

## List of Abbreviations

# The Palestine Liberation Organization: Constitution, laws, organization, powers and standing

## **Introduction:**

The Palestine Liberation Organization (PLO) is the embodiment of the Palestinian national movement. It is an umbrella organization, comprised of numerous organizations of the Palestinian movement, political parties, popular organizations, and independent figures. The Arab Summit in 1974 recognized the PLO as the "sole and legitimate representative of the Palestinian people." ~~and since~~ Since then the PLO has represented the Palestinian people under the name of Palestine at the United Nations, the Movement of Non-Aligned Countries (NAM), the Organization of the Islamic Conference (OIC), and in many other fora. In addition to its broad national and political goals, the PLO has dealt with numerous tasks with regard to the life of the Palestinian people throughout the world, in their foreign affairs, and in their main communities in the occupied Palestinian territory through the establishment of several institutions in such realms as health, education and social services and at a later stage, the Palestinian National Authority (PNA) following the conclusion of the Declaration of Principles and the Interim Agreement with Israel in 1993 and 1995 respectively.

The PLO was established in 1964 with Arab support. Since then, it has undergone changes in its composition, leading bodies, political orientation, and the location of its headquarters. The leading bodies of the PLO are the Palestine National Council (PNC), the Central Council, and the Executive Committee.

Since the establishment of the PNA (which was created by PLO's decision in 1993 ~~of the PLO~~), and the convening of the first general elections of the PNA in January 1996 in the Occupied Palestinian Territory (~~the territory~~ which consists of the Gaza Strip, the West Bank, including East Jerusalem), the PNA's roles and responsibilities continue to expand under the direction and guidance of the PLO, which remains the recognized representative of all Palestinians.

## **Background:**

Prior to the 1948 *Al-Nakba* (the Palestinian catastrophe), the Arab Higher Committee for Palestine, headed by Haj Amin Al-Husseini, established a Palestinian government to fill the void at the end of the British Mandate of Palestine. In the autumn of 1948, the matter became urgent and on 23 September, the "Government of All of Palestine" was established. To support the new government, the Arab Higher Committee called for the convening of a Palestine National Council, which met in Gaza City on 1 October 1948 and was attended by many Palestinian leaders. At the Council's ~~meeting of the Council~~, support was given to the government based on the Declaration of Independence of Palestine within its international boundaries. The government was accepted by Arab states, with the exception of the Kingdom of Jordan. The new Palestinian government was invited to, and attended, the October 30<sup>th</sup> meeting of the Council of the League of Arab States. Since that date, Palestine continued to be represented at the League.

In January 1964, Arab kings and presidents held their first summit in Cairo, Egypt. On 13 January the summit decided "to organize the Palestinian people and to enable them to take their role in the liberation of their homeland and self-determination." The summit mandated Mr. Ahmed Al-Shukairy to contact the Palestinian people and the Arab states with the aim of reaching the appropriate basis for the establishment of the Palestinian entity.

On 28 May 1964, the first Palestinian Conference was held in Jerusalem with the participation of 422 members. The conference was attended by King Hussein of Jordan, the Secretary-General of the Arab League, Mr. Abdel-Khaliq Hassouna and by high level Arab representatives from Tunisia, Algeria, Sudan, the Syrian Arab Republic, Iraq, the United Arab Republic (Egypt), Kuwait, Lebanon, Morocco, and the Republic of Yemen. The participants in the conference represented the Palestinian communities in Jordan, the Gaza Strip and the West Bank (including Jerusalem), Syria, Lebanon, Kuwait, Iraq, Egypt, Qatar, Libya, and Algeria.

The conference established the Palestine Liberation Organization (PLO) as the Palestinian entity to represent all of the Palestinian people and their right to self-determination in Historic Palestine. It adopted both a declaration on the establishment of the organization and the Palestine National Charter (*Al-Mithaq Al-Kawmee Al-Philisteeni*). The conference also decided to transform itself into the Palestine National Council (PNC). It adopted a "Fundamental Law" for the organization and elected Mr. Al-Shukairy as the Chairman of the Executive Committee of the PLO. The conference also established the Palestine National Fund.

The Palestine National Charter, adopted by the PNC, consisted of an introduction and 29 articles. The Charter defined Palestinians as Arab citizens who were living in Palestine up to 1947, whether they remained or were expelled, as well as every child who was born to a Palestinian Arab father after this date. The Charter also considered Jews of Palestinian origin as Palestinians if they were willing to live peacefully as loyal citizens in Palestine. It considered the partitioning of Palestine, which took place in 1947, and the establishment of the State of Israel as illegal and null and void. The same position was also taken with regard to the Balfour Declaration and the Palestine Mandate System. The PLO's activities were to be on the national popular level in the liberation, organizational, political and financial fields.

Following the conference, the departments of the organization opened offices in Jerusalem and the organization opened representative offices in the Arab states. Consultations led to the establishment of Palestinian army units, in agreement with the Arab states, to form the Palestine Liberation Army (PLA).

The fourth session of the PNC was held in Cairo from 10 to 17 July 1968, marking the beginning of what can be called the second stage in the history of the PLO. The Council adopted amendments to the Charter, effectively establishing a new one with a new name: "Palestine National Charter" (*Al-Mithaq Al-Watane Al-Philisteeni*). In general, the new Charter stressed an independent national identity, as well as the exercise of armed struggle. Similar to the original Charter, the new Charter spoke of Arab unity, however it also focused more on the vanguard role of the Palestinian people in liberating their homeland. Further, it emphasized a distinct Palestinian identity and the leading role of the PLO in the struggle to liberate Palestine.

The session also changed the "Fundamental Law" to include the election of the entire Executive Committee by the PNC, instead of only that of the Chairman. It separated the post of the Speaker of the PNC from the Chairman of the Executive Committee and incorporated a text aimed at affirming the authority of the Executive Committee over the army.

The PNC's eleventh session was held in Cairo from 1 to 12 January 1973. The most important decision taken was the establishment of the Central Council, which would meet every three months and serve as an intermediary body between the PNC and the Executive Committee; ~~which would meet every three months.~~

On 22 February 1974 the PLO attained full membership in the OIC.

The twelfth session of the PNC was held from 1 to 8 June 1974. In ~~what can be considered~~ a major change, it adopted a political program that came to be known as the "10-Point Program", calling for the establishment of a Palestinian Authority on any liberated part of Palestine. The ~~Central Council~~ elected ~~the a new~~ Executive Committee, ~~that included~~ representatives from the Gaza Strip and the West Bank, including East Jerusalem. ■■■

In October 1974, the Arab Summit recognized the PLO as the sole legitimate representative of the people of Palestine.

On 13 November 1974, the Chairman of the Executive Committee of the PLO, Yasser Arafat, addressed the United Nations General Assembly plenary. Later, on 22 November 1974, resolution 3236 ~~was~~ adopted, reaffirming the inalienable rights of the Palestinian people, including the right to self-determination. On that same day, the PLO ~~was~~ granted observer status at the U.N by resolution UNGA 3237 (XXIX).

~~After becoming an~~ Following on the grant of UN observer ~~status~~ in 1974, the PLO attained full membership in the Non Aligned Movement in 1976.

In 1988, a major development in Palestinian history took place. Almost one year after the beginning of the Palestinian *Intifada* (the civilian uprising against the Israeli occupation in the Gaza Strip ~~and~~ the West Bank, including East Jerusalem) the nineteenth session of the PNC was convened in Algiers in November 1988. On 15 November 1988, the PNC adopted the "Declaration of Independence of Palestine," ~~together with~~ a political communiqué. The Declaration accepted General Assembly resolution 181(II) of 1947, the partition plan for Palestine, and the communiqué accepted Security Council resolution 242 of 1967. ■■■

The PNC convened its twentieth session in Algeria in 1991. The session approved ~~the~~ Palestinian participation in the Madrid Peace Conference based on the principle of land for peace and Security Council resolutions 242 and 338. The PNC authorized the Central Council of the PLO to deal with the matter.

The Central Council met in Tunisia from 10 to 12 October 1993 to consider the Declaration of Principles (DOP) signed between the PLO and Israel. By a large majority, the Central Council accepted the agreement through endorsement of the decision of the Executive Committee in this regard. The ~~Central~~ Council also authorized the Executive Committee to form the Council of the Palestinian National Authority (PNA) for the transitional period from members of the PLO Executive Committee as well as Palestinians from the occupied Palestinian territory ("OPT") and the diaspora. The Council chose Yasser Arafat as President of the Council of the Palestinian National Authority ~~(PNA)~~.

The PNC held its twenty-first session ~~on 21 April~~ in Gaza City ~~on 21 April 1994~~ (for the first time in Palestine since 1966). The session voted, by majority, to "abrogate the provisions of the PLO Charter that are contrary to the exchanged letters between the PLO and the Government of Israel of 9 and 10 September 1993."

## **PLO Structure:**

### **I. Palestine National Council:**

The PNC, which is the highest decision-making body of the PLO, is considered to be the parliament of all Palestinians inside and outside of the ~~Occupied Palestinian Territory~~ OPT and has more than 650 members. The PNC normally sets PLO policies, elects the Executive

Committee and makes the necessary changes in its own membership, ~~as well as changes~~ to the Palestine National Charter (~~for which~~ a special meeting is required) and to the Fundamental Law of the organization. The PNC also elects a speaker, two deputies and a secretary, who make up the Bureau of the Council. The Bureau of the Council has its own standing committees for various aspects of its work, such as its legal and political committees. The composition of the PNC represents all sectors of the Palestinian community worldwide and includes numerous organizations, political parties, popular organizations (each of the ~~foregoing above~~ is represented by specific quotas) and independent personalities, including intellectuals, religious leaders and businessmen.

## II. Central Council

The Central Council, which was established by the PNC in 1973, is the second leading body of the PLO. The Central Council functions as an intermediary body between the PNC and the Executive Committee. There are over 125 members, including 15 representatives from the Palestinian Legislative Council of the PNA and all 18 members of the PLO Executive Committee ~~as well as~~ representatives from most of the Palestinian factions. According to its internal laws, the mandate of the Central Council is to decide upon issues presented by the Executive Committee, endorse executive plans of the Executive Committee and oversee its work.

## III. Executive Committee

The Executive Committee is the leading body of the PLO dealing with many of the day-to-day issues and represents the organization at the international level. The Executive Committee is elected by the members of the PNC and answers to the PNC. Its main functions ~~are~~ to execute the policies and decisions set by the PNC and the Central Council as well as ~~to~~ guide and oversee the work of the PNA. The Executive Committee is also responsible for adopting a budget and for overseeing the functioning of the departments of the PLO, the responsibilities of which are distributed among its members. Decisions of the Executive Committee are taken by a simple majority vote. Its membership stands at 18, including its Chairman, currently Dr. Mahmoud Abbas, who is also ~~the President of the State of Palestine and~~ the elected President of the PNA ~~and the President of the State of Palestine~~.

## IV. Palestine National Fund

The Fund had substantial reserves in the past and served as the national treasury. Today, the ~~amount reserves~~ of the Fund ~~have~~ been reduced in favour of the treasury managed by the PNA. The Fund is still managed by a board of directors and by a chairman who is elected by the PNC and who has a seat as a member of the Executive Committee. The other members of the board are appointed by the Executive Committee, with a maximum of 11 members. Historically, revenues for the fund came from two main sources:—a fixed tax on the wages earned by all Palestinians living in Arab countries and collected by those respective governments, ~~and~~; from financial contributions by Arab governments and peoples

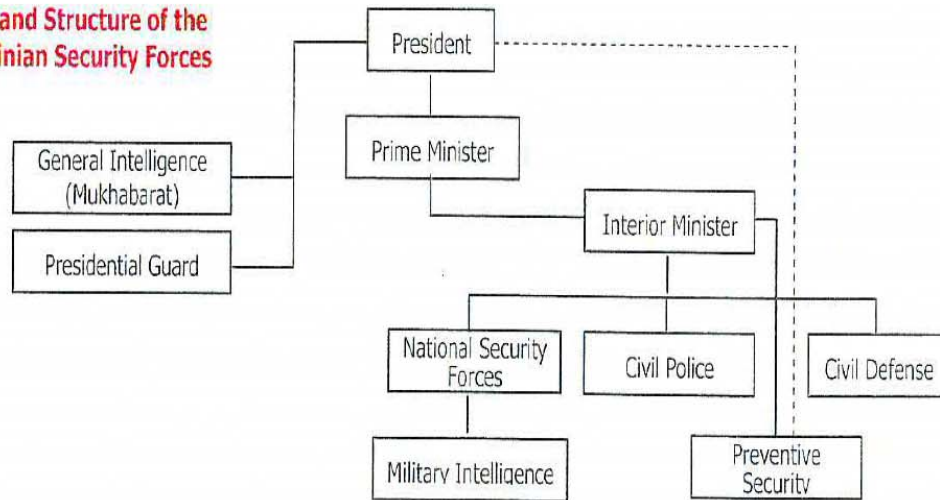
## V. Palestine Liberation Army

The Palestine Liberation Army (PLA) was established as the official military branch of the PLO in 1964, in accordance with the resolutions of the first Palestinian Conference. At that time, three brigades were established: *Ein Jalut* in Gaza and Egypt, *Kadissiyah* in Iraq, and *Hiteen* in Syria. In practice, those brigades were dominated by the general command of the armed forces of their respective host countries. Over time, however, changes were made to the PLA's structure,



including, for instance, the establishment in 1968 of military commando units in Gaza to fight against the Israeli military's occupation, known as *Kuwait al-Tabrir Al-Sha'biya* (Popular Liberation Troops). Recently, with the establishment of the Palestine National Authority (PNA), important parts of those brigades in Egypt and Jordan were absorbed into the PNA security forces. The structure is provided in the chart below.

**Command Structure of the Palestinian Security Forces**



**Overview of Palestinian Security Forces in the West Bank**

Force	Strength	Head	Mission	Remarks
National Security	7,600 troops (effective ca. 3,700)	General Commander post vacant West Bank: Maj.-Gen. Thiab Hamdouni	Internal and border security	10 battalions in the West Bank; has directorates (e.g., training, finance, etc.) and sub-branches (e.g., military intelligence)
Military Intelligence	950	Brig.- Gen. Majed Furaj	Internal affairs, military police (acts against infiltration by militant groups)	Runs the Intelligence Sciences College in Jericho
General Intelligence	3,549	Brig.- Gen. Tawfiq Tirawi	External intelligence, counterespionage, liaison with foreign intelligence	Runs the Intelligence Sciences College in Jericho
Presidential Guard	2,100	Brig.-Gen. Munir Az-Zu'ubi	Protection of the President, VIPs, & specific PA facilities; crisis response	3 battalions with a fourth having been authorized; absorbed the remnants of the old Force 17
Preventive Security	3,555	Brig.-Gen. Ziad Hab Al-Rih	Internal intelligence, investigation of corruption, counterespionage,	Received judicial power of arrest & investigation in Nov. 2007
Civil Police	6,457	Maj.-Gen. Hazem Atallah	Day-to-day policing, arrest of criminals, traffic control	Organized in districts
Civil Defense	400	Brig.-Gen. Ibrahim Atiani	Emergency responses (fire, medical, natural disaster)	

Source: US Security Coordination Road Warrior Team, *West Bank: Palestinian Security Forces*. June 2008.

VI. PLO Departments

The PLO established departments responsible for several important spheres of work, each headed by a member of the Executive Committee. The departments include:

- The Political Department
- The Refugees Department
- The Occupied Homeland Affairs Department
- The Department of Education
- The Negotiation Affairs Department
- The Department of Culture and Information
- The Department of Popular Organizations; and
- The Department of Social affairs.

Of these, the Political Department is the largest. It directs and supervises the work of foreign affairs and Palestinian representation to other states, including the Palestinian embassies, missions and offices in other states, the United Nations and international bodies. The Political Department also represents the PLO and the State of Palestine at international conferences, such as those of the Movement of Non-Aligned Countries (NAM) and the Organization of the Islamic Conference (OIC).

## VII. Palestinian Institutions

The PLO also established several institutions to provide social, economic and health services to Palestinian communities. Among the most important of these institutions are the following:

- Palestine Red Crescent Society (PRCS): Established in 1968 in Jordan, the PRCS provides medical services and health care to the Palestinian people. The PRCS started out with only several small clinics but has since grown into a substantial medical network with hospitals and medical centers throughout the region;
- The Orient House in Jerusalem is mandated to provide services to Palestinians in Jerusalem;
- The Palestinian Economic Council for Development and Reconstruction (PECDAR) was established by the PLO as an independent institution in 1993 in full cooperation and coordination with the international donor community.

### **The PLO Constitution:**

The Fundamental Law, considered the Constitution of the PLO, sets general principles for the work of the PLO, its international standing and the relations between its various components. Section 1, titled “General Principles,” establishes the PLO as a representative of the Palestinian people to assume its responsibilities and functions in accordance with the Palestinian National Charter, the provisions of the Fundamental Law and laws, regulations and decisions adopted by the PLO in accordance with the Fundamental Law and the Charter (Articles 1-2 of the Fundamental Law). Article 3 empowers the Executive Committee of the PLO to adopt regulations related to the various departments of the PLO and its organizations.

Section 2 of the Fundamental Law regulates the Palestine National Council (PNC), which is elected directly by the Palestinian people as a parliament (Article 1), and comprising the highest authority of the PLO responsible for formulating and setting its policies and programs (Article 7), and as well as overseeing the work of the Executive committee and various PLO departments (Article 10).

Section 3 regulates the Executive Committee elected by the PNC (Article 13) and composed of 18 members (Article 14). The Executive Committee is the highest executive authority in the PLO, ~~is always permanently~~ in session and ~~is~~ responsible for implementing the laws, polices, programs and plans of the PNC and ~~is~~ accountable to it (Article 15). The Executive Committee is also responsible for the representation of the Palestinian people, supervising and managing the work of the PLO departments, issuing regulations, by-laws and instructions relating to the PLO's work in accordance with the Charter or the Fundamental Law (Article 16). The Executive Committee may establish departments and set their mandates and by-laws (Article 18).

Section 4 titled "General Provisions" provides for the establishment of the Palestine Liberation Army under the supervision ~~and direction~~ of the Executive Committee ~~and its direction~~ (Article 22). Article 24 provides for the Establishment of the Palestine National Fund to finance the work of the PLO (Article 24). The proceeds of the Fund come from a fixed tax on Palestinians collected according to special laws, financial assistance, loans and other resources.

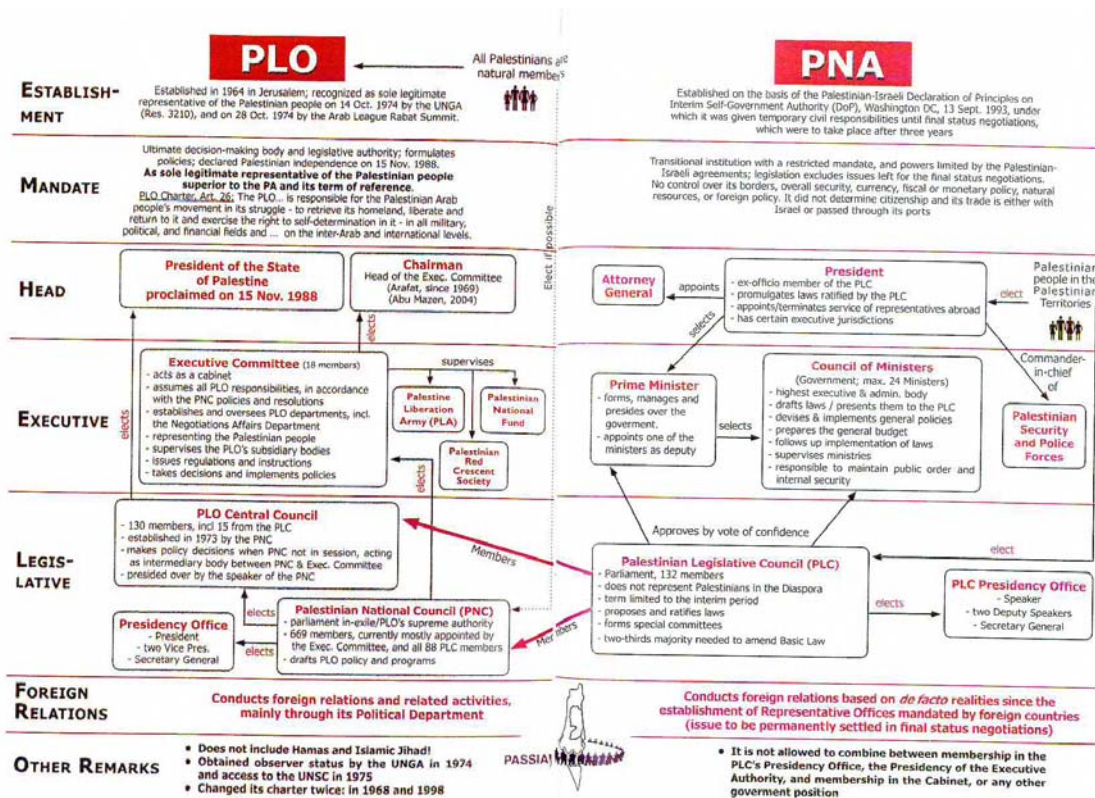
### **The Establishment of the Palestinian National Authority by the PLO**

On 13 September 1993, the Palestine Liberation Organization (PLO), the internationally recognized representative of the Palestinian people, and the Government of Israel signed the "Declaration of Principles on Interim Self-Government Arrangements" at the White House in Washington, D.C. The Declaration was preceded by the exchange of letters of mutual recognition between the Government of Israel and the PLO on 9 September 1993. The two sides agreed on a framework for the Israeli-Palestinian negotiations within the internationally sponsored Middle East Peace Process with the aim of, among other things, "to establish a Palestinian Interim Self-Government Authority, the elected council (the "Council"), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council resolutions 242 (1967) and 338 (1973)".

Following the conclusion of the Declaration of Principles with Israel, the PLO Central Council convened in Tunisia from 10-12 October 1993 and adopted a decision establishing the Palestinian National Authority (PNA) and empowered the Executive Committee of the PLO to form the Council of the PNA for the transitional period from members of the Executive Committee and Palestinians from the occupied Palestinian territory and the Diaspora. The Central Council also decided to appoint the Chairman of the Executive Committee of the PLO, Mr. Yasser Arafat, as the President of the PNA Council.

Before proceeding to a fuller description of the PNA, below is a table which charts the various PLO and PNA institution to assist in understanding their interaction.





## The Palestinian National Authority

The Palestinian National Authority (PNA) is an interim government body created by the PLO [in 1993](#) following the [Oslo track of the](#) Israeli-Palestinian peace process [in which, launched in Oslo, Norway. F](#) For the first time, the PLO and the Government of Israel negotiated directly with one another. The outcome of these historic negotiations was the exchange of letters of mutual recognition and the Declaration of Principles (signed at the White House in Washington, D.C., on 13 September 1993). [The PNA was established on 4 May 1994 with the signing of the Agreement on the Gaza Strip and Jericho Area in Cairo, Egypt.](#) [The founding agreement was followed by another on 28 September 1995, with the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, which set the stage for the extension of the PNA's authority to the rest of the Palestinian population centers in the West Bank \(in addition to Jericho, and the Gaza Strip\).](#)

The Agreements signed between the PLO and the Government of Israel between 1993 and 1995 are commonly referred to as the "Oslo Accords".

This Oslo-initiated framework imposes constraints on Palestinian jurisdiction and control in both internal and external spheres. Despite the restrictions, PNA jurisdiction has expanded to additional spheres. [The PNA has a limited the mandate for territorial and functional control in the Gaza Strip, save for border crossings, and over 29 percent of the territory of the -West Bank.](#)

[These areas contain 95 percent of the Palestinian population, other than those living in occupied East Jerusalem, where the PNA is prohibited by Israel to maintain offices or provide public services.](#) (The PLO's Orient House has the mandate to represent Palestinians in Jerusalem and to deliver services). The PNA provides civil and legal administration to the Palestinian population of the West Bank and Gaza Strip. The PNA is also responsible for internal security in the Gaza Strip and [in 10 percent of the West Bank, with the remaining areas under the overall](#)

security control of the Israeli military. ~~The PNA exercises no control over international border crossings~~

The PNA held its first general election on January 20, 1996. More than 780,000 Palestinians ~~resident in the West Bank and Gaza Strip~~, representing 75 percent of the ~~resident West Bank and Gaza Strip~~ electorate, cast two separate votes (Palestinians living in East Jerusalem cast their votes at polling stations in the city). The first vote was to select 88 members for the new Palestinian Council, representing 16 electoral districts. The second vote was for the ~~PNA President of PNA~~, a position with executive authority ~~in the PNA~~. PLO Chairman Yasir Arafat was elected the first President with 88 percent of the vote. The Palestinian Council has come to be known as the Palestinian Legislative Council (the Legislature), while ~~its the~~ executive authority's ~~cabinet~~ is known as the Council of Ministers (the Cabinet). The Legislature, President, and Cabinet, together with the judiciary and the ministries and other operational institutions, collectively form the Government of the PNA .

The "Interim Period" as stipulated in the Declaration of Principles came to an end on 4 May 1999. The PLO and Israel conducted a series of final status negotiations towards the end of the Interim Period ~~focused on~~ the settlement of permanent status issues including Jerusalem, refugees, settlements, security arrangements, borders, relations, and other matters, ~~but~~ these negotiations ~~remain have continued intermittently ongoing~~ under the ~~current~~ sponsorship of the United States and the Quartet (consisting of the UN, Russia, the EU and the US).

The PNA's standing, jurisdiction, powers and functions are shaped by three factors: the Oslo framework, the PLO and its relation to the PNA, and Israeli policies.

### The Oslo Framework

The Oslo Accords and subsequent interim agreements have contributed to Palestinian institution-building, not least by launching genuine Palestinian self government in many spheres, by allowing ~~for~~ the creation of the PNA, and by allowing ~~for~~ the first national elections in the occupied Palestinian territory in recent times.

However, the Oslo framework limits the jurisdiction of the PNA to ~~certain specified~~ areas. The PNA has limited powers in "areas C" of the West Bank and East Jerusalem, and it does ~~not~~ have legal jurisdiction over Israelis. ~~The PNA has limited~~ responsibility for security in the West Bank and Gaza Strip ~~and for, as well as~~ international crossing points ~~is limited~~. It also lacks responsibility for foreign relations, which are under the mandate of the PLO. The PLO generally acts on behalf of the PNA at the international level ~~but also frequently and often~~ delegates responsibilities to the PNA. ~~The PNA also has limited~~ control over land, water resources, and the movement of people and goods within and between the West Bank and Gaza Strip ~~also is limited~~. This ~~limit curtails~~ the development and functioning of its executive, legislative, and judicial branches of government to ~~certain specified~~ areas and spheres corresponding to those ~~responsibilities transferred delegated~~ to it under the Oslo framework, ~~albeit~~ ~~Nevertheless~~, the PNA has gradually evolved and expanded its mandate, as detailed below.

### The PLO

The PLO, in its internationally recognized capacity as the sole legitimate representative of the Palestinian people, signed the Declaration of Principles in 1993 and subsequent interim agreements with Israel and authorized the creation of the PNA, delegated powers (and continued to delegate additional powers after the end of the PNA's five-year Interim Period) to it and conferred legitimacy upon it, ~~a~~ legitimacy that was confirmed and expanded ~~upon by the~~ general

elections. However, the PLO continues to hold the responsibility for negotiations with Israel, foreign relations, and the signing of international agreements, including on behalf of the PNA, save for those spheres in which the PLO delegated or empowered the PNA ~~was delegated or empowered~~ to negotiate and sign international agreements. The PLO also maintains its status as the representative of all Palestinians, including those in the Diaspora, and is therefore the only entity that has the authority to negotiate and guarantee a permanent settlement with Israel.

### Israeli Policy

Notwithstanding the signing of the Declaration of Principles with the PLO in 1993 and the interim agreements, Israel remains the occupying power and continues to: exert overall effective control over the entirety of the ~~all~~ occupied Palestinian territory; sever ~~the~~ links between the Gaza Strip and the West Bank; control ~~the~~ border crossings and restrict movement of goods and people. ~~Thus, Israel effectively curtails~~ limiting the ability of the PNA's powers in many areas and spheres.

### Constitutional Framework of the PNA and its Political Institutions:

#### The "Oslo Accords" framework:

The PNA was established pursuant to the October 1993 decision of the PLO immediately following the conclusion of the Declaration of Principles on Interim Self-Government Arrangements signed on 13 September 1993 ("DOP"). ~~The d~~Details regarding the establishment of the Palestinian Council (~~which was renamed to~~ commonly referred to as the Palestinian Legislative Council) and its functions were stipulated in the DOP and in the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, signed on 28 September 1995 ("Interim Agreement"), and subsequent agreements.

These Palestinian-Israeli agreements and ~~by a decision of~~ the PLO decision establishing the PNA constitute the general and legal framework underlying the establishment of the Palestinian Legislative Council (the Legislature), and they defined its initial structure, powers, functions and jurisdiction in the West Bank and Gaza Strip, which are deemed ~~a one~~ "single territorial unit" under the DOP. ~~The main accord under which the PNA established its constitutional basis is~~ The Interim Agreement of September 1995 forms the primary constitutional basis for the PNA. ~~Theis~~ The PNA Legislature assumed the responsibilities ~~already transferred to the PNA by the PLO's~~ October 1993 decision, as well as ~~in addition to those ones~~ responsibilities transferred from the Israeli military government to the PNA under the ~~Interim~~ Interim Agreement. The Legislature is empowered to create legislative, executive, and judicial branches and to define the ~~branches's~~ powers and responsibilities. This ~~done by passing~~ was accomplished by the Legislature's passage of the Basic Law delineating the three branches. A committee drawn from the Legislature exercises executive authority on its behalf, while the Legislature ~~would~~ legislates and performs policy and the budget oversight functions ~~over policy and the budget~~. The ~~separately elected~~ President, ~~to be elected separately, would~~ proposes ~~additional~~ the members of the executive authority (the Cabinet) to the Legislature for approval, and ~~is would also be~~ an *ex officio* member of the Cabinet. The Legislature also created an independent judicial branch.

The Legislature, the President and the Cabinet, together with the judiciary and the ministries and other operational institutions, ~~are taken~~ collectively ~~to~~ form the PNA.

The Legislature and President were to be elected by Palestinian residents of the West Bank (including East Jerusalem) and the Gaza Strip for an interim period during an "Interim Period" not to exceeding five years from the May 4, 1994 date of signing of the Gaza-Jericho Agreement on May 4, 1994. The powers of the PNA during the interim period are defined in the Palestinian-Israeli Interim Agreement, which vests legislative authority in the Legislature and executive authority in the President and the Cabinet [REDACTED]

The PNA during the "Interim Period" was mandated under the Interim Agreement to exercise civil powers related to education, culture, health, social welfare, policing and tourism, among others during the Interim Period.

-Article XVIII of the Interim Agreement specifies the scope of the Legislature's functions legislative powers and of the Legislature, and granting it the power to enact laws as well as secondary legislation including rules, regulations and instructions. As such, the Legislature enjoys limited executive powers to "formulate and conduct Palestinian policies and to supervise their implementation, to issue any rule or regulation under powers given in approved legislation and administrative decisions necessary for the realization of the Palestinian self-government". These powers further include employing staff, legal action and suing, entering into contractual obligations and agreements, maintaining registers for births, deaths, the population, and all other related records. The Legislature may authorize or issue licenses, certificates and related documents [REDACTED]

The PNA modified the Legislature's executive powers when it vested the Cabinet with the power to issue rules and regulations. Thus, executive powers granted to the Legislature under the Interim Agreement are exercised on behalf of the Legislature by the Cabinet, headed by the elected President of the PNA. The Cabinet's members shall all be from the Legislature except for 20% of the total, who may be appointed from outside the Legislature to exercise executive powers and participate in government functions. The President must sign legislation for it to become laws and also may, at the same time, propose legislation and introduce it before the Legislature.

The Legislature may issue rules and regulations. The PNA modified this last principle when it vested the power to issue rules and regulations with the Cabinet.

Executive powers granted to the Legislature under the Interim Agreement, are exercised, on behalf of the Legislature, by a committee known as the executive authority (the Cabinet) headed by the elected President of the PNA. Its members shall all be from the Legislature except for 20% of the total who may be appointed from outside the Legislature to exercise executive powers and participate in government functions. The Legislature also enjoys some executive powers to "formulate and conduct Palestinian policies and to supervise their implementation, to issue any rule or regulation under powers given in approved legislation and administrative decisions necessary for the realization of the Palestinian self government". These powers further include employing staff, legal action and suing, entering into contractual obligations and agreements, maintaining registers for births, deaths, the population, and all other related records. The Legislature may authorize or issue licenses, certificates and related documents.

Foreign relations were excluded from the scope of the Legislature's powers during the Interim Period, including the establishment of embassies, consulates, attaché offices in foreign countries. The Legislature was also precluded from accepting ~~the~~ diplomatic representatives of other nations who would perform diplomatic functions in the West Bank ~~and/or the~~ Gaza Strip. However, pursuant to Article (IX) (5) of the Interim Agreement, the PLO may conduct negotiations, sign economic agreements and, agreements with donor countries on behalf of the PNA (~~alternatively or~~, the PLO may delegate such authority or powers to the PNA). Further more, the PLO remains officially responsible for the Palestinian foreign service and diplomatic missions, although administratively they are governed by the Law on Diplomatic Service adopted by the Legislature. Nonetheless, the PNA is delegated authority to sign certain agreements with other states in the economic, social and judicial spheres ~~with other states~~.



~~Thus, U~~nder the Oslo Accords, the PNA is mandated to have an independent judiciary, courts and tribunals, ~~whereas and the~~ political system is a hybrid ~~one that shares enumerated powers with the~~ PLO. With respect to the President, he or she is directly elected by the people and may not dissolve or remove the Legislature. As in parliamentary systems, the government is ~~held~~ accountable ~~before to~~ the legislature. Similar to “semi-presidential” systems, the Cabinet is accountable to the President, ~~although~~ in the system implemented under the Oslo Accords the President exercises the functions usually reserved for a Prime Minister.

The Interim Agreement further provides that:

- (a) The Ra'ees (President) of the Executive Authority shall be an *ex officio* member of the Executive Authority;
- (b) All other members of the Executive Authority, except the President will be members of the Council appointed by him subject to approval of the Council; and
- (c) the President may appoint persons (constituting 20% of the Council members) who are not elected members of the Council to exercise executive powers, but who may not vote.

Thus, under the Oslo Accords, the President of the PNA is directly elected and at the same time serves as the head of the Cabinet.

### **The Basic Law:**

In 1997, the Legislature approved the Basic Law in its third and final reading, following an extensive debate in full view of the Palestinian public and with the participation of civil society bodies. The Basic Law was signed by the President and given effect. The Basic Law provides for a parliamentary democracy based on the rule of law and separation of powers. It affirms basic civil rights and freedoms, and seeks a strong legislature directly elected by the people and entrusted with the tasks of legislation and oversight of the executive. The members of the Legislature are to enjoy immunity. They also have the right to grant and withdraw confidence in the executive, and to review and approve its proposed budget. The Basic Law upholds the independence of the Judiciary, and stipulates the establishment of a higher judicial council responsible for the management and oversight of the judicial branch. It also calls for the establishment of a high constitutional court; and ~~grants~~gives the Legislature~~PLC~~ a role in approving the executive selection of the attorney general or public prosecutor.

The Basic Law also seeks to institutionalize safeguards against violations of citizens' rights. The presidential decree that created the Palestinian Independent Commission for Citizens' Rights soon after the establishment of the PNA provided an ombudsman as an additional safeguard, along with an independent judiciary and additional laws dealing with political parties, nongovernmental organizations, press freedom, and other issues.

### **Amendments to the Basic Law**

In 2003 the President requested that the Legislature amend the Basic Law to establish the position of prime minister. In the same session, the Cabinet adopted the amendment in two consecutive readings during a single~~one~~ session convened in Ramallah on 3 March 2003, and submitted the change to the President for review. During its ~~session held on the~~ 16 March 2003 session, at the request of the President, the Cabinet adopted the amendment in its third reading at the President's request. The amendment was published in the *Official Gazette* on 19 March 2003.

The Basic Law adopted the principle of cooperation between the three branches (executive, ~~presidential and premiership~~; legislative; and judicial) and the principle of checks and balances. Article 2 of the Basic Law states that the Palestinian people are the source of all authority and shall exercise their authority by means of the legislative, executive and judicial authorities and in accordance with the principle of separation of powers. The Basic Law stipulates ~~the~~ the exercise of power by each branch in harmony with the other two, whereby no one branch may usurp power from other branches, nor exercise absolute powers without checks and intervention where necessary. ~~Article 2 of the Basic Law states that the Palestinian people are the source of all authority and shall exercise their authority by means of the legislative, executive and judicial authorities and in accordance with the principle of separation of powers.~~

The legislative functions are shared between the Legislature and executive. For example:

- a legislator may serve both in the Legislature and the Cabinet;
- the Legislature approves the agenda of the Cabinet, and grants ~~a~~ votes of confidence;
- the Cabinet is jointly accountable to the Legislature and the President;
- the Legislature may withhold its vote of confidence from any minister or from the entire Cabinet;
- the Cabinet prepares the budget and submits it to the Legislature for approval;

~~Additionally~~ Moreover, the Basic Law provides for a fully independent judiciary. The Constitutional Court reviews the constitutionality of laws, rules and regulations. Judges are fully independent. No branch may intervene in the exercise of judicial powers or the administration of justice.

The other source of legal authority affecting constitutional arrangements ~~in the areas under the jurisdiction of the PNA~~ is the extensive mixture of laws and legal traditions ~~in force~~ dating back to the era of Ottoman rule as well as various administrations that followed. In Gaza this ~~consists of~~ includes the English common law tradition, as applied by the British Mandate up to 1948, and elements of civilian and military law in force during the period of Egyptian administration up to 1967. The legal system in the West Bank is derived from the Napoleonic tradition and the introduction of Jordanian law in the 1950s and 1960s. In both areas the Israeli military government introduced further modifications in the form of military orders. The Interim Agreement of 1995 allows the abrogation of existing laws and military orders by the PNA, as long as ~~such~~ the changes ~~does~~ not violate the terms of the agreement. Added to these ~~laws~~ of laws are the PNA's legislation, regulations and decisions issued by the Legislature, as well as ~~decrees~~ from the Office of the President and the Cabinet.

### **The Palestinian Legislative Council (the Legislature):**

On 20 January 1996 the first Palestinian elections were held in the West Bank, Gaza Strip and East Jerusalem, for the President of the PNA and the Legislature.

On 25 January 2006 the second legislative elections were held with the participation of all Palestinians parties and factions (with the exception of the *Islamic Jihad* movement). The elections were carried on the basis of the new Palestinian Election Law, No. 13 (2005), which stipulated that 50% of the Legislature's 132 seats are to be elected on a proportional basis and 50% (66 seats) on a regional basis. The original number of seats was set by the Interim Agreement at 88 and was amended by the Legislature to 132 before 2006.

The the Declaration of Principles (1993) and the Interim Agreement (1995) signed between the PLO and Israel provide the framework for elections to the Legislature in the West Bank, including East Jerusalem, and the Gaza Strip. These agreements further stated that one of the objectives is the establishment of an interim transitional Palestinian authority comprised of a



Palestinian elected council with powers and authorities in specific agreed spheres for a transitional period of 5 years. The agreements further stated that the Council will have powers in all of the West Bank and Gaza Strip except in areas that are to be negotiated in permanent status negotiations, namely Jerusalem, settlements, military bases and over Israeli citizens present in the occupied Palestinian territory.

The implementation of the Declaration of Principles in May 1994 resulted in an Israeli withdrawal from 85% of the Gaza Strip and the city of Jericho in the West Bank and the establishment of the PNA in the two areas with full powers in all spheres, except for external security, foreign relations, borders, and settlements. This was followed by an Israeli redeployment from populated areas in the West Bank (except the cities of Jerusalem and Hebron) in November and December 1995. The Interim Agreement considered the Palestinian Council and the President as the transitional government for a period of five years from the date of the signing of the Gaza – Jericho Agreement on 4 May 1994. The elected council was to have legislative powers in accordance with the agreements signed between the PLO and the Government of Israel, which set the number of the elected members of the Legislature for the transitional period to 82 (which was later increased to 88 members) elected directly by the Palestinian people in the West Bank, East Jerusalem and the Gaza Strip.

The Basic Law provides in Article 47 that the Legislature "is the elected legislative authority" and shall carry out its legislative and oversight functions as set out in its rules of procedure. It further stipulates that the term of the PLC is four years from the date of its election so that elections are held every four years. This constitutional amendment was made in line with the 2005 Election Law and ended the previous arrangement in accordance with the Interim Agreement under which the Legislature was intended to serve for the transitional period of 5 years ending in 2000.

The Election law of 2005 stipulates that the Legislature comprises 132 elected members, as opposed to the 88 members in accordance with the Israeli-Palestinian accords, for a period of four years from the date of elections. The elections are to be held on a regular basis every four years according to a mixed electoral system: 50% of the seats in a national proportional election and 50% in regional elections according to districts. The Election Law further states that regular elections for the President of the PNA and the PLC are to be conducted at the same time.

**Functions of the Legislature:** The Legislature has a pivotal role in the process of establishing democratic Palestinian institutions and the following five key functions:

1. **Legislative:** The main objective of the Legislature is to establish and strengthen the rule of law in Palestine and unify the legal system. The Legislature has made significant achievements towards that end, including the adoption of mechanisms and procedures of modern parliamentary legislation making process, as well as the preparation of more than 81 draft laws out of which 42 were adopted and entered into effect in a wide array of spheres covering the constitutional, administrative, economic, social, judicial, and human rights law.
2. **Accountability and transparency:** The Legislature adopted modern parliamentary traditions of accountability and transparency, with emphasis on the principle of separation of powers and respect for the rule of law, accountability of ministers, officials and monitoring the performance of the executive branch. The Legislature established mechanisms for oversight and practiced oversight over the executive through its

specialized committees and the General Assembly. The Legislature has exercised the vote of confidence to the government several times since 1996 and has approved the general budget of the PNA on an annual basis and regularly reviewed the Palestinian development plans, the curriculum, in addition to discussing reports by the general ombudsman and adopting the necessary decisions thereon.

3. The promotion of democracy: The Legislature devoted many efforts to promote democracy, advance parliamentary democratic traditions in Palestinian society and involves large segments of the Palestinian people in the democratic decision making process. The Legislature identified the seventh day of March of each year as the day for democracy in Palestine, in which the Legislature, in cooperation with civil society organizations, assemble campaigns, intellectual, political and social activities all aimed at advancing democratic values and traditions in Palestinian society to facilitate freedom of opinion and expression.
4. Parliamentary diplomacy: With the aim of mobilizing the widest Arab and international support and solidarity for Palestinian political and national objectives, notably to end Israel's occupation, promote the right of return for refugees, and the establish an independent Palestinian state with Jerusalem as its capital, the Legislature launched a diplomatic campaign and established many direct relations with parliaments all over the world. As part of this campaign, more than 250 parliamentary delegations and foreign government officials from more than 65 states, including heads of states, ministers and parliamentarians have visited the Legislature. Moreover, there have been more than 160 visits abroad by delegations from the Legislature at the invitation of parliaments in more than 45 countries worldwide.
5. The political effort: The Legislature established several committees, specialized in their respective spheres of competence, including the Jerusalem Committee, the Land Committee, the Settlements Committee, the Refugees Committee, the Prisoners and Detainees Committee, the Political, Economic, Financial, Social Affairs and Legal Committees. All these committees have met regularly and play a key role in drafting reports, reviewing legislation and resolutions.

For a detailed outline of the various ministries, their mandates and functions, see "Appendix A".



# The Palestinian Criminal Justice System

## General Background

~~The PNA's mandate is provided in the Oslo Accords and subsequent agreements. These agreements regulate in some detail the boundaries of its governmental and administrative functions, along with limitations imposed by the ongoing Israeli occupation. The PNA's judicial institutions form an integral part of its public institutions, and like other PNA public institutions they are subjected to the same external framework imposed by the Oslo Accords and subsequent agreements when fulfilling their specific tasks.~~ Under these circumstances, a functional justice sector has developed in all areas controlled by the PNA.

The occupied Palestinian Territory of the Gaza Strip, the West Bank and East Jerusalem (the OPT) are divided under the Oslo Accords into three types of security and administration zones, namely, Areas A, B and C, with Area A under full Palestinian administration, Area B under Palestinian civil but not security or military jurisdiction, and ~~the administration of Area C is~~ under the full jurisdiction and administration of Israel. The A and B areas are not interconnected with each other, but, rather, are in many parts separated by Area C, which is replete with~~include~~ military bases, illegal Israeli settlements and~~as well as~~ Israeli roadblocks and military checkpoints. ~~Corresponding to this territorial fragmentation is the territorial geographic reach of jurisdiction of~~ The PNA's Palestinian justice system's jurisdiction ~~which~~ extends only to Areas A and B ~~of~~ the West Bank and to most~~all~~ of the Gaza Strip and thus directly corresponds to the overall territorial fragmentation of the occupied Territory.

Moreover, pursuant to the Oslo Accords, the PNA has no authority over citizens of Israel, including Israeli settlers, wherever they are in the OPT.<sup>1</sup> Consequently, citizens of Israel in the OPT are exempt from Palestinian criminal jurisdiction and in effect enjoy personal immunity. However, for lesser, no-criminal~~other~~ offences, such as traffic violations and parking offences, although the PNA does not exercise~~have~~ jurisdiction according to the Oslo Accords, in practice, the PNA enforces the rule of law for such non-criminal offences against Israeli citizens in Areas A and B in the same manner that its enforces~~d~~ them against Palestinian citizens.

The detailed foundation for the respective jurisdictions and the judicial co-operation between Israel and the PNA are set out in the Interim Agreement (1995) at Chapter 3, Art. XVII (Jurisdiction) and in Annex IV (Protocol Concerning Legal Affairs) ~~(commonly referred to as "the Taba Agreement" or "Oslo II")~~. See **Appendix B for a copy of Art. XVII and Annex IV.**

As set forth above, ~~Since~~ the British Mandate period, the legal traditions in the West Bank and the Gaza Strip have evolved~~adopted~~ with historic nuances due to~~with~~ the adoption of Jordanian law in the West Bank and British and Egyptian law in the Gaza Strip. Since its establishment, the PNA started~~has endeavored~~ to bridge the nuances in the differing legal frameworks and traditions in the West Bank and Gaza Strip through harmonizing efforts like the common *Code of Penal Procedure*. In addition to this specific effort, all new PNA legislation is applicable~~applies~~ in both the West Bank and Gaza Strip. PNA judicial institutions cover all parts of the PNA jurisdiction and the official seats of the highest bodies of the

<sup>1</sup> Interim Agreement, Annex IV, Art. 1 2 b.

judiciary, namely the Ministry of Justice (MoJ), the High Judicial Council (HJC) and the Attorney General's Office (AGO), were formerly housed in Gaza City though they have been relocated ~~for~~ temporarily to Ramallah.

## Prosecution

Public prosecution ~~plays~~ has a key role in ~~the~~ Palestinian criminal procedure. According to the *Criminal Procedure Code (CPC)*, the prosecutor has the exclusive right to “file and conduct criminal action,” which includes an exclusive right to investigate crimes ~~occurred~~.<sup>2</sup> Judicial ~~o~~Officers<sup>3</sup> ~~have an obligation~~ are obliged to present “without delay” to the prosecutor the reports and complaints they receive in relation to crimes, to conduct examinations and searches, to obtain clarifications and to take measures to preserve evidence of ~~the~~ crimes.<sup>4</sup> ~~The judicial officers shall investigate crimes, their perpetrators and gather necessary evidence for the prosecution at trial.~~<sup>5</sup> [REDACTED] The prosecutors shall lead and supervise the judicial officers in their work.<sup>6</sup>

The prosecutor also ~~leads and carries out the preliminary investigations,~~ prepares the indictment and defends it in front of the court, appeals court judgements if considered necessary, executes criminal verdicts and inspects the legality of detentions of pre-trial detainees and prisoners as well as the conditions of prisons.

### Organisational Structure and Functions:

The organization of prosecutions is based on *The Basic Law*, June 7 2002,<sup>7</sup> which stipulates that the prosecution shall be regulated by special law: the *Law on Judicial Authority (JAL)*, No. 1 (2002).<sup>8</sup> The JAL partly regulates the structure of the public prosecution, as well as appointment, promotion, or dismissal of prosecutors and possible disciplinary measures against them. The rights and obligations for the prosecutors are regulated in the CPC and, in addition, the Attorney General has provided more detailed instructions concerning the work and structure of the prosecution.

The Attorney General is nominated by the HJC and appointed by the President of the PNA.<sup>9</sup> This also applies to ~~the~~ prosecutors, as stipulated in the JAL.<sup>10</sup> In the HJC, the AG is the only representative of the public prosecution. Seven out of the nine members of the HJC are judges.

At the moment, the responsibility for prosecutions is divided between the Office of the Attorney General (AGO), the Appeal and Cassation Unit, the Unit for Anti-Corruption and Economical Crimes (ACEC)<sup>11</sup>

<sup>2</sup> Criminal Procedure Code (CPC), Law No. 3 (2001), Articles 1 and 55.

<sup>3</sup> Who could be a Judicial Officer is defined in CPC, Article 21.

<sup>4</sup> The Judicial Officers responsibilities are outlined in CPC, Articles 19 and 22.

<sup>5</sup> ~~CPC, Article 19 § 2~~

<sup>6</sup> CPC, Article 19 § 1

<sup>7</sup> Articles 107 and 108

<sup>8</sup> Articles 60 to 74

<sup>9</sup> JAL, Article 63.

<sup>10</sup> JAL, Article 74 § 1 and Article 18.

<sup>11</sup> The Economic Crimes Prosecution investigates and prosecutes criminal offences of an economic nature, cases pertaining to crimes related to state security and collaboration with foreign entities.

and 12 district offices, which cover the First Instance Courts and the Conciliation Courts in their areas of responsibility in the West Bank. An organisational chart of this structure is found below.

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The Anti-corruption Prosecution is mandated to prosecute the following offences: a) illicit gain b) bribery c) misuse of public funds d) torture e) human rights violations f) damage to public property g) abuse of power h) obstruction of justice, and i) money laundering.

# Attorney General

Assistant Attorney General

Appeal and Cassation Unit  
Assistant Attorney General, 2 prosecutors

Anti-Corruption and Economic Crimes Unit  
Chief Prosecutor, 2 Prosecutors, 2 Assistant Prosecutors

Ramallah Prosecutor's office  
Chief Prosecutor, 4 Prosecutors, 10 Assistant Prosecutors

Jenin Prosecutor's office  
Chief Prosecutor, 9 Assistant Prosecutors

Nablus Prosecutors's office  
Chief Prosecutor, 4 Prosecutors, 6 Assistant Prosecutors

Dura Prosecutor's office  
4 Assistant Prosecutors

Tulkarem Prosecutors's office  
2 Prosecutors, 4 Assistant Prosecutors

Salfit Prosecutor's office  
1 Prosecutor, 2 Assistant Prosecutors

Jericho Prosecutor's office  
Chief Prosecutor, 2 Prosecutors, 1 Assistant Prosecutor

Bethlehem Prosecutor's office  
2 Chief Prosecutors, 3 Prosecutors, 3 Assistant Prosecutors

Hebron Prosecutor's office  
Chief Prosecutor, 3 Prosecutors, 4 Assistant Prosecutors

Halhul Prosecutor's office  
Chief Prosecutor, 2 Assistant Prosecutors

Tubas Prosecutor's office  
1 Prosecutor, 2 Assistant Prosecutors

Qalqilia Prosecutor's office  
1 Prosecutor, 4 Assistant Prosecutors



~~The~~ areas of responsibility for the public prosecutors correspond with ~~those~~ of the courts. If only a Conciliation Court is present in an area, the local prosecutor office works only on cases filed before that conciliation court. ~~The~~ Felony cases for that area are investigated by the local prosecutor's office at the same location as the First Instance Court where the accused will later be tried. In areas with both Conciliation Courts and First Instance Courts, the prosecutor's office works on all cases and refers cases to both courts.

In ~~the year~~ 2006, the AG issued decrees to develop the administrative functioning of the AGO.<sup>12</sup> With these four decrees, the AG established, as part of the AGO, a technical office,<sup>13</sup> an inspection office,<sup>14</sup> an economic crimes prosecution unit and an anticorruption prosecution unit. In addition, the AGO also includes the Assistant Attorney General, the enforcement unit,<sup>15</sup> the general prosecution,<sup>16</sup> government cases prosecution,<sup>17</sup> appeal and cassation prosecution<sup>18</sup> and specific prosecution<sup>19,20</sup>

The CPC mandates specific tasks for the AG and his or her assistants on case-related prosecution work. The AG or any of the Public Prosecutors perform the general prosecutor's duties including investigation duties and representing the prosecution before the courts. Other duties are assigned specifically to the AG and his or her assistant(s). One of the specific duties of the AG and the assistants is to review felony case files and decide on indictments, further investigation or to suspend or withdraw charges.<sup>21</sup> Similarly, ~~the~~ ~~AG~~ has the sole authority to suspend or withdraw charges in contravention and misdemeanour cases.<sup>22</sup> Another responsibility of the AG is to receive and decide upon requests from civil claimants [REDACTED] appealing decisions to drop charges.<sup>23</sup> In addition, the AG has ~~the~~ exclusive right to institute penal

<sup>12</sup> A.G. Decrees No. 1, 4, 28 and 29 (2006).

<sup>13</sup> The Technical Office has the following competences:

Training, commentary on draft laws, suggestions for improving prosecutions, draft internal regulations and decisions, prepare and publish a specialized journal, prepare legal memos and notes, international co-operation, public relations, statistics and reports, serious cases, review and endorse filed cases, cases against lawyers, politicians, diplomats and any other issue requested by the AG.

The following specialized departments are included in the Technical Office: a) The Unit of the Protection of Human Rights. b) The Unit of Administrative Instructions. c) The Unit of Media and Information. d) The Unit of Planning Judicial Development. e) Unit of Judicial Co-operation. f) Unit of Research and Studies. g) Unit of Judicial Training.

<sup>14</sup> The Inspection Office oversees the work of all Prosecution departments in all districts, develops a system for inspection, examines complaints against prosecutors and initiates first direct investigation, offers recommendations to the AG on the assignment of any member of the PP for disciplinary or criminal accountability, prepares forms and pleas related to disciplinary or penal violations of the PP members and follow-up their trial, develops standards and foundations of the appointment and promotion and oversees the appointment and promotion committees and prepares proposals for the distribution to prosecutors on different departments.

<sup>15</sup> The Enforcement Unit oversees the impartiality of the Public Prosecution, implements the verdicts issued against members of the PLC, ministers and members of the judicial authority, oversees issues related to criminal records, oversees and inspects rehabilitation centres and oversees rehabilitation requests.

<sup>16</sup> The General Prosecution follows up the proceedings relating to criminal cases with the district prosecutions and cases of prosecution staff members at the AGO to obtain a final decision.

<sup>17</sup> The Government Cases Prosecution represents the government in all suits and claims filed against the government and co-ordinates with ministries, institutions or national bodies.

<sup>18</sup> The Appeal and Cassation Prosecution reviews and audits courts' judgements in criminal cases and provides legal opinions, prepares appeal petitions and trials before the Court of Appeal.

<sup>19</sup> The Specific Prosecution is mandated to represent the public prosecution before the Conciliation Courts and investigate crimes within its jurisdiction.

<sup>20</sup> The structure of AGO is described in detail in "A short study of the Palestine public prosecution and police and their relations" written by Abdeljalil Taktak, Centre for International Legal Cooperation, Leiden, The Netherlands, see pp. 16 to 19.

<sup>21</sup> CPC, Article 152.

<sup>22</sup> CPC, Article 149.

<sup>23</sup> CPC, Article 153.

actions against public employees, civil servants or officers vested with judicial powers<sup>24</sup> and to request transfers of cases from one court to another of the same rank if so required for public security reasons.<sup>25</sup> The AG and the assistants also have exclusive rights on a few coercive means: they are authorised to seize letters, communications, newspapers, parcels, telegrams, etc., at post and telegraph offices and, in addition, to request and perform surveillance of telephones and wireless communication and to record conversation in private places once authorised by a conciliation court judge.<sup>26</sup> Furthermore, the AG has an obligation to supervise the judicial officers.<sup>27</sup>

There are 96 prosecutors ~~that are~~ currently appointed in the West Bank and a few dozen in the Gaza Strip. The number of prosecutors in the West Bank ~~has~~ almost tripled, from 37 in 2007 to 96 in 2008. To be appointed as a public prosecutor, one must fulfill the same basic requirements as judges.<sup>28</sup> Former judges, lawyers and teaching staff from the law faculties can be appointed as public prosecutors. Similarly, former public prosecutors can be appointed as judges.<sup>29</sup> Promotion of prosecutors is based on seniority and competence.<sup>30</sup> Moreover, the law stipulates that prosecutors cannot engage in any commercial activity or in any activity that is ~~not in~~ consistent with the independence and dignity of the judiciary. The High Judicial Council may prohibit any prosecutor from engaging in work that could cause a real or perceived conflict of interest. Upon appointment, all prosecutors must submit a financial statement for themselves, their spouses and their children to the President of the High Court.<sup>31</sup>

Disciplinary claims against prosecutors can be instituted by the AG *sua sponte* or upon request of the Minister of Justice.<sup>32</sup> According to the JAL,<sup>33</sup> a chief prosecutor or a prosecutor is not allowed to work ~~at in~~ the same jurisdiction for more than four consecutive years. This has led to the practice of the AG<sup>34</sup> annually moving almost all the prosecutors from one district to another, ~~a~~ ~~This~~ practice intended is meant to prevent corruption and nepotism.

## Legal framework

~~The e~~Criminal procedures ~~is are~~ regulated in the Criminal Procedure Code (CPC).<sup>35</sup> The CPC gives the Public Prosecutor ~~the an~~ exclusive right to “file and conduct a penal action” which includes ~~the an~~ exclusive right to investigate crimes ~~occurred~~.<sup>36</sup> The prosecutor leads pre-trial investigations and also has the power of the state ~~behind to to back him in~~ satisfying the office's mandate. The law stipulates that “the members of the Public Prosecution shall exercise judicial powers and supervise officers invested with judicial powers”<sup>37</sup> and that “Judicial Officers shall investigate crimes and their perpetrators and gather the

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<sup>24</sup> CPC, Article 54.

<sup>25</sup> CPC, Article 182.

<sup>26</sup> CPC, Article 51.

<sup>27</sup> CPC, Article 20.

<sup>28</sup> JAL, Articles 61 and 16.

<sup>29</sup> JAL, Article 19.

<sup>30</sup> JAL, Article 74 referring to JAL Articles 18 § 3 and 42 § 3.

<sup>31</sup> JAL, Articles 71 and 28.

<sup>32</sup> JAL, Article 72.

<sup>33</sup> JAL, Article 65 § 2.

<sup>34</sup> Formally the transfers are decided by the Minister of Justice based on a recommendation by the AG (see JAL, Article 65 §1).

<sup>35</sup> See CPC, Law No. 3 (2001).

<sup>36</sup> CPC, Articles 1 and 55.

<sup>37</sup> CPC, Article 19 § 1.

evidence necessary for the prosecution at trial<sup>38,39</sup> ~~Furthermore, the AG shall supervise the judicial officers.<sup>40</sup>~~ Judicial officers are, *inter alia*, responsible for:

- accepting reports and complaints and sending them without delay to the Public Prosecution;
- conducting examinations and searches;
- obtaining clarifications and seeking assistance from witnesses;
- taking all necessary measures to preserve evidence of the crime;<sup>41</sup>
- all procedures taken should be transcribed in official minutes and signed;<sup>42</sup>

Prosecutors are obliged to conduct ~~the~~ investigations promptly upon learning of ~~the~~ crimes.<sup>43</sup> Once an arrest is made, the arrested person should be interviewed or questioned by the prosecutor within 24 hours from the time ~~he or she~~ such person is sent to the prosecutor. Before initiating the interview or questioning ~~of the~~ arrested person, the prosecutor must order and make sure a medical and psychological examination of the accused is performed.<sup>44</sup> After the interview of the arrested, the prosecutor must decide whether to continue detaining the arrested person.<sup>45</sup> The prosecutor can decide to detain the accused for a maximum of 48 hours.<sup>46</sup> If the grounds warrant, additional detention time may be sought by the prosecutor from a conciliation judge. The judge can decide to extend the detention for 15 days, renewable ~~to for~~ a maximum of 45 days.<sup>47</sup> The AG or his or her assistant can, if necessary, ask for additional extension of the pre-trial detention, which can be decided by the Court of First Instance. This extension can be ordered for an additional 45-days and can later be renewed.<sup>48</sup> Pre-trial detention may, however, under no circumstances exceed 6 months, unless the case has been transferred to the competent court before.<sup>49</sup> In a felony case, the AG may, for a limited time also restrict contact with the arrested person by anyone but ~~for~~ a criminal defence lawyer.<sup>50</sup> Release on bail is available ~~by following~~ according to a regulated and established bail process.<sup>51</sup>

The prosecutor's use of the ~~State's PNA's~~ powers is divided on the basis of assigned responsibilities. The prosecutor can issue search warrants and order seizures.<sup>52</sup> The prosecutor can issue writs of attachment

<sup>38</sup> CPC, Article 19 § 1 ~~;~~ According to CPC, Article 21, Judicial officer shall include: 1. The Police Commissioners and his deputies and the Chiefs of Police of the Governorates and the General Districts, 2. Officers and non-commissioned officers of the Police, each within his area of specific or specialized responsibility, 3. Commandants of vessels and aircraft, 4. Officials who are statutorily invested with judicial powers.

<sup>39</sup> ~~According to CPC, Article 21, Judicial officer shall include: 1. The Police Commissioners and his deputies and the Chiefs of Police of the Governorates and the General Districts, 2. Officers and non-commissioned officers of the Police, each within his area of specific or specialized responsibility, 3. Commandants of vessels and aircraft, 4. Officials who are statutorily invested with judicial powers.~~

<sup>40</sup> ~~CPC, Article 20.~~

<sup>41</sup> CPC, Article 22 § 1-3.

<sup>42</sup> CPC, Article 22 § 4.

<sup>43</sup> CPC, Article 56.

<sup>44</sup> CPC, Articles 99 and 100

<sup>45</sup> CPC, Article 105.

<sup>46</sup> CPC, Article 108. However, see CPC, Article 119, which outlines that if the procedures of the investigation entail the detention of the arrestee for more than 24 hours the prosecutor may request the Conciliation Court for an extension. The 24 hours provided in Article 119 contradicts with the 48 hours outlined in Article 108. However, despite the conflict in the law, the practice of the court has generally adopted Article 108 and the 48 hour limit.

<sup>47</sup> CPC, Article 120 § 1.

<sup>48</sup> CPC, Article 120 § 2 and 3.

<sup>49</sup> CPC, Article 120 § 6.

<sup>50</sup> CPC, Article 103.

<sup>51</sup> The bail institute is regulated in the CPC, Articles 130 to 148.

<sup>52</sup> CPC, Articles 39 to 52 regulates the search.

~~on~~ persons who do not appear for interviews after being summoned.<sup>53</sup> In addition, the AG or the assistants can order private letters and other private messages kept at post and telegraph offices to be seized.<sup>54</sup> The AG or the assistants can also ask a conciliation court judge to approve telephone surveillance or surveillance of private places.<sup>55</sup>

The CPC mandates that public prosecutors are exclusively competent to investigate crimes and take action in respect thereof.<sup>56</sup> However, as elaborated above, ~~the~~ judicial officers are mandated to perform the investigative function.<sup>57</sup> Delegation of investigative powers is regulated in CPC, Article 55 §2. The AG and the prosecutor can mandate any judicial officer to perform any act of investigation in a specific case, except for the interview/questioning of a suspect in a felony case, which is a responsibility reserved for the prosecutor.

After ~~an~~ investigation is completed, the prosecutor is required to send a written recommendation to the AG containing an opinion on whether to proceed and if so, outlining further actions.<sup>58</sup> For completed contravention cases, the prosecutors submit the case file to the court to try the accused.<sup>59</sup> ~~and f~~or misdemeanour cases, the prosecutor issues an indictment and sends the case file to the court. In felony cases, all indictments have to be decided/approved by the AG or any of his assistants;<sup>60</sup> the same goes applies for decisions to drop charges ~~for of~~ any crime, eitherwhether felony, misdemeanour or contravention.<sup>61</sup>

The accused, the injured party and ~~the~~ civil claimants may request copies of the documents and papers of the investigation<sup>62</sup> but not before the investigation is completed. However, the parties, their attorneys and ~~the~~ civil claimants are entitled to read the minutes of the investigation while it is in process.<sup>63</sup>

Execution of criminal judgments is another responsibility of the prosecutor ~~thatwhich~~ is performed with the assistance of the police.<sup>64</sup> The execution of judgements is regulated in CPC, Articles 393 to 452. The execution can be challenged by the convicted person, which challenge must be submitted to the court by the prosecutor.<sup>65</sup>

The prosecutor may visit prisons and detention centres in her or his district to ensure the legality of detention and the conditions of the detainees ~~and prisoners~~ in the prisons, but the law does not oblige prosecutors to do so.<sup>66</sup> Regular, monthly inspections of the prisons and detention centres are performed by the chief prosecutor the district.<sup>67</sup>

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<sup>53</sup> CPC, Article 108.

<sup>54</sup> CPC, Article 51 § 1.

<sup>55</sup> CPC, Article 51 § 2.

<sup>56</sup> CPC, Article 55 § 1.

<sup>57</sup> CPC, Articles 19 § 2 and 22.

<sup>58</sup> CPC, Article 149 § 1.

<sup>59</sup> CPC, Article 150.

<sup>60</sup> CPC, Article 152.

<sup>61</sup> CPC, Article 149.

<sup>62</sup> CPC, Article 63.

<sup>63</sup> CPC, Article 92.

<sup>64</sup> CPC, Article 95.

<sup>65</sup> CPC, Articles 420 to 424.

<sup>66</sup> CPC, Article 126 and JAL, Article 70.

<sup>67</sup> Information received from chief prosecutors at visits.

## Statistics

The starting balance of pending criminal investigations at the prosecutor's offices on 1 January 2007 was 1,348 cases. In the year 2007, the prosecution had 15,682 incoming criminal cases and during the year they finalized 14,833 cases. The total number of pending criminal cases increased during 2007 and the balance at the end of the year was 2,197 cases. The number of criminal enforcement cases decreased by 6,700 cases during 2007 and, by the end of 2007, the balance was 13,598 cases pending. More detailed statistics for 2007 can be found in the table below.<sup>68</sup>

<b>The Agenda of the Public Prosecutors in the West Bank in 2007</b>						
Carried Forward 2006 (1,348)			Carried Forward 2006 (20,298)			
<b>District</b>	<b>Investigation Cases</b>			<b>Criminal Enforcement Cases</b>		
	<b>Incoming</b>	<b>Finalized</b>	<b>Carried Forward</b>	<b>Incoming</b>	<b>Finalized</b>	<b>Carried Forward</b>
Nablus	1650	1582	282	168	2817	504
Jenin	1280	1209	371	824	1776	3507
Tulkarem	1463	1364	292	156	298	2478
Qalqiliya	1363	1343	91	96	143	164
Salfit	798	808	84	130	59	192
Ramallah	2712	2696	243	14	608	5851
Bethlehem	1771	1225	570	12	2156	85
Jericho	558	530	99	144	147	73
Hebron	1285	1294	45	320	617	395
Dura	1437	1446	43	110	45	65
Tubas	497	495	70	57	65	284
Halhul	868	841	7	0	0	0
<b>TOTAL</b>	<b>15682</b>	<b>14833</b>	<b>2197</b>	<b>2031</b>	<b>8731</b>	<b>13598</b>

In 2008 there has been an increase of incoming cases, and by the end of November 2008, the Public Prosecution offices altogether had received 16,020 new cases.

<sup>68</sup> Table on statistics for year 2007 provided by the Office of the Attorney General. The data for the Gaza Strip could not be confirmed or verified.

## The High Judicial Council

The general mission of the High Judicial Council (HJC) is to safeguard both the independence of the judicial system and the independence of individual judges. It is also responsible for promoting the efficiency and quality of justice and reinforcing public confidence in the justice system.

The HJC decides on the selection and appointment of judges, as well as on their transfer. The HJC is the supreme administrative body of the judiciary. It administers the judicial authority's budget and supervises the administration of the courts. In practice, the HJC has ~~obtained~~ taken on all responsibilities for the judiciary and its administrative staff ~~to be considered an~~ and protects its status as an independent branch of the PNA.

### Organizational structure

In accordance with Article 37 of the Judicial Authority Law (JAL), the HJC is comprised of nine members:

- the President of the High Court (who is also the president of the HJC);
- the most senior Vice-President of the High Court (who also serves as the Vice-President of the HJC);
- the two most senior judges of the High-Court (selected by the High Court Assembly);
- the Presidents of the Courts of Appeal in Jerusalem, Gaza and Ramallah;
- the Attorney General; and
- the Deputy Minister of Justice.

The HJC and its administrative body is organized as follows:

- HJC
- President of the HJC ("the Chief Justice")
  - Planning and Project Management Department
  - Office of the President
  - Judicial Training Department (headed by the director of the Judicial Training Institute JTI)- responsible for designing the curriculum for the trainee judges and continuous education for judges
  - Judicial Inspection Department
- General Secretariat
  - Information Technology and Maintenance Department
- Technical Office
- Media and Public Relations Department (started working in October 2008)

The HJC is housed in the court complex in Ramallah.

### Legal framework

*The Basic Law* states in Article 100 that the HJC shall be created and in Article 107 provides that the HJC is mandated to submit the nomination for the Attorney General to the President of the PNA.



The JAL regulates the composition of the HJC.<sup>69</sup> The law vests the HJC with the preparation and administration of the judicial authority's budget.<sup>70</sup> ~~HJC~~The approval ~~by the HJC~~ is a precondition for appointment of judges by the President of the PNA. The HJC may transfer judges<sup>71</sup> and receive a judge's resignation.<sup>72</sup>

The judicial inspection unit is based on Articles 42 and 43 of the JAL and the Decision of the HJC No. 4 (2006) concerning the Bylaw of the Judicial Inspection. The inspected judges take part in the inspection process, as they ~~have to~~must submit a memorandum about their performance and the circumstances of their work, receive a copy of their assessment and have the right to object to ~~that assessment~~#.

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<sup>69</sup> JAL, Article 37.

<sup>70</sup> JAL, Article 3.

<sup>71</sup> JAL, Article 23.

<sup>72</sup> JAL, Article 33.

## Courts

Palestinian courts are independent bodies under Palestinian law that are authorised to adjudicate legal disputes pursuant to the laws in Palestine. In accordance with the *Basic Law* and the *Judicial Authority Law* (JAL), the courts have jurisdiction over all crimes committed by civilians.<sup>73</sup> Crimes committed by security forces ~~are~~ under the jurisdiction of the military courts.

### Organizational structure

The JAL (2002), as amended in 2006, identifies a total of four levels of regular courts. These are the High Court (also referred to as the Supreme Court), which consists of the Court of Cassation and the High Court,<sup>74</sup> the Appellate Court, the First Instance Court (FIC) and the Conciliation/Magistrate's/District Court, ("the Conciliation Court").<sup>75</sup> In addition to these courts, the HJC, in its Annual Report for 2007, identified a number of specialised courts that should be staffed with judges. These courts are the Constitutional Court,<sup>76</sup> the Municipal Court, the Land Court and the Traffic Court.<sup>77</sup> The regular courts have been established, but the specialised courts and the Constitutional Court have not.

#### Conciliation Courts

The jurisdiction of the Conciliation Courts (CCs) is not expressly limited. These courts deal with contraventions and misdemeanours that carry a prison sentence of up to three years, unless such misdemeanours were explicitly placed in the ambit of another court.<sup>78</sup> Within the criminal law system, CCs are also specifically tasked with deciding on pre-trial detention and requests to “oversee wire and wireless communication”. In addition, the CCs deal with civil cases of a limited monetary value,<sup>79</sup> property claims; regardless of value,<sup>80</sup> evictions and other real estate usage claims,<sup>81</sup> access rights,<sup>82</sup> and cases otherwise explicitly placed in their ambit. Cases before the CCs are heard by a single judge.<sup>80</sup>

In the West Bank, CCs have been established in Jenin, Tulkarem, Nablus, Tubas, Salfit, Qalqilia, Jericho, Hebron, Halhul, Dura, Bethlehem and Ramallah. In the Gaza Strip there are six CCs.

#### First Instance Court

The First Instance Courts (FIC) hear criminal cases that carry sentences of more than three years, as well as capital crimes.<sup>81</sup> These cases are filed by the prosecutor prior to the hearing. FICs sit in panels of three judges, but in cases where the punishment for the charged crime does not exceed five years imprisonment,

<sup>73</sup> Basic Law, Article 101 stipulates that military courts do not have jurisdiction beyond military affairs; Basic Law, Article 102 stipulates that administrative courts may be established to consider administrative disputes and disciplinary matters; Judicial Authority Law (JAL), Article 14 stipulates that the courts shall look into all disputes and crimes except those excluded by special provision.

<sup>74</sup> Law on Formation of Regular Courts, No. 5 (2002), Article 23.

<sup>75</sup> Law on Formation of Regular Courts, No. 5 (2002), Article 7; JAL, Article 6.

<sup>76</sup> The Constitutional Court is also identified in JAL, Article 6.

<sup>77</sup> Annual Report 2007, High Judicial Council, p. 131.

<sup>78</sup> CPC, Articles 167 and 300, together with Articles 14-16 and 21 of the Jordanian Penal Code of 1960.

<sup>79</sup> 20,000 Jordanian Dinars.

<sup>80</sup> CPC, Article 299.

<sup>81</sup> CPC, Article 168, in conjunction with Article 14 of the Jordanian Penal Code 1960.

the panel may consist of only one judge.<sup>82</sup> The FIC also acts as the appellate court for conciliation cases, in which case the court sits in a panel of three judges.<sup>83</sup> Finally, the FIC decides on extensions of pre-trial detention once the CC has extended such detention to the maximum period within its competence.

In their capacity as civil judges, the FIC judges also try cases as one-judge panels if the monetary value does not exceed 100,000 Jordanian Dinars.<sup>84</sup> For civil cases concerning a higher monetary value, the court sits in a panel of three judges.

FICs in the West Bank are located in Jenin, Nablus, Tulkarem, Qalqiliya, Jericho, Bethlehem, Hebron and Ramallah. In the Gaza Strip there are three FICs.

### The Courts of Appeal

The Courts of Appeal deal with the appellate cases from the FIC and a limited number of interlocutory appeals.<sup>85</sup> The court sits in a panel of three judges. There are three Courts of Appeal mandated in Jerusalem,<sup>86</sup> Ramallah and the Gaza Strip.<sup>87</sup>

Capital punishment judgments are automatically appealed, regardless of the intention of any of the parties. The Courts of Appeal also deals with cases concerning civil rights.<sup>88</sup> The prosecutor has 30 days to file his writ of appeal. If the Courts of Appeal –overturns a judgment of the FIC, the appellate court can either return the case to the FIC with instructions on “how to proceed with its review” or decide to hear the case anew itself and decide it on its merits.

### The Supreme Court

#### a. High Court

The High Court is mandated by law to have its seat in Jerusalem but ~~which~~ is temporarily sitting in Ramallah.<sup>89</sup> The panel consists of three judges. Pursuant to the Law on the Formation of Regular Courts, the High Court convenes to reverse a legal principle previously established by the Court or to remove a contradiction between previous principles and to decide on a case brought before it which concerns a new or complex legal point or involves a point of particular importance.<sup>90</sup> ~~In addition~~Further, the High Court decides on challenges concerning illegal detentions. The High Court is also the only court with jurisdiction

<sup>82</sup> Law No. 2 (2005) concerning the amendment of some of the provisions of the Law of the Formation of the Regular Courts No. 5 (2002), Article 1.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> CPC, Book 3, Part 2.

<sup>86</sup> There is one court of appeal for Ramallah and one for Jerusalem.

<sup>87</sup> The Court of Appeal in Gaza is temporarily not sitting.

<sup>88</sup> A writ of appeal by an accused in criminal cases must be filed with the clerk of the FIC within 15 days from the day that the accused was made aware of the judgment. This means either within 15 days after rendition of the judgement in the presence of the accused or 15 days from the date that the accused received the judgement by notification, Book 3, part 2 CPC. The person appealing can request an extension of this deadline within 15 days after the expiry of the deadline.

<sup>89</sup> According to the Law on Formation of Regular Courts, Article 24, its seat is in Jerusalem, but can be convened in Ramallah if necessary.

<sup>90</sup> Law on the Formation of Regular Courts, Article 25.

over administrative disputes, including those filed by judges. The President of the High Court is also the Chief Justice or President of the HJC.<sup>91</sup>

### b. Court of Cassation

The Court of Cassation is located in Ramallah. Its panels consist of five judges ~~and~~; ~~is~~ presided ~~over~~ by the President of the High Court.<sup>92</sup> It has jurisdiction over disputes between courts as regards their jurisdiction over a criminal case, appeals of judgments of the FIC (if such judgement was issued by the FIC in its appellate capacity), appeals of judgments of the Courts of Appeals, capital penalties and judgments of lower courts ~~s~~ holdings concerning jurisdiction or if a case has ~~expired~~ [REDACTED].

The prosecutor, the party against whom a judgment was rendered, a civil claimant and a party liable for civil reparation may seek cassation of a judgment ~~of~~ [REDACTED] the FIC in its capacity as the appellate court or ~~of~~ [REDACTED] the Courts of Appeal. Any judgment of the Courts of Appeal to impose capital punishment is automatically challenged in cassation.

~~A c~~Cassation ~~mayean~~ only be filed on ~~the basis of a limited number of~~ grounds.<sup>93</sup> If a challenge in cassation is successful or if the court ~~does so~~ [REDACTED] for another reason, the judgment ~~below~~ is quashed and the case is returned to the court that rendered the judgment for renewed consideration ~~bywith~~ a different panel of judges. Finally, the Court of Cassation also decides on applications for retrial.

### Specialised Courts

Specialised courts, such as a traffic court, have not yet been established. As part of its efforts to improve the quality and expediency of the judiciary, the HJC has decided to establish specialised chambers within the ~~already~~ existing court ~~systems~~.

### Geographical Distribution

Pursuant to the Law on the Formation of Regular Courts and the JAL, the Ministry of Justice is to decide on the geographical jurisdiction of courts.<sup>94</sup> A FIC court district ~~is equal to~~ ~~encompasses~~ the governorate it is located in, with the seat of the FIC in the capital of the governorate.<sup>95</sup> The geographical jurisdiction of a CC is limited by the administrative boundaries of the city in which it is located.

In principle, each governorate has a FIC and at least one, but possibly more than one, CCs.

New courts are established by Presidential Decree, upon recommendation of the Minister of Justice and the Chief Justice.

<sup>91</sup> JAL, Articles 37 and 46.

<sup>92</sup> Law on the Formation of Regular Courts, Article 29.

<sup>93</sup> These reasons are enumerated in CPC, Article 351. The petition for cassation must be filed within 40 days after the rendition of the judgment or from the moment following its notification to the parties; Article 355 of the CPC.

<sup>94</sup> JAL, Article 13; and Law on Formation of Regular Courts, Article 1.

<sup>95</sup> JAL, Article 12.

### Military Courts

The Palestinian Territory has a separate military justice system. The Basic Law and the JAL bestow jurisdiction over all civilians onto the civil courts while military courts have jurisdiction over members of the Palestinian security forces. ~~These~~ Military justice matters are adjudicated and heard on the basis of the PLO *Revolutionary Code* of 1979, Presidential Decrees, as well as security related legislation and regulations.

### Judges

As of 1 September 2008, there are 45 judges in the Gaza Strip and 136 judges in the West Bank.<sup>96</sup> Below is the table showing the breakdown of the judicial positions in the West Bank:

Court	Number of judges
High Court	15
Court of Appeal	15
Ramallah First Instance Court	10
Ramallah Conciliation Court	8
Hebron First Instance Court	9
Hebron Conciliation Court	4
Halhul Conciliation Court	2
Dura Conciliation Court	4
Bethlehem First Instance Court	4
Bethlehem Conciliation Court	3
Qalqiliya First Instance Court	3
Qalqiliya Conciliation Court	3
Tulkarem First Instance Court	4
Tulkarem Conciliation Court	3
Jenin First Instance Court	4
Jenin Conciliation Court	4
Nablus First Instance Court	9
Nablus Conciliation Court	7
Jericho First Instance Court	4
Jericho Conciliation Court	2
Tubas Conciliation Court	1
Salfit Conciliation Court	1
Total:	119

Upon recommendation of the HJC, judges are appointed by the President of the PNA.<sup>97</sup> In order for someone to be eligible for appointment as a member of the judiciary, he or she must meet the following criteria:

- ~~is a~~ Palestinian national;
- competent in the law;
- ~~have a~~ license to practice law or Shari'a law;
- ~~never or have been~~ convicted by a court or disciplinary council on a matter involving a breach of honour (even if rehabilitated or covered by a general amnesty);
- ~~be of~~ good standing and reputation;

<sup>96</sup> Judicial Motion, posted on HJC Website, listing the names of the judges of the West Bank CCs and FICs and overview provided by the HJC on 29 September 2008.

<sup>97</sup> JAL, Article 18.

- medically fit;
- agree to terminate membership to any political party or organization upon appointment; and
- have professional command of the Arabic language.<sup>98</sup>

One can be appointed as judge in the CC, FIC, Court of Appeal or as Prosecutor if one is a former judge or member of the public prosecution, a lawyer or a professor at one of the faculties of law and faculties of Shari'a and law.<sup>99</sup> Prospective judges can apply for ~~the position~~ judgeship by competing in a competition for new magistrates.<sup>100</sup> Promotion of a judge is based upon seniority, "while taking competence into consideration".<sup>101</sup>

The High Judicial Council is authorised to transfer judges from one court to another in accordance with the JAL.<sup>102</sup> Decree Law No. 2 *Concerning the Amendment of the Judicial Authority Law*, No. 1 (2002), Article 4, amends Article 28 of the original law and stipulates in paragraph a) that judges must reside in ~~the~~ cat area in which ~~the location of~~ his work is situated. However, paragraph b) of the amended article stipulates that the President of the HJC may, under exceptional circumstances, allow a judge to reside in the location of the court of first instance to which he is affiliated or in another place ~~that is~~ near the location of his work.<sup>103</sup>

## Legal Framework

The most relevant law for the West Bank identifying crimes and misdemeanours is the Jordanian Penal Code of 1960. Numerous other laws, presidential decrees and sometimes even Israeli military orders, ~~place~~ impose criminal liability ~~for wrongful~~ conduct ~~by~~ of West Bank citizens. In Gaza, the applicable penal code is the British Criminal Code Ordinance of 1936. No harmonised penal code is currently available, though a harmonized new draft law is ~~being considered~~ under consideration.

Criminal proceedings are regulated primarily in the Criminal Procedure Code of 2002. This Penal Procedure Code seeks to unify the penal procedure for the West Bank and Gaza Strip.

### Traffic cases

Conciliation courts deal with traffic cases ~~with~~ simplified procedures that are regulated in Articles 308 to 313 of the Criminal Procedure Code (2001).<sup>104</sup> Traffic cases are ~~processed~~ in the following ~~manner~~ way: the prosecutor sends the documents "establishing the occurrence" of the traffic violation. The judge can decide either to impose a penalty or to send the ~~charge~~ back to the prosecutor using ~~the~~ procedure similar to criminal matters. The judge is required to make a decision within 10 days. If she or he finds that the proper procedures were adhered to, the judge will give "full weight" and credibility to the documents establishing the occurrence of the incident. The accused and the prosecutor are then notified of the

<sup>98</sup> JAL, Article 16.

<sup>99</sup> JAL, Article 19. In order to be appointed as President of a court of appeal, one must have sat and worked for a period of not less than five years on a panel of a court of appeal.

<sup>100</sup> HJC Monthly Report October 2008.

<sup>101</sup> JAL, Article 18.

<sup>102</sup> In 2006, no changes were made to the already amended Article 28 of the law.

<sup>103</sup> JAL, Article 28.

<sup>104</sup> As soon as a civil claimant are involved in the case, the simplified procedure cannot be followed.

judgment. Such a judgment can be objected to pursuant to Articles 314 to 322 of the CPC. ~~If a court decides to dismiss the objection, the dismissal~~ Objections dismissed by a court may be appealed.<sup>105</sup>

### Trials in absentia

If an accused does not present him or herself on the day and hour indicated in the summons to appear in court, the accused may be tried in absentia.<sup>106</sup> If the accused stands trial for a misdemeanour that is not punishable by imprisonment, the accused may delegate counsel to represent him or her in court, which includes the ability to admit guilt ~~for of the~~ commission of the crime. The court can decide that the accused must nonetheless appear in court.<sup>107</sup>

### Appearance of accused and witnesses in court

In ~~the~~ Palestinian courts, ~~the~~ judges must base their judgment on ~~the~~ evidence ~~that is~~ presented before them in court.<sup>108</sup> The presence of witnesses, the accused and defence counsel,<sup>109</sup> and sometimes the complainant, is required. If witnesses do not appear, the judges have recourse to imposing fines and issuing subpoenas to guarantee their presence during the next hearing.<sup>110</sup> If the accused does not appear, an arrest warrant may be issued and if any bail was posted, the amount may be forfeited. In addition, if certain conditions are met, the procedures for trial in absentia may be initiated.<sup>111</sup> However, the law provides for at least two adjournments before an arrest warrant may be issued.<sup>112</sup>

### Notifications

Notification cannot be done via regular mail. Each court has a notification department, which has employees (either notifying officers or bailiffs) who go out on a daily basis to hand-deliver notifications and summonses to appear in court.<sup>113</sup>

### Juvenile justice

The regulation for juvenile justice in the West Bank is currently the *Jordanian Law on Rehabilitating Juveniles* (1954) ("the Law on Juveniles"). The Child Law (2004) contains a number of articles regarding youth ~~fulfilling~~ offenders. ~~And finally,~~ the Penal Code (1960) ~~stipulates~~ regulates that a child under the age of 12 cannot be held criminally responsible unless it is proven that the child is capable of understanding that the act was illegal and ~~that~~ he should not commit ~~that~~ act. Children under the age of 9 cannot be held criminally responsible under any circumstances.<sup>114</sup>

<sup>105</sup> CPC, Article 319.

<sup>106</sup> CPC, Article 304 regulates procedures before the Conciliation Courts: "If the accused does not present himself in court on the day and at the hour designated in the memorandum of appearance notified to him in accordance with the prescribed procedure, the accused *shall* be tried in absentia." Articles 288 to 298 of the CPC regulate trials in absentia at the FICs.

<sup>107</sup> CPC, Article 305.

<sup>108</sup> CPC, Articles 205 and 207. On evidence in general, see Chapter IV of Book II of the CPC.

<sup>109</sup> In cases before the FIC.

<sup>110</sup> HJC Press Release (14 November 2008).

<sup>111</sup> For a more detailed description of trials in absentia, see the previous section of this report.

<sup>112</sup> CPC, Article 247.

<sup>113</sup> "Writ of Summon to Appear" before a Prosecutor for investigation is delivered by a judicial officer who has the right to arrest the person and to forcibly enter a house at any hour of the day or night, provided there are serious grounds to suspect that the person is in that house. (See CPC, Articles 49 to 57).

<sup>114</sup> Penal Code, Article 94 (1960).



In Gaza, juvenile criminal matters are regulated by the Penal Code (1936), with some ordinances dating back to 1937 and 1941. With respect to juvenile matters, there ~~are~~ on-going efforts to harmonize the ~~law for the~~ West Bank and Gaza Strip ~~legal codes~~.

Generally, however, juveniles are defined as ~~children persons under~~ below the age of 18 ~~years~~. Approximately 600 cases involving juveniles are brought before the courts annually.<sup>115</sup> There is no registration of cases involving juveniles at the ~~police level of the police~~ but, reportedly, many cases, particularly those involving girls, do not make it to the courts.<sup>116</sup>

The Law on Juveniles provides for probation officers and the Child Law (2004) provides for child protection officers. ~~The~~ probation officers report to the courts and provide their opinion as to what ~~sort of~~ measures should be taken by the judges.

#### Areas C and the Israeli occupation:

An inherent challenge to the Palestinian justice system is caused by Israel's occupation and its control over Areas C of the West Bank. Witnesses and accused often travel to areas under the control of the Israeli authorities. ~~The existence of Israeli jurisdiction over Areas C and~~ limits Palestinian justice officials from carrying out their responsibilities of serving arrest warrants, summonses, subpoenas, etc. <sup>117</sup> Even if judicial officers were allowed to enter Areas C to carry out their responsibilities, ~~these responsibilities are~~ ~~is not un~~likely to be carried ~~out~~ if an accused is known to be armed and dangerous. Judicial officers cannot call for police assistance from the Palestinian police in areas controlled by Israel and the Israeli police are ~~not un~~willing to assist in a cooperative manner. It is unclear whether judicial officers coordinate on an *ad hoc* basis with the Israeli police with respect to delivering notifications to witnesses and accused in Areas C. [REDACTED]

The Israeli occupation serves as a major obstacle in general ~~for~~ and has a destructive impact on, the ~~overall function~~ working of the Palestinian judicial system. The daily ~~functioning operations~~ of the courts and law enforcement are affected by Israel's occupation ~~and~~ its ~~manifestation in the~~ closure regime of checkpoints and permits. The appearance of parties before the courts, including the presiding judges, counsel, litigants and witnesses, can be impeded or delayed solely on the basis of arbitrary actions by Israeli soldiers manning ~~the~~ checkpoints ~~and otherwise~~. Many of the judicial actors and participants must cross ~~the~~ checkpoints during their daily commute and the transfer of an accused or convicted person cannot be done in official police vehicles by uniformed and armed police through the checkpoints ~~are or~~ ~~in much of the West Bank which is known as~~ Areas C, ~~which constitute the majority of the West Bank's territory and which severely fragment Areas A and B~~. ~~The e~~ Cooperation between the Israeli and Palestinian authorities with respect to judicial notifications, arrest warrants, etc., ended after the second Intifada in 2000 and remains non-existent. As a result, persons accused of having committed a crime in the West Bank are often considered in a "free zone" when they enter ~~the~~ Israeli controlled Areas C.

<sup>115</sup> Palestinian Central Bureau of Statistics ([http://www.pcbs.gov.ps/Portals/\\_pcbs/victimz/crv007.htm](http://www.pcbs.gov.ps/Portals/_pcbs/victimz/crv007.htm)) and Defence for Children International (November 2008).

<sup>116</sup> Independent Commission for Human Rights (November 2008).

<sup>117</sup> Based on Annex IV of the Interim Agreement, it is not permissible for Palestinian officials to enter Areas C.

## Statistics

Based on the electronic court register, the following overview of case input and output for civil and criminal cases was prepared:

Conciliation Courts	1/1 – 31/12/2007			1/1 – 30/9/2008		
	newly filed	decided	pending	newly filed	decided	pending
Jenin	3,649	3,418	6,972	6,108	4,681	8,399
Jericho	2,733	2,151	1,231	3,208	3,500	939
Hebron	6,025	5,728	2,640	5,025	5,347	2,318
Bethlehem	4,386	3,925	3,376	4,779	4,570	3,585
Halhul	1,733	1,606	807	1,542	1,585	764
Dura	2,336	1,896	2,950	2,412	2,255	3,107
Ramallah	12,976	11,679	6,117	12,601	11,712	7,006
Salfeet	1,247	1,174	893	2,098	1,807	1,184
Tubas	774	611	823	1,499	1,200	1,122
Tulkarem	4,323	3,300	4,217	4,519	4,065	4,671
Qalqiliya	2,298	2,180	3,978	2,967	2,921	4,024
Nablus	5,945	4,391	13,040	8,363	7,682	13,721
Total	48,425	42,059	47,044	55,121	51,325	50,840

FICs	1/1 – 31/12/2007			1/1 – 30/9/2008		
	newly filed	decided	pending	newly filed	decided	pending
Jenin	314	276	875	334	287	922
Jericho	82	90	180	105	79	206
Hebron	735	593	1,961	972	575	2,358
Bethlehem	540	370	1,225	326	344	1,207
Ramallah	721	776	1,951	522	447	2,026
Tulkarem	387	374	906	285	224	967
Qalqiliya	274	165	621	159	147	633
Nablus	974	958	2,175	737	677	2,235
Total	4,027	3,602	9,894	3,440	2,780	10,554

In 2007, the courts in the West Bank received 55,041 cases and disposed of 48,270. At the end of the year there were 57,868 cases pending. The vast majority of the workload was dealt with by the Conciliation Courts (CCs), with 48,425 cases filed, 42,059 disposed of and 47,044 still pending, and the First Instance Courts (FICs), with 4,027 cases filed, 3,602 disposed of and 9,894 still pending. Figures differ significantly between the types of cases. At the CCs, more traffic cases were disposed of than filed whereas the opposite happened with all the other cases including criminal and civil cases. At the first instance courts, the number of pending criminal cases increased significantly while the number of other pending cases slightly rose slightly.

## Planning

According to the Government's Legislative Plan, the following drafts concerning the courts shall be prepared by 2012:

- penal procedure law

- civil and commercial procedure law
- formation of regular courts law
- general pardon (or amnesty) law
- law on violation of courts rules and the JAL<sup>118</sup>

The amnesty law was drafted by the HJC and is with the President of the PNA for execution. The amended penal procedure code is with the MoJ for comment.

The HJC has elaborated a strategy to tackle the judicial backlog. ~~This strategy~~ consists of the following ~~a number of~~ measures:<sup>119</sup>

- Increase the number of judges at the regular courts;
- Promote judicial~~the~~ competence and capacity ~~judges~~ through training programs (44 Judges, including 14 newly appointed judges, were trained in 2008);
- Expand ~~the~~ court facilities to accommodate the increase in the number of staff;
- Activate the judicial inspection unit and its supervisory role over the courts;
- Conduct a sample survey of ~~the~~ pending cases in order to identify the causes of the judicial backlog (the survey was recently completed but is not publicly available);
- Draft new bills and amendments of bills and statutes related to judicial work (a priority bill will include the general amnesty law, which is envisaged to solve at least 20 to 25 percent of the judicial backlog).

The HJC plans also include the development of a unified case management system, a department for that purpose as well as ~~to provide~~provision of a special filing system for case documents and their secure transfer. The ~~necessity of hearing in a panel of three judge~~ hearing panel requirements in civil cases at the FICs is expected to be reviewed, which could increase judicial capacity to hear criminal cases.<sup>120</sup>

In addition, the HJC intends to establish a court administration department to separate ~~the~~ administrative functions from judicial actions. Available staff would be redistributed according to the new structural development.<sup>121</sup>

Finally, the HJC is seeking to create a judicial information centre ~~that~~which would be tasked with providing a centralised source of legal references for ~~the~~ judges.<sup>122</sup>

<sup>118</sup> Legislative Plan, p. 26.

<sup>119</sup> Summary Progress Report of the Palestinian Reform and Development Plan for 2008-2010, Judiciary Sector Working Group.

<sup>120</sup> *Ibid.*, p 11 f.

<sup>121</sup> *Ibid.*, p. 14.

<sup>122</sup> *Ibid.*, p. 15.

## Penitentiary

The Palestinian penitentiary system currently operates under the mandate of the Ministry of Interior. All the powers of the Minister of Interior [in this regard](#) have been delegated to the Chief of Police, pursuant to Resolution 23/1998.

Designated prisons, identified by the law as correction and rehabilitation centres, are supposed to hold convicted inmates, whereas detention centres should deal with detainees awaiting trial. There is also a difference in the command line since prisons report to the head of the General Administration of Reform and Correction Centres (GARCC), while detention centres report to the local Chief of Police. In Resolution 23, the Chief of Police has designated prisons in the districts of Jenin, Nablus, Ramallah, Jericho, Dhahiriya (Hebron) and Gaza. Later resolutions designated prisons in the districts of Bethlehem (February 2008) and Tulkarem (September 2008).

There are also two juvenile rehabilitation facilities in the West Bank, one for boys in Ramallah and the other for girls in Bethlehem. Detention facilities are supervised by the Palestinian Civil Police (PCP) through GARCC. Prison staff works in the Headquarters (HQ) in Ramallah and within the individual establishments. The HQ is composed of six departments<sup>123</sup> and each department is divided into sections.

Prison directors report directly to the Head of the GARCC without any other intermediation.

According to the governing law,<sup>124</sup> the Minister of Interior and Minister of Justice (or their delegates) can inspect detention centres at any time. The Attorney General and his deputies, the governors and the judges also have the authority to carry out such inspections. The General Director of detention facilities, who is also the Head of GARCC, should conduct periodic inspections of all facilities and submit his or her report to the Minister of Interior.

<sup>123</sup> 1. Rehabilitation and vocational training, 2. Inmates affairs, 3. Social and health care, 4. Administration, 5. Finance, and 6. Security and IT.

<sup>124</sup> From Article 10 (1), of Law No. 6 (1998): "The Minister of Interior and Minister of Justice or whoever either of them delegates shall have the right of access into any Centre for the purpose of inspecting it and expressing the comments or suggestions they deem proper provided they are recorded in a special register."  
Article 11: "The Attorney General or his deputies, Governors and Judges of the Higher and Central Court may, each in his sphere of competence, enter into all places of the Centre at any time to inspect it for the purpose of ascertaining the following:

- 1 - Correctness of records, papers and entries relating to the Centre's management, discipline and regulation.
- 2 - Inspect the quantity and quality of inmates food.
- 3 - Apply the stipulations of the laws and by-laws as well as take whatever actions deemed necessary in respect of the committed violations.
- 4 - **Note presence of an inmate individual without legal aspect.** [poor translation]
- 5 - Execute the court's judgments and orders of the prosecution and investigation judge so as to be implemented in the manner shown therein. They may accept the complaints of inmates and express their comments. The Director should provide them with all the particulars they request in respect of the assignment entrusted to them."

Article 12: "The Director General shall make periodic inspection visits to all Centres in order to ascertain the implementation of all regulations, instructions and decisions as well as submit his report in this regard to the Minister."

Prison Staff comprise both male and female police officers, and as ~~within~~ the regular police, military ranks are used. Generally, the director of every detention facility is a Captain, sometimes a Major, and the Head of the GARCC is a Colonel.

~~There are~~ 282 people ~~who~~ work in the GARCC, 20 in the Headquarters in Ramallah and the remainder within ~~the~~ individual ~~establishments~~ ~~facilities~~.<sup>125</sup> The staff ~~to-prisoner ratio~~ is 0.33 ~~to~~ 1.

Prison officers undergo the same selection process as civilian police officers. After a public announcement is made, applications can be submitted to the Ministry of Interior and the selected candidates ~~have to~~ ~~must~~ take a test. ~~The minimum requirement is a~~ Secondary school education ~~is a minimum requirement~~. Police officers are recruited by a commission composed of three "experienced police officers," none ~~of them~~ from GARCC.

In the West Bank, eight detention facilities are run by the PCP of which seven are designated prisons and one is a police detention centre.<sup>126</sup> The designated prisons are found in the districts of Ramallah, Nablus, Jenin, Jericho, Hebron, Bethlehem and Tulkarem, while the detention centre is located in the district of Qalqiliya.

## Legal framework

The PNA legislation governing the prison system is comprised ~~from of~~ the following Acts:

- Basic Law of 2002, amended in 2005 (Articles 11,<sup>127</sup> 12,<sup>128</sup> 13,<sup>129</sup> 14,<sup>130</sup> 15<sup>131</sup>)
- Law No. 6 (1998) - "Reform and Rehabilitation Centres (Prisons)"<sup>132</sup>
- Criminal Procedure Code (Law No. 3 (2001), Chapter VII on Custody and Provisional Detention)
- Law on Juveniles (Jordanian Law 16 (1954))<sup>133</sup> and Palestinian Child Law (Law No. 7 (2006))<sup>134</sup>

<sup>125</sup> Ramallah 43; Jericho 30; Nablus 63; Jenin 35; Dhahiriya 39; Bethlehem 28; Tulkarem 24; plus 15 in the detention centre in Qalqiliya.

<sup>126</sup> Law No. 6 (1998), Article 2: "The Centres shall be established and the locations thereof shall be set by a decision from the Minister who may cancel them and stop, when necessary, the utilization thereof."

<sup>127</sup> "1. Personal freedom is a natural right, and shall be guaranteed and protected.

2. 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 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 and related to the organization of prisons."

<sup>128</sup> "Every arrested person shall be informed of the reasons for his arrest or detention. He shall be promptly informed, in a language he understands, of the nature of the charges brought against him. He shall have the right to contact a lawyer and to be tried without delay."

<sup>129</sup> "1. No person shall be subject to any duress or torture. Indictees and all persons deprived of their freedom shall receive proper treatment.

2. "All statements or confessions obtained through violation of paragraph one of this article shall be considered null and void."

<sup>130</sup> "The accused is innocent until proven guilty in a court of law that guarantees the right to defend oneself. Any person accused in a criminal case shall have access to a lawyer to defend against the charges."

<sup>131</sup> "Punishment shall only be imposed on individuals. Collective punishment is prohibited. Crime and punishment shall only be determined by law. Punishment shall be imposed only by judicial judgement, and shall apply only to actions committed after the promulgation of law."

<sup>132</sup> This legislation is applicable only to designated prisons, not to detention centres.

<sup>133</sup> Defines boys (9-12 years old), adolescent (13-15), youth (16-17), adult (18 and over).

<sup>134</sup> Sets criminal liability at age 9.

- Penal Code (Jordanian Law No.16 (1960) in the West Bank and the British Criminal Code (1936) in the Gaza Strip)

According to the law, “[t]he Minister shall issue regulations and instructions necessary for the implementation of this law.”<sup>135</sup>

#### Statistics:

The total Palestinian prison population in the West Bank is 883, including 833 in designated prisons and 50 in the Qalqiliya detention centre.<sup>136</sup>

Prison	Men	Women	Minors	Total
Jericho	43	0	0	43
Dhahiriya	109	0	0	109
Jenin	117	0	10	127
Ramallah	239	9	3	251
Nablus	159	8	9	176
Bethlehem	60	0	0	60
Tulkarem	64	0	3	67
Total	791	17	25	833

Detention centre	Men	Women	Minors	Total
Qalqiliya	46	0	4	50
Total	46	0	4	50

The incarceration rate is 35 per 100,000 citizens.

Breakdown of offenses leading to incarceration(as of December 2008):

Offense	Total (%) <sup>137</sup>	Convicted (%)
Murder	28.0	12.5
Treason and collaboration	16.7	20.3
Theft	15.3	13.1
Drug	7.6	12.5
Fraud	4.6	4.1
Abuse	8.6	7.8

<sup>135</sup> Law No. 6 (1998), Article 65.

<sup>136</sup> Census returns of December 2008.

<sup>137</sup> Includes convicted as well as pre-trial.



Sexual offense	4.0	0.0
Debt	6.5	23.3
Other	8.7	6.4
<b>Total</b>	<b>100.0</b>	<b>100.0</b>

It should be noted that currently there are about 11,000 Palestinian prisoners and detainees (including children) in Israeli prisons, most of whom are political prisoners or detained on administrative grounds without charge or trial.

### Prisoners Rights

According to the law,<sup>138</sup> each prisoner should be provided with a mattress and five blankets. Prisoners should also have access to clean drinking water and have the right to take a bath at least twice a week in summer and at least once a week during winter.<sup>139</sup>

Medical services vary significantly based on geography and region. There are facilities where there is a medical presence every day and some where such service is not provided at all. At a minimum, seriously ill prisoners are transferred to hospitals.<sup>140</sup>

Healthcare is provided by the Military Medical Service and a medical examination of each prisoner is carried out on admission along with medical reports. Doctors' responsibilities include the monitoring of detention conditions.<sup>141</sup>

According to the law,<sup>142</sup> prisoners have the right to receive regular visits. The duration of such visits can vary from twenty minutes to one hour. Prisoners may receive more than one visit per week.

Prisoners can make telephone calls with pre-paid cards, and generally calls last five minutes, with staff assisting the inmate with dialling the desired number. Conversations are not recorded or monitored. The number of written letters is not unlimited and the letters are not censored.<sup>143</sup>

<sup>138</sup> Law No. 6 (1998), Article 37 (14): "The inmate's beds shall be comprised of a sponge mattress and five woollen blankets."

<sup>139</sup> *Ibid.*, Article 37 (7): "The inmate shall take a bath at least twice a week during the summer and at least once a week during the winter".

<sup>140</sup> *Ibid.*, Article 15: "The sick inmate shall be immediately referred to the hospital if his condition requires it. The Centre's management shall take the initiative to promptly notify the management's authority in whose competence his immediate relatives are living and shall be permitted to visit him. ... The inmate shall be considered during the period of his stay in the hospital or in any other place for treatment under legal custody and it shall be incumbent upon the warden to take the necessary measures to look after him while he is under treatment in a manner which would not touch on that inmate." [Translation]

<sup>141</sup> *Ibid.*, Article 14: "The physician should inspect the sleeping places of inmates, solitary confinement, ascertaining the health condition of inmates, treating the sick persons thereof, transferring those whose health condition require to the clinic or to the specialized hospital and isolate those who are suspected of being stricken with contagious or epidemical diseases until being cured and disinfect the clothes, beds and food."

<sup>142</sup> *Ibid.*, Article 52: "The visit to the inmate shall be permitted at regular periods whose timings shall be set by the regulations and instructions provided that the first visit is permitted after the completion of investigations or lapse of a period of one month from the date of detention, whichever is earlier."

The law provides for work,<sup>144</sup> education,<sup>145</sup> vocational training,<sup>146</sup> rehabilitation,<sup>147</sup> cultural and recreational activities.<sup>148</sup> Inmates also have daily access to the courtyard and the ability to seek religious assistance or guidance from religious figures.

The law provides for disciplinary punishment inside the prisons.<sup>149</sup> A record of each punishment is kept in the file of the prisoner. The most serious cases are recorded by the GARCC Headquarters in Ramallah.

<sup>143</sup> *Ibid.*, Article 53: "The inmate has the right to correspond with his family and friends as well as receive letters from them. The Centre's management may review the incoming and outgoing letters provided that the confidentiality of the contents of the letters is maintained."

<sup>144</sup> *Ibid.*, Article 42:

"1. The convicted inmates may be put to work within or outside the area of the Centre in any suitable job. It is not permissible to put the detained inmates to work unless they wish to do so provided that the daily working hours may not exceed eight hours and may not be put to work during their holidays."

2. The sick inmates and those who have reached the age of sixty shall be excluded from the application of the provisions of paragraph (1) above unless they wish to work and the physician has testified to their ability to do so."

<sup>145</sup> *Ibid.*, Article 30: "The Directorate General shall, in coordination with the competent education authorities, organize illiteracy fighting education courses to the illiterate inmates and shall provide the educational opportunities to other inmates in order to continue their education through the various educational stages whether in the schools attached to the Centre or in the public or vocational schools outside according to the available potentials, requirements of safeguarding the inmates and the Centre's security."

Article 31: "The Directorate General shall, in coordination with the competent education authorities, provide the necessary prerequisites to the inmates in order to enable them to study, memorize and find the means which would ensure the continuation of their university study as an exception from daily attendance and enable them to sit for the examinations under the direct supervision of the competent education authorities whether inside or outside the Centre."

Article 32: "The academic or vocational certificate awarded to the inmate should not contain any particulars which would indicate that it was awarded to him while he is in the Centre or from a school annexed to the Centre."

Article 33: "The Directorate General shall grant suitable encouraging incentives to the inmate who obtains the general or university certificates during his stay in the Centre."

<sup>146</sup> *Ibid.*, Article 41: "The Centre shall seek to train the inmates professionally and develop their skills as well as make them acquire beneficial trades or professions during the period of execution of the punishment which would help them earn their living after their release. The theoretical and practical vocational training shall be carried out in the training and employment workshops inside or outside the Centre according to the regulations and instructions issued by the Directorate General in this respect."

<sup>147</sup> *Ibid.*, Article 10 (2): "The Minister, in coordination with the Minister of Social Affairs, may appoint qualified social inspectors and specialists to study the inmate's psychological and social condition"

<sup>148</sup> Article 34 of Law 6/1998: "The Directorate General shall, in coordination with the Centre's management, hold cultural seminars, deliver directives, moral, religious, educational and cultural lectures as well as provide the opportunity to all inmates to take part therein."

*Ibid.*, Article 62 : "The following disciplinary punishments shall be imposed against the inmate who violates the regulations or instructions inside the Centre:

- 1 - Warning
- 2 - Solitary confinement for a period not exceeding one week.
- 3 - Deprivation from some of the established benefits and rewards for available to the inmates for a period not exceeding thirty days." (Examples include visits, phone calls, letters)

Article 63: "It shall not be permissible to impose any of the punishments mentioned in the foregoing article against the inmates except after conducting an investigation, including confronting the inmate with the violation attributed to him or her, and listening to a statement or defence. The decision for the imposition of the penalty shall be justified and the investigations shall be conducted with the knowledge of the investigator in writing. The penalties imposed against the inmates shall be recorded in the Penalties Register."

Prisoners have the right to complain confidentially to Prison Service HQ by placing a written complaint in a box in the courtyard which is emptied every fifteen days by a HQ official. The inmate's complaint is responded to in writing from HQ.<sup>150</sup> They can also complain to the Palestinian Independent Commission for Human Rights.

Both temporary<sup>151</sup> and early<sup>152</sup> release from detention are foreseen by the law. The latter can happen in the event of detainee's good conduct and behaviour, provided two-thirds of the inmate's sentence has been served. Early release is also possible in the case of a life sentence, but only after 20 years have been served. The decision to release rests with the Minister of Interior, upon a proposal by the General Director.

## Planning

According to the Palestinian Reform and Development Plan (PRDP) for 2008, the PNA plans to build seven prisons and ten detention centres in the West Bank and Gaza Strip and to develop protection systems in detention facilities such as guarding, monitoring and surveillance.

The aim of the PRDP is to set up modern prisons that can become reform and rehabilitation centres instead of warehouses for prisoners. According to the PRDP, the new centres will provide vocational training for 2,000 prisoners and will provide better living conditions. Additionally, a central prison and four other ordinary prisons, in addition to women and juveniles centres, are scheduled for construction in order to provide safe and hygienic conditions. All the prisons are designed for convicted people. The PRDP also envisages the presence of social and psychological counsellors, and vocational workshops.

In addition to prisons, the PRDP plans to set up and equip 10 detention centres to meet the need for temporary detention in police stations; one in each governorate: Qalqiliya, Tulkarem, Tubas, Salfit, Dura, Bethlehem, Rafah, Beit Hanun, Gaza and Der Albalah.

<sup>150</sup> *Ibid.*, Article 18: "The inmate has the right to submit any complaint or request. This shall be made through:

1 - Submitting his request or complaint on the form provided for this purpose.

2 - The recording of his request or complaint in a special register before forwarding same to the competent authority and shall be notified of the answer immediately upon its receipt."

<sup>151</sup> *Ibid.*, Article 57:

"1 - The Director may grant the inmate a three day contingent leave in the event of death or the second degree health situation of a relative provided there is a guarantor that ensures the period of leave and the return to the Centre upon the expiry of the inmate's leave.

2 - The Director may grant the inmate of good conduct a twenty four hours leave every four months provided that the inmate spent one-fourth of the period of his sentence and provided a guarantor ensures the period of leave and the return to the Centre upon the expiry of the inmate's leave."

<sup>152</sup> *Ibid.*, Article 45:

"1 - The inmate shall be released if he spends two-thirds of the period of judgment passed against him and, during such period, was of good conduct and behaviour and his release will not constitute a risk to public safety.

2 - If the punishment is a life sentence, the inmate shall be released if he spends twenty years in the Centre and was of good conduct and behaviour during that time and his release would not constitute a risk to public safety."

Article 46: "The release shall be according to the preceding article by a decision from the Minister upon a proposal by the Director General. The decision shall specify the reasons of release."

## Ministry of Justice

The role of the Ministry of Justice (MoJ) is to represent the judicial institutions in the Cabinet, co-ordinate with the other institutions in the criminal justice sector, draft bills, and supervise the prosecution and the administrative staff of the courts. According to the law, the MoJ should be represented in the HJC.

Formerly, the headquarters of the MoJ, AGO and HJC were based in Gaza. Since June 2007, the MoJ's headquarters were moved to Ramallah.

### Organizational structure

Generally speaking, a Palestinian ministry comprises of a minister, one deputy minister, one or more assistant deputy ministers, general directorates, departments and units. With the exception of a deputy minister, all those positions can be found in the MoJ. MoJ is organized as follows:

- Minister
  - Minister's Office
  - Judicial Affairs Unit
  - Internal Control Unit
  - International Relations Unit
  - Human Rights and Complaints Unit
  - Council of Ministers' Affairs Unit
- Deputy Minister
- Assistant Deputy Minister for Financial and Administrative Affairs
- Assistant Deputy Minister for Legal Affairs
- 7 General Directorates (GD)
  - GD Administrative Affairs: headed by the same director as the DG Financial Affairs
    - Personnel Department
    - Authentication Department
  - GD Financial Affairs
    - Treasury Department
    - Budget Department
  - GD Alternative Conflict Resolution
    - Department for the Examination and Certification of Translators
    - Arbitration and Conflict Resolution Department
    - Association Affairs Department
  - GD Legal Research
  - GD IT
    - Library
    - Archive
    - Computers Department
  - GD Administrative Supervision of Courts
  - GD Forensics
    - Criminal Laboratories Department
    - Autopsy Department

- GD Judicial Records
- Independent institutions
  - Attorney General's Office
  - Judicial Training Institute (JTI)

The Attorney General's Office (AGO) is not part of the MoJ but is closely linked to it. The MoJ is not entitled to order the AG to indict a person or to drop a case and does not supervise the prosecution, but the MoJ appoints the prosecutors and signs their transfers. The AGO's budget is also included in the MoJ's budget.

The tasks fulfilled by the departments of the MoJ are varied. The Authentication Department approves documents originating from other countries, especially powers of attorney.<sup>153</sup> The Arbitration and Conflict Resolution Department issues certificates for arbitrators. The Association Affairs Department supervises NGOs.

## Legal framework

The *Judicial Authority Law*, No. 1 (2002) ("the JAL"), regulates the relations between the MoJ, the courts and the prosecution. The relationship is premised on checks and balances between the three, as many important decisions require the co-operation of at least two key actors. The primary responsibility for the independence of the judiciary is assigned to the HJC and MoJ, whereas the AGO is responsible for the prosecution.

In relation to the role of the MoJ with respect to the courts, the HJC has to submit its budget to the MoJ.<sup>154</sup> The MoJ determines the seat and geographical jurisdiction of the Conciliation Courts.<sup>155</sup> The deputy minister of justice is a member of the HJC,<sup>156</sup> but the minister may request a meeting of the body.<sup>157</sup> The MoJ has administrative supervision over all the courts.<sup>158</sup> ~~And in~~ In cases of wrong-doing by a judge, the MoJ can ask the AG to file a disciplinary case against a judge, ~~and the~~ The Chief Justice is entrusted to appoint a judge to the investigation<sup>159</sup> and it is the HJC that may suspend the impugned judge.<sup>160</sup>

In relation to the role of MoJ with respect to the prosecution, the MoJ decides if a deputy in the AGO is eligible for judicial work<sup>161</sup> and must be present when a prosecutor takes the oath.<sup>162</sup> The MoJ decides on the transfer of a prosecutor to the jurisdiction of another court.<sup>163</sup> The MoJ may request the AG to file a disciplinary case against a prosecutor.<sup>164</sup>

<sup>153</sup> Director of the Minister's Office (November 2008).

<sup>154</sup> JAL, Article 3.

<sup>155</sup> JAL, Article 13.

<sup>156</sup> JAL, Article 37.

<sup>157</sup> JAL, Article 40.

<sup>158</sup> JAL, Article 47.

<sup>159</sup> JAL, Article 49.

<sup>160</sup> JAL, Article 58.

<sup>161</sup> JAL, Article 62.

<sup>162</sup> JAL, Article 64.

<sup>163</sup> JAL, Article 65.

<sup>164</sup> JAL, Article 72.

The *Law on the Formation of Regular Courts*, No. 5 (2001) entitles the MoJ to determine the scope of the courts' jurisdiction,<sup>165</sup> in more general terms than the JAL.

The *Criminal Procedure Code*, No. 3 (2001) involves the MoJ in three cases in criminal matters. The MoJ may ask the AG to move for the nullity of a binding decision that is contrary to the law.<sup>166</sup> Applications for retrial ~~have to~~ must be submitted to the MoJ<sup>167</sup> who refers it to the AG.<sup>168</sup> When a death sentence becomes final the MoJ raises it to the head of state for ratification.<sup>169</sup>

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<sup>165</sup> Law on the Formation of Regular Courts, No. 5 (2001), Article 1.

<sup>166</sup> CPC, Article 375.

<sup>167</sup> CPC, Article 378.

<sup>168</sup> CPC, Article 379.

<sup>169</sup> CPC, Article 408.



## The Palestine Bar Association

The Palestine Bar Association (PBA) represents the practising lawyers in Palestine. Article 2 (1) of the *Law of Practising Lawyers*, No. 3 (1999),<sup>170</sup> provides that “The legal profession... renders assistance to the judiciary in the implementation of justice, the application of the rule of law, and in the preservation of the right of defending the interests and liberties of the citizens.” The Article continues by clarifying that ~~the~~ attorneys alone shall practice law, without restrictions in their practice except as provided for ~~under~~ the law. (Lawyers registration and membership with the PBA is compulsory for practising lawyers as per Article 17).

Article 12 of the *Law of Practising Lawyers*, sets the goals of the PBA as follows:

1. Defending the interests of the PBA and the attorneys and seeks to guarantee the liberty of the attorney in the performance of his or her duties.
2. Solidifying the principles of the Rule of Law and respect of Human Rights.
3. Organize the effort of the members of the PBA in the development of legal thought in the service of right, justice, and the development and participation in drafting legislation for the purpose of the application of justice without material obstacles or administrative complications.
4. Provide access to legal research and encourage researchers, upgrade the professional standards of the PBA members.
5. Provides economic, social, and cultural services to its members; organize old age, disability, and death benefits; provide assistance whenever needed; and provide healthcare which safeguards a good living for the PBA members and their families. Also establish and develop a pension scheme for attorneys and establish and develop a provident fund for attorneys to solidify and foster co-operative and financial services amongst the membership.
6. Facilitate co-operation in the practice of the legal profession and provide legal aid to those in need among the citizenry.

### Organizational structure

The PBA is a civil society organization established by the PNA on 9 July 1997, unifying two lawyers associations, one in the West Bank and one in the Gaza Strip. The PBA has two main offices, one in Gaza covering Gaza and one in Ramallah covering the West Bank. Article 10(1) of the *Law of Practising Lawyers* provides that its head office shall be in Jerusalem although it is currently inactive. Currently the PBA has 7 branch offices, situated in Hebron, Nablus, Jenin, Tulkarem, Bethlehem, Gaza City and Khan-Younis. The minimum number for opening a branch office is 60 lawyers registered in that region. The branch offices are in charge of fulfilling the PBA’s mandate in the respective regions and serve the lawyers in their respective geographic areas.

The PBA is ruled by a Council. Articles 40 of the *Law of Practising Lawyers* also regulates elections and the functioning of the Council. The Council is composed of 15 members, including the president, who are

<sup>170</sup> Previously called the “*Law regulating Regulating the Legal Profession*, No. 3 (of 1999)”. According to Article 1 of Law No. 5 Pertaining concerning to the *Amendment of the “Law Regulating the Legal Profession*, No. 3 of (1999” ), the title of the law was amended.

elected by the General Assembly of the Council every two years. The current Council is now in the third electoral session, running from 15 April 2007 to 15 April 2009. The Council meets periodically, and at least once every fortnight.<sup>171</sup> Article 42 of the *Law of Practicing Lawyers* regulates the Council's responsibilities for all matters relating to the legal profession, such as: laying down the regulations needed for the implementation of the provisions of the Lawyers' Law; including applications for the registration of lawyers; upholding the principles and the traditions of the legal profession; administering the affairs of the PBA, its funds, and the collection of fees such as laying down the regulations needed for the implementation of the provisions of the Lawyers' Law. Furthermore the Council is in charge of taking disciplinary measures against lawyers, and intervening in, and resolving, conflicts pertaining to the legal profession as well as appointing the staff needed to facilitate the work of the PBA.

The PBA also has subcommittees with specialized mandates. Currently, the following specialized sections exist:

- Legal Profession Committee
- Training Committee
- Complaints Committee (to receive complaints against lawyers from the public or clients)
- "Public Liberty" Committee (focused on respect for human rights, the Rule of Law, attacks against lawyers and Palestine by the Israeli military)
- Fees Committee
- Public Relations Committee

There are 725 practicing lawyers in the Gaza Strip serving a population of 1.5 million. In addition, the PBA has collected the following data on the distribution of the membership of registered practicing lawyers in the West Bank:

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<sup>171</sup> *Law of Practicing Lawyers*, Article 41 (1).

District*	October 2008		September 2008		December 2008	
	Membership of practicing lawyers according to PBA branch offices	Trainee lawyers according to PBA branch offices	Membership of practising lawyers according to PBA Head Office	Women lawyers	Membership of practising lawyers according to PBA Head Office	Women lawyers
Bethlehem	150	50	107	18	119	21
Hebron	320	50/60	205	23	220	27
Jenin	110	130/140	137	19	152	21
Jericho			19	3	21	5
Jerusalem			208	46	234	55
Nablus	330	100	261	53	282	67
Qalqilya			32	8	35	9
Ramallah			254	41	286	46
Salfit			11	0	12	0
Tubas			14	4	17	4
Tulkarm	95	50/55	80	11	100	18
<b>TOTAL</b>			<b>1328</b>	<b>226</b>	<b>1478</b>	<b>273</b>

\*District where lawyers are resident. However lawyers can represent clients in all Courts in the PNA once they are registered with the PBA.

In addition to the membership of practising lawyers, at the end of 2008 there were approximately 750 trainee lawyers. Trainee lawyers undergo two years of practical and theoretical training after obtaining their university degree, which [training](#) is registered with the PBA.

## Legal Principles

### 1. The Right to Access to a Lawyer

- Every arrested or detained person shall have the right to contact a lawyer.<sup>172</sup>
- At the first appearance of the accused for an interview or questioning, the Deputy Prosecutor shall notify the suspect or accused of the right to the assistance of counsel.<sup>173</sup>
- The accused shall be entitled to postpone the interview for twenty-four hours pending the arrival of counsel. If counsel does not appear or if the accused decides not to appoint counsel, the questioning may be proceed.<sup>174</sup>
- The Deputy Prosecutor may question the accused without counsel in the event of a flagrant crime, necessity, urgency, or fear that the evidence may be lost, provided that the grounds for precipitating the interrogation are stated in the minutes. The counsel of the accused shall be entitled to read the statements of his client after the questioning is completed.<sup>175</sup>
- An accused shall have the right to the assistance of counsel during the investigation.<sup>176</sup>

<sup>172</sup> *Basic Law*, Article 12 (3).

<sup>173</sup> *Penal Procedure Code*, Article 96 (1).

<sup>174</sup> *Penal Procedure Code*, Article 97 (2).

<sup>175</sup> *Penal Procedure Code*, Article 98.

<sup>176</sup> *Penal Procedure Code*, Article 102(1).

- The Attorney General may decide to ban any communication with the accused with the exception of counsel, who may communicate with his client any time he wishes, without constraint or supervision.<sup>177</sup>

## 2. Right to Access Documents

- Counsel shall be permitted to review the documents of the investigation preceding the questioning of the accused.<sup>178</sup>
- The Clerk of the Court shall serve a copy of the charging instrument on the accused at least one week before the date of trial.<sup>179</sup>

## 3. Right to Legal Aid and Legal Representation

- Every arrested or detained person shall have the right to access a lawyer.<sup>180</sup>
- Any person accused in a criminal case shall be represented by a lawyer.<sup>181</sup>
- If the accused lacks sufficient financial resources to afford defence counsel, the President of the Court shall appoint one from among the lawyers who have practiced at the Bar for at least five years or who, before being admitted to the Bar, worked in the Public Prosecution or in the Judiciary for not less than two years.<sup>182</sup>

## 4. Right to a Fair and Impartial Trial

- Appointment, transfer, secondment, delegation, promotion and investigation of judges shall be regulated by the *Judicial Authority Law*.<sup>183</sup>

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<sup>177</sup> *Penal Procedure Code*, Article 103 and Article 123. Also see *Rehabilitation and Correction Centres*, Law No. 6 (1998), Article 54.

<sup>178</sup> *Penal Procedure Code*, Article 102(3).

<sup>179</sup> *Penal Procedure Code*, Article 242.

<sup>180</sup> *Basic Law*, Article 12(3)

<sup>181</sup> *Basic Law*, Article 14(2).

<sup>182</sup> *Penal Procedure Code*, Article 244.

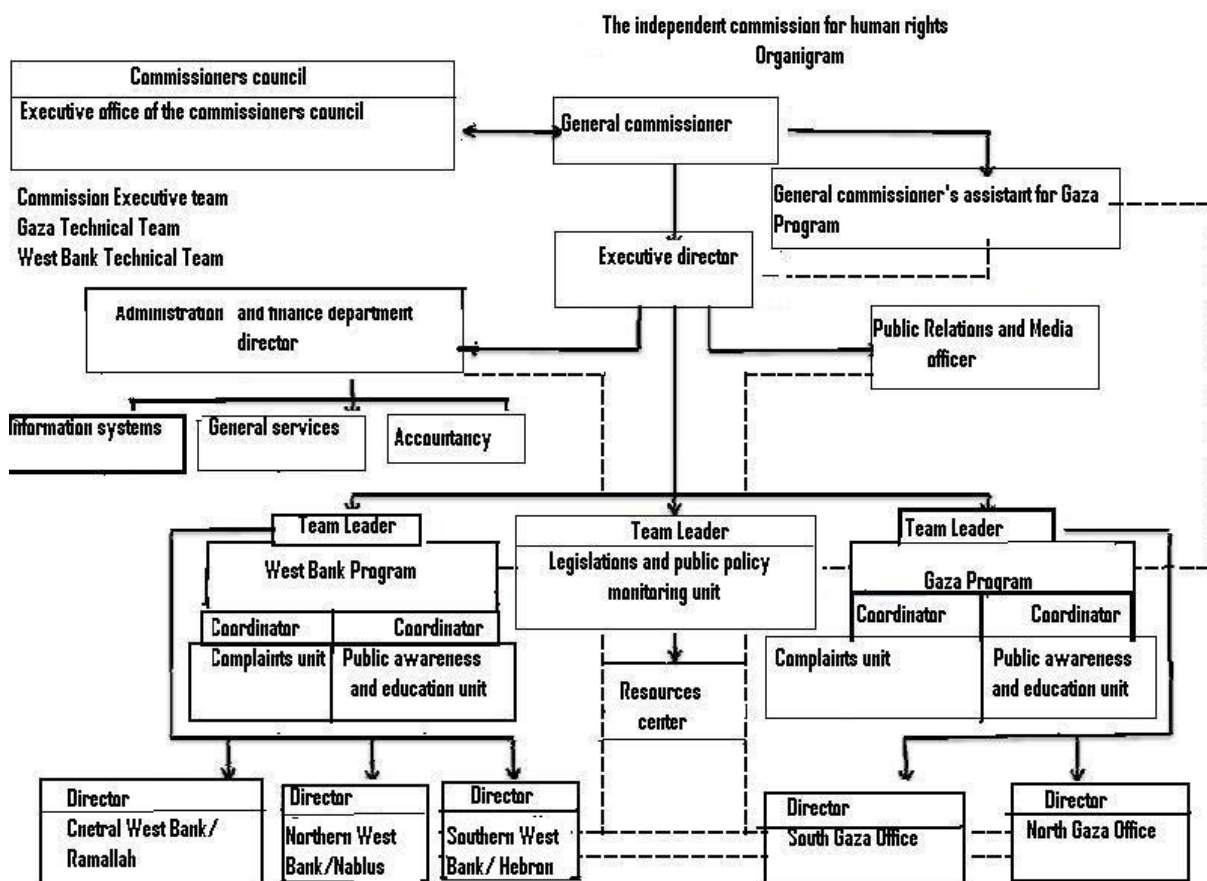
<sup>183</sup> *Basic Law*, Article 99(1).

## The Palestinian Independent Commission for Human Rights

The Palestinian Independent Commission for Human Rights (ICHR), formerly the Palestinian Independent Commission for Citizen's Rights (PICCR), was established by presidential decree in 1993. In accordance with the Decree, the duties and responsibilities of ICHR were set forth as follows: "to follow-up and ensure that Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights".

The ICHR is not an NGO, but a national institution vested with the responsibility of protecting human rights in Palestine.

### Structure



The staff of ICHR consists of 52 employees including lawyers, legal scholars, and specialists in human rights and other holders of certificates in the Human Sciences, in addition to the administrative support.

The commission is currently supervised by the Board of Commissioners which has 17 members.

The headquarters of the Commission is temporarily located in Ramallah, with branch offices covering each region of the West Bank (~~with offices in the North, the Centre, and the South~~); and three branch offices in the Gaza Strip (~~in the North, the Centre and the South~~).

### **Functions and Practices**

The ICHR approaches authorities on behalf of persons they are representing in human rights cases such as torture, illegal detention and humanitarian matters. ICHR mainly gets involved in cases of illegal detention and providing legal consultation for women, children, juveniles and the disabled. It is the only national agency that has access to detention centres and prisons, visiting around 60 facilities each month.

The ICHR's objectives include: stabilizing and enhancing the Commission's role as a national human rights organization; establishing Ombudsman's functions with regard to human rights violations; increasing the effectiveness and sustainability and independence of the Commission; raising awareness concerning human rights principles; and developing the capacity of Palestinian officials. In doing so, [ICHR#](#) strives to encourage adherence to applicable Palestinian legislation and international human rights conventions and treaties. ICHR's awareness raising activities target the security services, teachers, journalists, social counselors, employees in the health sector, students, women, children and disadvantaged and marginalized groups in Palestinian society.

Within its Legal Report Series, ICHR has issued several reports and studies on legal and judicial issues intending to enrich the Palestinian and Arab legal and judicial libraries, and to educate academics, legislators, lawyers, journalists or other professionals. To date, ICHR has issued 68 such reports.

