



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

Report

APF delegation visit to observe the
work of the Palestinian Independent
Commission for Human Rights

Occupied Palestinian Territories

8 – 11 August 2009

The Asia Pacific Forum of National Human Rights Institutions

The Asia Pacific Forum of National Human Rights Institutions (APF) is an independent non-profit organisation that supports, through regional cooperation, the establishment and development of national institutions in order to protect and promote the human rights of the peoples of the region.

Established in 1996, the APF is comprised of independent national human rights institutions that have been established in compliance with the minimum standards of the United Nations General Assembly endorsed "Principles relating to the status of national Institutions" (The Paris Principles).

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FOREWORD

On 8-11 August 2009, at the invitation of the Palestinian Independent Commission for Human Rights (ICHR), an Asia Pacific Forum on National Human Rights Institutions (APF) delegation composed of representatives of the Human Rights Commissions of Nepal, New Zealand and the Philippines, a representative of the Advisory Council of Jurists, and members of the APF secretariat, visited the West Bank to observe ICHR's work.

Delegation members observed the unique and challenging circumstances affecting the enjoyment of human rights in the occupied Palestinian territories, and ICHR's professionalism, strong commitment and effectiveness in the face of these circumstances.

The APF extends its sincere gratitude to ICHR for organising and facilitating the delegation's visit. Special thanks are given to Commission General Dr Mamdouh Aker, Executive Director Ms Randa Siniora, and Ms Emily Mourad Hanna, Assistant to the Executive Director.

The APF also extends its thanks to the parliamentarians, public officials, United Nations staff, representatives of the Temporary International Presence in Hebron (TIPH) and members of civil society who generously shared their time, knowledge and experiences with the delegation.

TABLE OF CONTENTS

FOREWORD.....	3
ABBREVIATIONS & ACRONYMS.....	4
INTRODUCTION.....	5
DAY ONE	6
DAY TWO	8
DAY THREE	9
DAY FOUR	10
NEXT STEPS	10
ANNEX 1.....	11

ABBREVIATIONS & ACRONYMS

APF	Asia Pacific Forum of National Human Rights Institutions
ICC	International Coordinating Committee of National Human Rights Institutions
ICHR	Palestinian Independent Commission for Human Rights
IDF	Israel Defence Forces
NHRI	National Human Rights Institution
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OPT	Occupied Palestinian Territories
PLC	Palestinian Legislative Council
PNA	Palestinian National Authority
TIPH	Temporary International Presence in Hebron
UN	United Nations

INTRODUCTION

The Asia Pacific Forum of National Human Rights Institutions (APF) held its Annual Meeting and Conference in Amman, Jordan, on 5-6 August 2009. Taking advantage of the proximity of this, the Palestinian Independent Commission for Human Rights (ICHR) invited the APF to send a delegation to the Occupied Palestinian Territories (OPT) to observe its work.

The visit to the West Bank, which took place from 8-11 August 2009, aimed to expose participants to the work of the ICHR and the challenges it faces. In early 2009, the ICHR (which was established in 1993) was awarded 'A status' accreditation by the International Coordinating Committee of National Human Rights Institutions (ICC). Subsequently, following a Forum Councillor decision at the 2009 Annual Meeting in August to adopt the ICC process of accreditation, ICHR was upgraded from an Associate Member to a Full Member of the APF.

A number of pertinent human rights issues relevant to the work of APF member institutions arose during the visit, including:

- the role of national human rights institutions (NHRIs) in conflict situations, including human rights monitoring and reporting
- the relationship between human rights and international humanitarian law
- equality and non-discrimination
- due process entitlements
- political participation
- property ownership rights
- freedom of movement and association
- human rights and religious belief (a central theme at the APF's 2009 Conference)
- the treatment of prisoners and detainees
- accountability and impunity; and
- the general enjoyment of civil, cultural, economic, political and social rights in the occupied Palestinian territories (OPT).

Whilst in Palestine the delegation visited Ramallah, travelled north to Jayyous, Tulqaram and Nablus, and south to Bethlehem, Hebron and Jerusalem. It met with representatives of the ICHR, parliamentarians, public officials, United Nations (UN) staff, the Temporary International Presence in Hebron (TIPH), and members of civil society. The program for the visit is Annex 1.

The delegation comprised:

- Hon Justice Kedar Nath Upadhyay, Chairperson, National Human Rights Commission of Nepal
- Mr Bishal Khanal, Secretary, National Human Rights Commission of Nepal
- Ms Joanna Collinge, Executive Director, New Zealand Human Rights Commission
- Atty Leila M. De Lima, Chairperson, Philippines Commission on Human Rights

- Atty Maria Victoria Cardona, Commissioner, Philippines Commission on Human Rights
- Associate Professor Andrea Durbach, Director, Australian Human Rights Centre, and Advisory Council of Jurists member
- Mr Kieren Fitzpatrick, Director, APF
- Ms Pip Dargan, Deputy Director, APF
- Mr Benjamin Lee, Project Manager, APF.

Representatives of the Human Rights Commission of Malaysia and the Jordan National Centre for Human Rights also sought to join the delegation but were unable to obtain the Israeli visas required to enter the West Bank.

A summary of the discussions held during the program are provided below.

DAY ONE

On Saturday, 8 August 2009, the delegation entered the Israel-occupied West Bank via the King Hussein Bridge, having travelled by road from Amman, Jordan. Upon arrival, the delegation visited the ICHR's headquarters, after which the ICHR hosted a dinner for the APF delegation, attended by the Board of Commissioners, ICHR staff, and international and civil society organisations.

At the ICHR headquarters the delegation first met with Executive Director Ms Randa Siniora, and members of the Board of Commissioners, including Commissioner General Dr Mamdouh Aker. This was followed by briefings from the ICHR Central Regional Office about its work in the central West Bank, the ICHR Monitoring of National Policies and Legislation department, and a video conference with ICHR's regional office in Gaza.

The ICHR was established on 30 September 1993, upon a Presidential Decree issued by the late President Yasser Arafat and published in the Palestinian National Authority's (PNA) Official Gazette (No.59/1995). The Decree provides for the subsequent formation of a "Palestinian National Supreme Commission on Human Rights", which "will lay down its constitution, laws, and basic regulations which govern its work in a way which would ensure its independence and effectiveness".

The ICHR commenced its activities at the beginning of 1994. The internal by-laws specify the mandate, responsibilities and duties of the ICHR, as well providing for its membership and structure.

Almost a decade later, provision for an independent commission for human rights was included in the Basic Law of Palestine, which passed into law in August 2002. Specifically, Article 31 states that "an independent Commission for Human Rights shall be established by law . . .".

The ICHR commenced work on a draft law in 2004, which was submitted to the Palestinian Legislative Council (PLC) in May 2005. The draft law passed general reading, but discussions were disrupted after the 2006 legislative elections and the PLC has not been in session since then.

The ICHR's responsibilities and duties, as outlined in its internal by-laws, are:

- To review and comment on proposed and effective legislation including the Basic Law, by-laws, and regulations, to ensure that they conform to universal principles of human rights; that they are committed to the basic freedoms of citizenry – singly and collectively; that they adopt the principles of non-discrimination, family or regional status; and that they adhere to the principles of democracy and justice.
- To monitor and follow up the activities of official and semi-official public bodies and institutions and all legal persons and those dealing with public law matters to ensure executive and administrative commitment to and implementation of the principles stated above, and to ensure the rule of law and its just implementation in all the spheres of work of the bodies and institutions subject to the Authority.
- To receive complaints and grievances after [the exhaustion of] all available means of redress, and investigate and follow up such cases with the concerned parties and to propose the appropriate remedy.
- To publish an annual report of its general activities, in addition to special reports when deemed necessary.
- To propagate legal awareness and to acquaint citizens of their rights and the means of safeguarding them.
- The Commission shall enjoy the status of a legal person by law with the right to resort to the courts where the public interest is involved.

At the meeting the delegation was advised that the ICHR underwent organisational restructuring in 2008. It has two 'programs' being the West Bank program and the Gaza Strip program. It has five regional offices with three in the West Bank (including Nablus in the north, Ramallah in the centre and Hebron in the south); and two in the Gaza Strip including the South Gaza office and the North Gaza office. Its headquarters are in Ramallah.

The ICHR is comprised of five units: Administration and Finance; Investigation and Complaints; Monitoring of National Legislations and Policies; Public Awareness and Training; and the Public Relations and Media office. The ICHR has a total of 54 staff (22 female and 32 male).

ICHR Commissioners and staff advised the delegation that the enjoyment of human rights within the OPT have been violated by Israeli State and non-State actors and the Palestinian authorities and factions. The ongoing occupation and deepening 'fragmentation' measures undertaken by Israel, including the Separation Wall/Security Barrier (henceforth Wall) and increasing the number of Jewish settlements in the West Bank has impacted upon the full range of civil, cultural, economic, political and social rights including self-determination, citizenship rights, freedom of movement, property rights and quality of life. In addition, the ICHR reported violations of human rights by Palestinian authorities and factions, including cases of torture and ill-treatment of detainees and prisoners.

Humanitarian issues are of critical concern particularly in the Gaza strip which has been under Israeli blockade since 2007. The blockade has 'locked in' 1.5 million people in what is one of the most densely populated areas on earth. The blockade, now in its third year, has taken place alongside recurrent cycles of violence and human rights violations, stemming from the Israeli-Palestinian conflict and Hamas's rule over Gaza. The denial of Palestinians'

right to leave Gaza, or to move freely to the West Bank, particularly when their lives, physical integrity, or basic freedoms are under threat, is another key component of the current humanitarian crisis.

Via videoconference, ICHR staff in Gaza reported that the Israeli Defence Force (IDF) "Operation Cast Lead" offensive launched on 27 December 2008 over a three week period has deepened the blockade crisis. The Operation destroyed vital infrastructure, including housing, and has had a devastating impact upon people's physical and mental health and livelihoods. The ICHR's Gaza Office has also recorded human rights violations by the de-facto governing authority, the Hamas Executive Authority, including arbitrary arrests, extrajudicial killings and torture. It also reported on the "Islamisation" of Palestinians by the Hamas Executive Authority. The Director of the ICHR Gaza office reported he had been called 'anti-Muslim' because of the office's stand on human rights violations by the Hamas Authority.

The delegation was advised that in the absence of a functional PLA, the ICHR engages with the existing political 'process' via the Presidential and Prime Ministerial Committees. The ICHR also regularly meets with parliamentarians and officials.

The ICHR operates in a highly complex and difficult context. It works in situations of violence and armed conflict, having to confront armed forces and militias that operate outside international human rights law. It also needs to operate in a situation where governmental institutions generally are ineffective or dysfunctional. It therefore values the support of the international community including organisations that support the independent and effective functioning of NHRIs such as the APF and the ICC.

DAY TWO

On Sunday, 9 August 2009, the delegation met with Dr Aziz Dweik, Head of the Palestinian Legislative Council (PLC) and Palestinian Prime Minister Dr. Salam Fayyad. The delegation also travelled North to: Tulqarem for the opening of a new ICHR regional office; Jayyous, for a meeting with the Governor and local residents to hear of the impact of the Wall on the daily lives of local residents; and Nablus, to meet with the Mayor and tour the Old City.

Dr Dweik, a Hamas parliamentarian, explained that he had recently been released from three years of imprisonment by Israeli authorities. He expressed confidence that the PLC (currently in a hiatus) would recommence its work, and stated the PLC's commitment to passing legislation to assist and support the work of human rights organisations, including the ICHR.

Dr Dweik, while acknowledging that the Palestinian authorities are accountable for some human rights violations in the occupied territories, including torture in prisons, raised a number of human rights violations attributable to Israel. These included: the denial of access to healthcare and medical treatment; severe restrictions on freedom of movement within the West Bank, and, as a corollary, limitations on religious worship; the denial of various economic and social rights, with some 60-70% of Palestinians living in poverty; and the torture of Palestinians in Israeli prisons.

Palestinian Prime Minister Dr Salam Fayyad expressed his appreciation for the ICHR's work and pledged the Palestinian Authority's commitment to building a state that is highly respectful of human rights. Prime Minister Fayyad acknowledged that Palestinian authorities had at times undermined human rights and conceded that torture continues to be practiced in places of detention. He identified law and order, justice and due process, and an independent judiciary as essential precursors to a Palestinian state. During the meeting, Commissioner General Aker pressed that the ICHR's priority issues included ending torture and ensuring that civilians are not tried in military courts. Prime Minister Fayyad stated that the Palestinian Authority was committed to ending both practices.

In Jayyous, the delegation met with farmers whose trade has been affected by the construction of the Wall, which has resulted in some lands being illegally annexed by Israel, and natural wells being diverted from Palestinian agriculture to Israeli settlements. Palestinian agriculture has also been affected by the introduction of a restrictive "permit" system which limits the number of persons that can access agricultural lands, a complicated land inheritance system, and restricted use of farming equipment.

DAY THREE

On Monday, 10 August 2009, the delegation visited the PLC to meet with parliamentarians. It later travelled to Bethlehem to visit the UN's Dheisheh refugee camp, and to Hebron, where it met with the Mayor and was given a tour of the Old City by the Temporary International Presence in Hebron (TIPH).

The PLC parliamentarians expressed their hope that the 'Draft Law of the Palestinian Independent Commission for Citizens' Rights' of 2006 would be adopted by the PLC when it reconvenes. The parliamentarians pressed, however, that the next PLC elections, scheduled for 2010, were unlikely to be "politically feasible". The parliamentarians also discussed the impact of the Israeli occupation on the enjoyment of human rights in the Palestinian territories, namely in association with the construction of the Wall, the expansion of settlements, and the IDF incursion into Gaza (Operation Cast Lead) of December 2008-January 2009.

The delegation next visited Dheisheh refugee camp, which was established by the UN in 1948. The camp is less than one square kilometre in size yet houses some 13,000 people.

In Hebron, a city heavily divided between Palestinians and Israeli settlers, the delegation met with the Mayor and was guided through the Old City by TIPH members.¹ The Mayor explained that Hebron, the most populous Palestinian city, contains over 110 Israeli checkpoints and gates.

¹ TIPH is a civilian observer mission established under the Oslo Accords of 1993. It reports on breaches of international humanitarian law, human rights law, and the agreements on Hebron in place between Israel and the Palestinian Authority.

DAY FOUR

On Tuesday, 11 August 2009, the delegation toured Jerusalem and met with representatives of the UN Office for the Coordination of Humanitarian Affairs (OCHA). It returned to Amman by road that afternoon.

In its meeting with the OCHA, the delegation was briefed on the humanitarian situation in the OPT. The OCHA reported that in addition to the Wall, there are some 630 “obstacles” in the West Bank alone, including checkpoints, trenches, road barriers/gates/blocks, and earth mounds. These obstacles have impacted upon Palestinian access to health and other services and the free flow of trade. The OCHA also stated that 85 percent of the Wall (which the International Court of Justice in an advisory opinion determined to be contrary to international law) has been constructed within Palestinian territory and has thus far cost an estimated four to five billion US dollars.

NEXT STEPS

The APF secretariat and other APF member institutions have pledged to continue to provide the ICHR with the support, training and technical assistance required to continue its promotion and protection of human rights in a volatile environment.

ANNEX 1

Program for the APF delegation visit to observe the work of ICHR

Day 1 - Saturday 8 August 2009

3:00 – 3:30 pm : Meeting at ICHR's headquarters with the Executive Director and members of the Board of Commissioners, including the Commissioner General

3:30 – 4:30 pm : Meeting with ICHR's Central Regional Office for a briefing on its work in the central West Bank

4:30 – 5:30 pm : Meeting with ICHR Monitoring of National Policies and Legislation department for a briefing on its work in the Commission

8:00 pm : Dinner for APF delegation dinner, hosted by ICHR and attended by members of civil society organisations dealing with human rights issues

Day 2 – Sunday 9 August 2009

9:00 – 10:00 am : Meeting with Dr Aziz Dweik, head of the Palestinian Legislative Council

10:00 – 12:00 pm : Further meetings at ICHR's Ramallah office

12:00 – 12:30 pm : Meeting with Palestinian Prime Minister Dr Salam Fayyad

2:00 – 3:00 pm : Launch of ICHR's new regional office in Tulqarem

3:30 pm : Meeting with the Governor of Qalqilia and the head of the municipality to speak about the status of human rights in the region and the impact of the Israeli Separation Wall/Security Barrier on the lives of locals

4:00 pm : Tour the Wall in Qalqilia with members of "Stop the Wall Campaign" and speak to citizens, especially farmers, who have felt the impact of the Wall on their daily lives

6:00 – 7:00 pm : Tour the old city of Nablus and meeting with the Mayor of Nablus

Day 3 – Monday 10 August 2009

8:30 – 10:00 : Visit to the Palestinian Legislative Council in Ramallah to meet with Parliamentarians to discuss the importance of national human rights institutions

12:00 pm : Visit to Dheisheh refugee camp in Bethlehem

2:00 - 3:00 pm : Lunch organised by ICHR Southern Regional Office in Hebron

3:00 – 4:00 pm : Meeting with the head of Hebron municipality and government officials

4:00 – 5:30: Tour the Old City of Hebron accompanied by members of the Temporary International Presence in Hebron (TIPH)

7:00 pm : Leave for Jerusalem

Day 4 – Tuesday 11 August 2009

8:30 – 11:30 am : Tour the settlements and the Wall in Jerusalem

12:00 pm : Meeting with the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in Jerusalem for a briefing on the humanitarian situation in the occupied Palestinian territories

1:30 pm : Visit to the Old City of Jerusalem

3:00 pm : Leave for Amman.