with disabilities is higher than that of their male peers. It noted that employers in the sectors mentioned above should ensure a healthy and decent work environment for persons with disabilities, thereby allowing them to enjoy the right to protection from discrimination and harassment, the right to equal pay and other fair entitlements on the basis of equal opportunity. This, as the study reflects, requires certain measures at the legislative level.



## Recommendations

1. The State of Palestine should accede to the UN Convention on the Rights of Persons with Disabilities in compliance with article (10) of Palestinian Basic Law, which states “the Palestinian National Authority shall join all regional and international human rights conventions without delay”.
2. There should be a drafting and amending of national laws and legislation, especially: Law No. 4 of 1999 on the Right of Persons with Disabilities; Law of Labor No. (7) of 2000; Law of Civil Service No. (4) of 1998 and their regulations. All legal provisions that discriminated against PWDs should be abolished from Palestinian laws and legislation.
3. All legal provisions and necessary mechanisms should be activated to implement the legislation and regulations related to employment of PWDs. The governmental institutions should begin to implement them without delay.
4. All forms of discrimination against PWDs, including legislative, environmental and social forms, should be eliminated.
5. The Higher Council for Affairs of Persons with Disabilities should promote its powers and shoulder its responsibility towards enforcement of the rights of persons with disabilities. It can achieve that by providing suggestions for amending relevant laws, legislation and regulations. It should also adopt appropriate methods to monitor competent authorities’ compliance with implementation of the rights of persons with disabilities, particularly the right to decent work. Additionally, it should support the policies that effect positive change in the life of PWDs.
6. The Ministry of Labor and the General Bureau of Public Servants should work to maintain the rights of PWDs to employment in the public and private sectors through creation of job opportunities matching their professional qualifications in compliance with the provision of the law, which provides for the allocation of a quota of at least (5%) for PWDs in holding public office and in the Palestinian labor market as a whole.
7. Encouragement of self-reliance and integration of PWDs into social and economic development by engaging them in planning and decision-making based on their right to self-determination and the fact that nothing can be achieved without their participation.

## Violations Patterns: complaints filed to ICHR

ICHR received (268) complaints of violations involving the rights of persons with disabilities in the WB and (76) in the GS. These violations were distributed as follows:

	Number	Sub-violation (1)	Number	Sub-violation (2)	Number
WB	268	Right of PWDs to work	18	appropriate recruitment procedures	6
				ensuring appropriate work environment	1
					11
		Right to vocational training	9	making available specialized training facilities	9
		Right to accommodation	19	adapting transportation services	12
				adapting roads and pavements	2
				making available parking spaces	1
	4				
Right to social security	191		191		
GS	76	Right of PWDs to work	3		3
		Right to social security	73		73
Total	344	Right of PWDs to work	21	appropriate recruitment procedures	6
				ensuring appropriate work environment	1
		Right to vocational training	9	making available specialized training facilities	9
		Right to accommodation	19	adapting transportation services	12
				adapting roads and pavements	2
				making available parking spaces	1
		Right to social security	264		264



## Annex (1):

### Deaths Classification Report 1 January – 31 December 2013

Report Date	05\03\14						
Death Classification	Total	Males	Females	Children	GS	WB	Percentage of total number
mysterious conditions	32	16	16	8	10	22	19.63
collaboration with the enemy	0	0	0	0	0	0	0
deaths in tunnels	13	13	0	1	12	1	7.97
deaths due to negligence of public safety precautions	64	50	14	34	16	48	39.26
deaths in family dispute	17	16	1	2	8	9	10.42
deaths due to explosive devices	2	2	0	1	2	0	1.22
death penalty	3	3	0	0	3	0	1.84
deaths due to misuse of firearms by law enforcement officers	5	4	1	0	2	3	3.06
deaths in detention centers	3	3	0	0	1	2	1.84
deaths due to misuse of firearms by citizens	9	6	3	4	5	4	5.52
suicide cases	2	2	0	0	1	1	1.22
homicide	4	3	1	0	2	2	2.45
deaths due to infight	0	0	0	0	0	0	0
deaths due to medical errors	6	3	3	2	4	2	3.68
“ honor killing”	3	0	3	0	1	2	1.84
<b>Total</b>	<b>163</b>	<b>121</b>	<b>42</b>	<b>52</b>	<b>67</b>	<b>96</b>	

**Annex (2):****Recurring Recommendations from ICHR Annual Reports (2010-2012)**

Recommendations for the President of the Palestinian National Authority		
Number	Recommendation	Notes
1	The President of the PA should continue to abstain from endorsing death sentences issued by the Palestinian courts, and the civilians sentenced by military courts to death should be referred to civilian courts to reconsider their cases. He should use his constitutional powers with regard to amnesty to commute death sentences issued by Palestinian courts to imprisonment.	Recurring recommendation since 2010
2	Legal procedures that permit a challenge to death sentences issued by military courts should be established.	Recurring recommendation since 2010
3	The President of the PA and the MoI should issue clear instructions prohibiting the security agencies from practicing torture or ill-treatment in the detention centers. Likewise, the competent authorities should punish any person who is proven to be involved in such violations and ensure psychological and physical rehabilitation to the victims of torture and give them access to redress.	Recurring recommendation since 2010
Recommendations for the Public Prosecution in the WB and GS		
1	The Public Prosecution should exercise its legitimate role in investigating all violations of the rights of Palestinian citizens and crimes committed against them to reveal their perpetrators and bring them to justice.	Recurring recommendation since 2010
2	The Public Prosecution should investigate all unnatural deaths in order to reveal perpetrators and bring them to justice. Emphasis should be placed on "honor killings" and deaths occurring under mysterious conditions.	Recurring recommendation since 2010. New developments occurred regarding this recommendation. ICHR is still following up on this issue.



3	The Public Prosecution should exercise its monitoring role over the detention centers of the security agencies to make sure that the detainees are not subjected to torture or ill-treatment or whatever act that would leave an adverse psychological impression on them.	Recurring recommendation since 2010
4	The Public Prosecution should undertake serious investigations into citizens' allegations concerning any ill-treatment and torture they are subjected to. They should also take appropriate measures against the law enforcement officials involved in such violations.	Recurring recommendation since 2010
5	The Public Prosecution should continue pressing for prompt implementation of judicial decisions without delay.	Recurring recommendation since 2010
<b>Recommendations for the Military Prosecution in the WB and GS</b>		
1	The Military Prosecution should undertake serious investigations into allegations of violations of the right to life and physical safety by law enforcement personnel, especially in detention centers. Such serious investigations are necessary to make the relevant cases considered by the military judiciary a success and to hold the perpetrators to account.	Recurring recommendation since 2010
<b>Recommendations for the Prime Minister/Government in the Gaza Strip</b>		
1	The government in the Gaza Strip should stop carrying out death sentences unless the President approves of such in compliance with Palestinian Basic Law. Additionally, it should commute these sentences to imprisonment.	Recurring recommendation since 2010
2	The government in the Gaza Strip should stop bringing civilians before military courts. They should be brought before competent civil courts.	Recurring recommendation since 2010. Presenting civilians before military courts based on the 1979 Revolutionary Law which does not provide due process. The government responded to this recommendation in 2011.

Recommendations for both Governments in the WB and GS (MoI and Security Agencies)		
1	The security agencies should undertake serious investigations into citizens' allegations concerning any ill-treatment and/or torture they are subjected to. They should also take appropriate measures against the law enforcement officials involved in such violations.	Recurring recommendation since 2010
2	Official human rights investigation committees should investigate grave human rights violations in accordance with a definite system, specific standards and clear timeline without undermining the role of the judicial authorities in this regard. They should also make available the findings of their investigations to the public.	Recurring recommendation since 2010
3	The security agencies should allow ICHR to make regular and unannounced visits to the detention facilities.	Recurring recommendation since 2010
4	The MoI should implement the decision of the Supreme Court of Justice to overturn the decision of appointing temporary boards for a number of charitable associations, which is in contravention of the law.	Recurring recommendation since 2010
5	There should be activation of the role of monitoring bodies of the security agencies and civil police. The Minister of Interior should create the post of General Inspector within the Ministry to ensure commitment to the due process of law and submit his reports to the Minister of the Interior to adopt appropriate measures, including judicial pursuit of those involved in torture practices.	Recurring recommendation since 2010
6	The Executive Authority should involve ICHR and keep it abreast of the findings of investigations conducted by the monitoring bodies. It should also involve it in setting accountability mechanisms.	Recurring recommendation since 2010
7	The competent authorities should guarantee respect for the rights of public freedoms, including the right to expression, press, peaceful assembly and associations.	Recurring recommendation since 2012
8	Respect to human rights and public freedoms such as freedom of opinion and expression, media and peaceful assembly	Recurring recommendation since 2010. ICHR continues to document violations for these rights





**Annex (3):**

**The Independent Commission for Human Rights ("ICHR")**

**FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED DECEMBER 31, 2013**

**AND INDEPENDENT AUDITOR'S REPORT**

**THE INDEPENDENT COMMISSION FOR HUMAN RIGHTS**  
Financial statements for the year ended December 31, 2013

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**STATEMENT OF FINANCIAL POSITION**

(All amounts in USD)

	<u>Note</u>	<u>2013</u>	<u>2012</u>
<b>ASSETS</b>			
<b>Non-current assets</b>			
Property and equipment, net	(4)	810,570	744,915
		<b>810,570</b>	<b>744,915</b>
<b>Current assets</b>			
Contributions receivable	(5)	194,648	1,423,049
Prepayments and other current assets	(6)	122,158	131,427
Cash and cash equivalents	(7)	1,437,336	2,390,283
<b>Total current assets</b>		<b>1,754,142</b>	<b>3,944,759</b>
<b>Total assets</b>		<b>2,564,712</b>	<b>4,689,674</b>
<b>NET ASSETS AND LIABILITIES</b>			
<b>Net assets</b>			
Temporarily restricted contributions	(8)	1,320	2,405,999
Unrestricted net assets		629,609	637,397
<b>Total net assets</b>		<b>630,929</b>	<b>3,043,396</b>
<b>Non-current liabilities</b>			
Deferred revenues	(9)	250,462	196,883
Provision for employees' indemnity	(10)	1,510,634	1,261,822
<b>Total non-current liabilities</b>		<b>1,761,096</b>	<b>1,458,705</b>
<b>Current liabilities</b>			
Account payable		81,189	86,455
Accruals and other current liabilities	(11)	91,498	101,118
<b>Total current liabilities</b>		<b>172,687</b>	<b>187,573</b>
<b>Total liabilities</b>		<b>1,933,783</b>	<b>1,646,278</b>
<b>Total net assets and liabilities</b>		<b>2,564,712</b>	<b>4,689,674</b>

- The notes on pages 6 to 13 are an integral part of these financial statements.

- The financial statements on pages 3 to 13 were authorized for issue by the Board of Directors on February ....., 2013 and were signed on its behalf.

**THE INDEPENDENT COMMISSION FOR HUMAN RIGHTS**  
Financial statements for the year ended December 31, 2013

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**STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS**  
(All amounts in USD)

	<u>Note</u>	<u>2013</u>	<u>2012</u>
<b>Changes in unrestricted net assets:</b>			
<b>Grants, revenues and gains</b>			
Net assets released from restriction	(8)	2,234,253	2,202,828
Deferred revenues recognized	(9)	58,669	51,634
Other revenues	(12)	<u>22,336</u>	<u>3,875</u>
<b>Total unrestricted Grants, revenues and gains</b>		<b><u>2,315,258</u></b>	<b><u>2,258,337</u></b>
<b>Expenses</b>			
Operating expenses	(13)	2,234,253	2,202,828
Currency variance loss		17,700	8,559
Depreciation	(4)	<u>71,093</u>	<u>63,887</u>
<b>Total expenses</b>		<b><u>2,323,046</u></b>	<b><u>2,275,274</u></b>
Changes in net assets for the year		(7,788)	(16,937)
Net assets, beginning of year		<u>637,397</u>	<u>654,334</u>
<b>Net assets, end of the year</b>		<b><u>629,609</u></b>	<b><u>637,397</u></b>

- The notes on pages 6 to 13 are an integral part of these financial statements.

**THE INDEPENDENT COMMISSION FOR HUMAN RIGHTS**  
Financial statements for the year ended December 31, 2013

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**CASH FLOW STATEMENT**

(All amounts in USD)

	<u>2013</u>	<u>2012</u>
<b>Cash flows from operating activities</b>		
Changes in net assets for the year	(7,788)	(16,937)
<b>Adjustments of non-cash items:</b>		
Depreciation	71,093	63,887
Provision for employees indemnity	556,588	285,066
Deferred revenue recognized	(58,669)	(51,634)
	<u>561,224</u>	<u>280,382</u>
<b>Adjustments to reconcile changes in net assets to net cash provided by operating activities:</b>		
Contribution receivable	1,228,401	2,891,085
Prepayments and other current assets	9,269	(31,389)
Temporarily restricted net assets	(2,404,679)	(2,324,501)
Accounts payable	(5,266)	19,702
Accruals and other current liabilities	(9,620)	58,937
Employees indemnity paid	(307,776)	(82,411)
<b>Net cash provided (used) by operating activities</b>	<u>(928,447)</u>	<u>811,805</u>
<b>Cash flows from investing activities</b>		
Purchasing of property and equipment	(24,500)	-
<b>Net cash used in investing activities</b>	<u>(24,500)</u>	-
Change in cash and cash equivalents	(952,947)	811,805
Cash and cash equivalents, beginning of the year	2,390,283	1,578,478
<b>Cash and cash equivalents, end of the year</b>	<u>1,437,336</u>	<u>2,390,283</u>

- The notes on pages 6 to 13 are an integral part of these financial statements.



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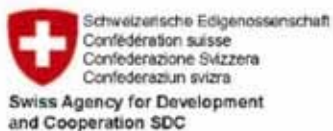
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