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Freedom in the World 2009 - Palestinian Authority-Administered Territories [Israel]

Capital: N/A

Population: 4,013,000

Political Rights Score: 5

Civil Liberties Score: 6

Status: Not Free

Explanatory Note

The areas and total number of persons under Palestinian jurisdiction changed periodically during the year due to the fluid nature of Israel's military presence and activities in the West Bank and Gaza Strip.

Trend Arrow ↓

The Palestinian Authority-administered territories received a downward trend arrow due to crackdowns by Hamas on Fatah in Gaza, as well as crackdowns by Fatah on Hamas in the West Bank, with the use of violence and torture during arrests and interrogations by both sides.

Overview

The 2007 fracturing of the Palestinian Authority between the Hamas-controlled Gaza Strip and a Fatah-led government in the West Bank deepened in 2008. Each side cracked down on the other in its area of control, as well as on both affiliated and independent civic organizations, particularly in Gaza. Peace negotiations between the West Bank-based Palestinian Authority and Israel stalled in the latter part of the year, and major fighting between Israel and Hamas in the Gaza Strip erupted in December after a six-month truce expired.

In the 1967 Six-Day War, Israel occupied the Sinai Peninsula, the West Bank, the Gaza Strip, East Jerusalem, and the Golan Heights. It annexed East Jerusalem in that year and the Golan Heights in 1981, though the Sinai was returned to Egypt. In what became known as the *intifada* (uprising), Palestinians living in the West Bank and Gaza began attacking mainly military targets in 1987 to protest Israeli rule. Israel and Yasser Arafat's Palestine Liberation Organization (PLO) reached an agreement in 1993 that provided for Israeli troop withdrawals and gradual Palestinian autonomy in the West Bank and Gaza in exchange for recognition of Israel and an end to Palestinian terrorism. The resulting Palestinian Authority (PA) subsequently obtained full or partial control of up to 40 percent of the West Bank, more than 50 percent of the Gaza Strip, and 98 percent of the Palestinian population.

Far-reaching negotiations under U.S. sponsorship in 2000 and early 2001 failed to produce a final settlement on a Palestinian state. Meanwhile, a second intifada had begun in September 2000, and violence flared throughout the occupied territories. Rightist leader Ariel Sharon was elected Israeli prime minister in February 2001. Insisting that the PA was not preventing terrorism, his government responded to Palestinian suicide bombings by staging raids into PA territory. The operations targeted Islamist and secular militant groups but also caused the deaths of many civilians.

In April 2003, Israel and the Palestinians agreed to abide by a "road map" to peace put forward by the United States, Russia, the United Nations, and the European Union (EU). The plan called for coordinated Palestinian and Israeli steps toward peace and the eventual creation of an independent Palestinian state.

A PA presidential election was held in January 2005 to replace Arafat, who had died in November 2004. The election, repeatedly postponed during Arafat's rule, was the second in the PA's history; the first voting for president and the Palestinian Legislative Council (PLC) had taken place in 1996. Mahmoud Abbas of Arafat's Fatah faction won the 2005 contest with 62 percent of the vote. In subsequent municipal voting in Gaza, the Islamist group Hamas won 77 out of 118 seats in 10 districts, to Fatah's 26 seats. In a second round of West Bank and Gaza municipal voting, Fatah won most municipalities, but Hamas posted impressive gains. Each group accused the other of fraud, and there was some election-related violence. Later that year, Israel unilaterally pulled all Jewish settlers out of Gaza, giving the PA full control within the territory.

Elections for the PLC, which Abbas had postponed in 2005, were held in January 2006. Hamas won 74 of 132 seats, while Fatah won just 45. The results allowed Hamas to form a government without Fatah support. Israel, the United States, and the EU refused to recognize the Hamas-led government, citing the group's involvement in terrorism and its refusal to recognize Israel or past Israel-PA agreements. The United States and the EU, then the largest donors to the PA, cut off assistance to the government.

After Hamas's ascent to power, armed clashes frequently broke out between Hamas and Fatah supporters. In 2007, fighting between the rivals accelerated, particularly in Gaza, a Hamas stronghold. The violence persisted despite an agreement between Abbas and Prime Minister Ismail Haniya of Hamas to form a "national unity" government. In June, Hamas militants successfully took over Fatah-controlled paramilitary bases and government buildings in Gaza and drove most Fatah militants to the West Bank. Thousands of Gazans, particularly those loyal to Fatah, fled the territory during the fighting. Abbas subsequently dismissed the Hamas-led government, declared a state of emergency, and accused Hamas of staging a coup in Gaza. He appointed an emergency cabinet led by former finance minister Salam Fayad. These events left a bifurcated PA, with Haniya and Hamas governing Gaza and Abbas and Fayad governing the Palestinian-administered areas of the West Bank, which amounted to roughly 40 percent of that territory.

In 2008, Hamas and Fatah engaged in reciprocal crackdowns in their respective territories, though the effort was more extensive in Gaza. In July, a series of explosions in Gaza prompted Hamas forces – led by the Internal Security Force and the Qassam Brigade – to arrest hundreds of Fatah members and supporters. While most were soon released, a report by Human Rights Watch (HRW) indicated that detainees were beaten and, in some cases, tortured. In addition, over 100 civic associations – including many that were unaffiliated with Fatah – were shut down. In the West Bank, Fatah forces – led by the Preventative Security Services (PSS) and the General Intelligence Service Unit – arrested hundreds of Hamas supporters and shut down affiliated organizations and media. HRW also reported incidents of torture in the West Bank.

Fayad's Hamas-free government in the West Bank has benefited from renewed U.S. and EU aid flows as well as tax revenues released by Israeli authorities. Peace negotiations between Israel and Abbas also accelerated following the fracturing of the PA, but despite a series of confidence-building measures – including the release of hundreds of Palestinian prisoners held in Israel and the wider deployment of Palestinian security forces in the West Bank – the parties remained far from completing final-status negotiations by the end of 2008 (the deadline set at a U.S.-backed conference in 2007). As part of the talks, the PA took on more security responsibility in the West Bank, deploying 600 troops to the city of Jenin in March 2008.

Meanwhile, the Hamas-led Gaza Strip had suffered from an Israeli economic blockade since the June 2007 PA rupture. Israel had declared the Gaza Strip a "hostile entity" in response to the continued barrage of Qassam rockets. During the latter half of 2007, it allowed food deliveries across the border but shut off almost all fuel supplies, leaving most residents with only sporadic electricity. Responding to legal challenges, the Israeli Supreme Court ruled that the government could continue to restrict fuel supplies as a legal economic sanction against Hamas but had to do more to ensure a minimal humanitarian impact.

Israel maintained its blockade of Gaza in 2008, allowing only occasional movement of fuel and supplies into the territory. In January, Hamas militants blew holes in the border barrier between Egypt and Gaza, leading hundreds of thousands of Gazans to cross into Egypt to buy supplies; the holes were sealed about a week later. Arms and goods were also regularly smuggled through a developing tunnel network between Egypt and Gaza. The blockade was eased after Hamas and Israel reached agreement on a six-month truce in June, with more commercial goods entering Gaza.

However, the expiration of the truce in December saw major fighting erupt between Hamas and Israel and a more stringent Israeli blockade. Hamas resumed and ramped up its rocket bombardment of Israel, and the IDF launched a major campaign of airstrikes in Gaza, preparing the way for a possible ground invasion. While Hamas's indiscriminate attacks on civilian targets

were condemned by human rights groups and other observers, the IDF bombing revived long-standing complaints that Israel's tactics caused many Palestinian civilian casualties, destroyed civilian infrastructure, and inflicted "collective punishment" on Gazans; according to the BBC, over 350 Palestinians had been killed in the fighting by year's end, along with four Israelis. Israeli authorities argued that their actions were necessary to protect Israeli civilians, and that Palestinian civilian casualties were caused by Hamas and other militant groups' use of civilian areas to stage and prepare attacks.

Political Rights and Civil Liberties

The Palestinian Authority (PA) president is elected to five-year terms, and international observers judged the 2005 presidential election to be generally free and fair. The unicameral Palestinian Legislative Council (PLC) was expanded from 88 to 132 representatives ahead of the legislative elections in 2006; PLC members serve four-year terms. The prime minister is nominated by the president. Under agreements with Israel, the PLC has no real authority over borders or defense policy. Laws governing Palestinians in the occupied territories derive from Ottoman, British Mandate, Jordanian, Egyptian, and PA law, as well as Israeli military orders.

In the January 2006 PLC elections, at least five parties competed in addition to the dominant Hamas and Fatah. The armed faction Islamic Jihad did not participate and urged its followers to boycott the vote. While the elections were deemed largely fair by international observers, there were credible reports of PA resources being used for the benefit of Fatah candidates, as well as campaigning by Hamas candidates in mosques, in violation of the PA's electoral rules. Some voters reported encountering difficulty in reaching polling stations because of Israeli roadblocks, though Israel was generally credited with allowing relatively free access during the elections.

The fracturing of the PA between the Hamas-controlled Gaza Strip and the Fatah-controlled West Bank in 2007 resulted in a decline in political rights, as elected officials on both sides were prevented from holding office and performing their duties. Hamas forcibly expelled Fatah officials from the Gaza Strip, while President Mahmoud Abbas appointed a new PA cabinet in the West Bank, creating an unelected authority in that territory. In 2008, Hamas forces in Gaza arrested hundreds of Fatah members and supporters and shut down the Fatah office in northern Gaza, while in the West Bank, forces aligned with President Abbas arrested hundreds of Hamas members and supporters.

Palestinian residents of the West Bank, Gaza, and East Jerusalem do not have the right to vote in national elections in Israel. Arabs in East Jerusalem who hold Israeli identity cards can vote in the city's municipal elections and in PA elections. However, ahead of the 2006 PLC polls, Israeli authorities restricted campaigning in East Jerusalem to parties that registered with the Israeli police, effectively excluding Hamas.

Transparency and the consolidation of PA finances became priorities in the wake of Yasser Arafat's death in 2004, due to rampant corruption during his presidency. Abbas instituted budget controls, ended the old system of cash handouts to political loyalists and members of security services, and launched a widespread corruption probe in 2005. While the Hamas-led government that took control following the 2006 PLC elections expressed a willingness to subject itself to budgetary oversight, many foreign governments were nonetheless reluctant to contribute money out of concern that it would be used for terrorist operations. Prime Minister Salam Fayad, who was appointed by Abbas after the PA schism in 2007, is highly regarded for his commitment to transparent government. Transparency International did not rank Palestine in its 2008 Corruption Perceptions Index.

A 1996 law passed by the PLC that guarantees freedom of expression has yet to be ratified, and the media are not free in the West Bank and Gaza. Under a 1995 press law, journalists may be fined and jailed, and newspapers closed, for publishing "secret information" on PA security forces or news that might harm national unity or incite violence. However, another press law stipulates that intelligence services do not reserve the right to interrogate, detain, or arrest journalists on the basis of their work. Several small media outlets are routinely pressured to provide favorable coverage of the PA, Fatah, or Hamas. Journalists who criticize the PA or the dominant factions face arbitrary arrests, threats, and physical abuse. The upsurge in fighting between Hamas and Fatah featured increased attacks on journalists in PA-controlled areas and the shutdown of several media outlets. In 2007, Hamas gunmen raided the Gaza office of the Palestinian Journalists' Syndicate; the union was subsequently dissolved in the territory. Hamas later banned all journalists not accredited by its Information Ministry, closed down Gaza outlets that were not affiliated with Hamas, and began enforcing the restrictive 1995 PA press law. In 2008, the several Hamas-affiliated radio stations in the West Bank were shut down by both Fatah force and Israeli authorities. In March, the editor of the Ramattan news agency, Nawaf al-Amer, was arrested by the PSS and accused of secretly working for Hamas; he was soon released. The state-run Palestinian Broadcasting Corporation was an occasional target of Hamas gunmen in Gaza. No journalists were kidnapped in Gaza or the West Bank in 2008, halting a recent trend; several journalists have been abducted by militants over the course of the current intifada. According to Internet World Statistics, 243,000 Palestinians had access to the internet as of 2006.

The PA generally respects freedom of religion, though no law specifically protects religious expression. The basic law declares Islam to be the official religion of Palestine and also states that "respect and sanctity of all other heavenly religions (Judaism and Christianity) shall be maintained." Personal status law, which governs marriage and divorce, is based on religious law; for Muslims, it is derived from Sharia (Islamic law), and for Christians, from ecclesiastical courts. Some Palestinian Christians have experienced intimidation and harassment by radical Islamist groups and PA officials. Since the fracturing of the PA, Hamas-controlled security forces and militants have increasingly harassed Muslim worshippers at non-Hamas affiliated mosques in Gaza, while Fatah-controlled authorities have directed similar pressure at Hamas-affiliated religious bodies.

The PA has authority over all levels of education. Some Palestinian schools teach hatred of Israel. Israeli military closures, curfews, and the West Bank security barrier restrict access to Palestinian academic institutions. Israeli authorities have at times shut universities, and schools have been damaged during military operations. Throughout the intifada, schoolchildren have periodically been injured or killed during fighting.

The PA requires permits for rallies and demonstrations and prohibits violence and racist sloganeering. Nevertheless, large rallies, often marked by violent rhetoric, are regular occurrences in Palestinian areas. Following the Hamas takeover of Gaza in 2007, freedoms of assembly and association were significantly restricted there, with security forces forcibly dispersing public gatherings of Fatah and other groups and killing a number of people. There are a broad range of Palestinian nongovernmental organizations and civic groups, and Hamas itself operates a large network that provides social services to certain Palestinians. However, many civic associations were shut down for political reasons in both the West Bank and Gaza in 2008.

Labor affairs in the West Bank and Gaza are governed by a combination of Jordanian law and PA decisions. Workers may establish and join unions without government authorization. Palestinian workers seeking to strike must submit to arbitration by the PA Labor Ministry. There are no laws in the PA-ruled areas to protect the rights of striking workers. Palestinian workers in Jerusalem are subject to Israeli labor law.

The judicial system is not independent. Palestinian judges lack proper training and experience. In 2007, Abbas ordered judges to boycott judicial bodies in Gaza, and Hamas began appointing new prosecutors and judges in 2008. Israeli demands for a crackdown on terrorism have given rise to state security courts, which lack almost all due process rights. There are reportedly hundreds of administrative detainees currently in Palestinian jails and detention centers. The same courts are also used to try those suspected of collaborating with Israel or accused of drug trafficking. Defendants are not granted the right to appeal sentences and are often summarily tried and sentenced to death. According to the Palestinian Human Rights Monitoring Group, alleged collaborators are routinely tortured in Palestinian jails and denied the right to defend themselves in court. These practices are not prohibited under Palestinian law.

Armed factions continued to exercise de facto rule over significant portions of PA-administered areas in 2008. News reports identified at least five autonomous armed militias operating in PA territory; frequent and violent clashes occurred between Hamas and Fatah gunmen. Violence between Palestinians and Israeli settlers in the West Bank is common.

The intifada and Israeli restrictions have exacted a serious toll on the Palestinian economy in recent years. Citing security concerns, Israel barred most Gazan workers from entering Israel beginning in March 2006. Israel has traditionally been the primary market for Gazan goods. Following the Hamas takeover of the Gaza Strip in June 2007, Israel sealed its borders with the territory, although food deliveries were allowed to continue. The halt to almost all fuel deliveries to Gaza left most residents with only sporadic electricity. The temporary breakdown in Egypt-Gaza border controls in early 2008 allowed an influx of supplies, and goods have also been smuggled through tunnel networks. Israeli border restrictions eased somewhat following the Israel-Hamas ceasefire in June, but were made even more stringent following the outbreak of major fighting between Hamas and Israel in late December.

While Palestinian women are underrepresented in most professions and encounter discrimination in employment, they have fuller access to higher education. A political quota system was instituted in 2005, mandating that women be represented on each party's list for PLC elections. Personal status law, derived in part from Sharia, puts women at a disadvantage in matters of marriage, divorce, and inheritance. Rape, domestic abuse, and "honor killings," in which women who are raped or engage in extramarital sex are murdered by a relative, are not uncommon. These murders often go unpunished. HRW reported in November 2006 that women's treatment in instances of rape or abuse is increasingly determined by tribal leaders or PA-appointed governors, and not by the courts, a situation that HRW said leads to arbitrary decisions. In 2007, the PA Ministry of Women's Affairs found that legal options for victims of domestic abuse were extremely limited.

