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Freedom in the World 2017 - Gaza Strip

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Freedom Status: Not Free

Aggregate Score: 12/100 (0 = Least Free, 100 = Most Free)

Freedom Rating: 5.5/7 (1 = Most Free, 7 = Least Free)

Political Rights: 5/7 (1 = Most Free, 7 = Least Free)

Civil Liberties: 6/7 (1 = Most Free, 7 = Least Free)

Explanatory Note:

The numerical ratings and status listed above do not reflect conditions in Israel or the West Bank, which are examined in separate reports. Prior to its 2011 edition, *Freedom in the World* featured one report for Israeli-occupied portions of the West Bank and Gaza Strip and another for Palestinian-administered portions.

Quick Facts

Population: 1,870,000

Press Freedom Status: Not Free

OVERVIEW

The political rights and civil liberties of Gaza residents are severely constrained by multiple layers of interference. Israel's de facto blockade of the territory, along with its periodic military incursions and rule of law violations, has imposed serious hardship on the civilian population, as has Egypt's tight control over the Rafah border crossing in the south. Meanwhile, the Hamas militant group governs Gaza without democratic legitimacy, and its unresolved schism with the Palestinian Authority (PA) in the West Bank has contributed to legal confusion and repeated postponement of overdue elections.

Key Developments

- Hamas and the West Bank–based PA agreed to hold joint local elections in the West Bank and Gaza Strip in October, but the PA government chose to postpone them all by at least four months after the PA High Court of Justice suspended the Gaza voting due to legal irregularities.
- Nongovernmental organizations (NGOs) came under scrutiny and pressure from both Israeli and Hamas authorities, with Hamas attempting to impose its own regulations and Israel accusing some aid workers of links to Hamas.
- Reconstruction efforts in the wake of a 2014 conflict between Israel and Hamas faltered during the year due to Israeli-imposed restrictions on the entry of building supplies into Gaza.

Executive Summary

The Gaza Strip remained without an elected government in 2016, as PA presidential and legislative elections were last held in 2005 and 2006, respectively. Hamas retained de facto governing authority in Gaza due to a 2007 schism with the rival Fatah faction, which controls the PA structure in the West Bank.

In June, the Ramallah-based PA cabinet announced that municipal elections would be held in October, and Hamas stated in July that it would participate in the voting, meaning elections could be held in both the West Bank and Gaza. However, after the PA High Court of Justice found that elections could not proceed in Gaza or East Jerusalem, the PA cabinet decided to postpone all voting by at least four months, drawing objections from Hamas.

Also during the year, Hamas carried out its first executions since 2014, in contravention of PA law, and continued attempts to impose its own regulations on foreign journalists and NGOs. Separately, Israeli authorities accused certain aid workers of colluding with Hamas, which Israel considers a terrorist organization, and maintained tight restrictions on the movement of people and goods to and from Gaza, impeding civilian life and reconstruction efforts dating to Israel's 2014 conflict with Hamas. The unemployment rate exceeded 40 percent, and some 80 percent of the population remained dependent on international aid.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights 3 / 40

A. Electoral Process 0 / 12

- A1. Is the head of government or other chief national authority elected through free and fair elections?
- A2. Are the national legislative representatives elected through free and fair elections?
- A3. Are the electoral laws and framework fair?

Most residents of the Gaza Strip are refugees or descendants of refugees from the 1948 Arab-Israeli war. They and original inhabitants of Gaza hold PA identity documents. The Hamas-controlled government in the territory has claimed to be the legitimate leadership of the PA. However, the PA – an interim self-governing body created by the 1993 Oslo Accords – is effectively fractured, and Hamas officials implement PA law selectively.

Under the laws in place for the most recent PA elections, the PA president is elected to four-year terms. The prime minister is nominated by the president and requires the support of the unicameral, 132-seat Palestinian Legislative Council (PLC), which also serves four-year terms.

International observers judged the 2005 presidential election to be generally free and fair. However, PA president Mahmoud Abbas lost control over Gaza after the 2007 Fatah-Hamas schism, and Prime Minister Ismail Haniya of Hamas continued to lead the government in Gaza despite being formally dismissed by Abbas. Other Hamas ministers remained in their posts in Gaza after almost all Fatah-affiliated leaders were expelled or fled to the West Bank. When Abbas's elected term expired in 2009, Hamas argued that the PA Basic Law empowered the head of the PLC – Aziz Dweik of Hamas – to serve as acting president.

Voting in Gaza during the 2006 PLC elections was deemed largely fair by international observers. Hamas won 74 seats overall, while Fatah took 45. The subsequent Hamas-Fatah rift, combined with Israel's detention of many (especially Hamas-affiliated) lawmakers, prevented the PLC from operating, and its term expired in 2010. No elections have been held since 2006; Gaza did not participate in 2012 local elections in the West Bank.

After the PA government in Ramallah called municipal elections for October 2016, Hamas agreed to participate, and election officials began preparations for balloting across the West Bank and Gaza Strip. In September, however, the PA High Court of Justice suspended the elections, citing ongoing disputes about the exclusion of Israeli-controlled East Jerusalem and the legality of preelection court judgements in Gaza that affected the candidate lists. In early October, the High Court ruled that the elections could proceed in the West Bank only, leading the PA government to postpone all municipal elections by at least four months.

Abbas and the Hamas leadership met in Doha, Qatar, at the end of October, affirming the territorial unity of the West

Bank and Gaza as part of the Palestinian state, but no concrete commitments on elections emerged.

B. Political Pluralism and Participation 2 / 16

- B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system open to the rise and fall of these competing parties or groupings?
- B2. Is there a significant opposition vote and a realistic opportunity for the opposition to increase its support or gain power through elections?
- B3. Are the people's political choices free from domination by the military, foreign powers, totalitarian parties, religious hierarchies, economic oligarchies, or any other powerful group?
- B4. Do cultural, ethnic, religious, or other minority groups have full political rights and electoral opportunities?

Since the 2007 schism, Gaza has effectively functioned as a one-party state under Hamas rule. Fatah is largely suppressed, with smaller factions tolerated to varying degrees. In the run-up to the planned 2016 municipal elections, Hamas-administered courts disqualified several electoral lists, leading to criticism that it was trying to prevent Fatah victories. Hamas then criticized the High Court of Justice rulings and the PA decision to suspend all municipal voting, accusing Abbas and Fatah of attempting to avoid an electoral defeat.

In general there is little display of opposition party activity, and party organizing is negligible. The militant Islamic Jihad faction was allowed to demonstrate in 2016, but human rights groups have documented multiple incidents in which Hamas used excessive force or arbitrary detention against its political opponents and critics.

Israel's ongoing blockade of Gaza, in place since 2007, continued to hamper the development of normal civilian political competition, partly by providing a pretext for most political factions to maintain armed wings, seek patronage from foreign powers with their own political agendas, and neglect basic governance concerns.

C. Functioning of Government 1 / 12

- C1. Do the freely elected head of government and national legislative representatives determine the policies of the government?
- C2. Is the government free from pervasive corruption?
- C3. Is the government accountable to the electorate between elections, and does it operate with openness and transparency?

The expiration of the presidential and parliamentary terms in 2009 and 2010 has left Gaza's authorities with no electoral mandate. The ability of Gazan officials to make and implement policy is limited by Israeli and Egyptian border controls, Israeli military actions, and the ongoing schism with the internationally recognized PA structure in the West Bank.

Humanitarian organizations and donor countries allege that Hamas exerts significant control over the distribution of funds and goods in Gaza, and allocates resources according to political criteria with little or no transparency, creating ample opportunity for corruption. The flow of aid is crucial to daily life, as the UN Relief and Works Agency (UNRWA) has reported that about 80 percent of the population is dependent on international assistance.

Meanwhile, partly as a result of the continued political rupture with the West Bank, tens of thousands of public workers in Gaza remained without regular pay during 2016, threatening basic government functions. Hamas has suffered in recent years from a decline in funding from foreign patrons as well as a crackdown on economically important smuggling routes from Egypt, while the Ramallah-based PA has been reluctant to recognize and pay civil servants hired by the Hamas government since 2007.

Civil Liberties 9 / 60

D. Freedom of Expression and Belief 4 / 16

- D1. Are there free and independent media and other forms of cultural expression?
- D2. Are religious institutions and communities free to practice their faith and express themselves in public and private?
- D3. Is there academic freedom, and is the educational system free of extensive political indoctrination?

D4. Is there open and free private discussion?

The media are not free in Gaza. Following the 2007 schism, Hamas security forces closed down pro-Fatah media outlets and began exerting pressure on media critics, including through the use of arbitrary arrest, detention, beatings, and other tactics of intimidation. These abuses came despite the Haniya-led government's Order 128/2007, which instructed security forces to respect "political and media freedoms." The Palestinian Basic Law also guarantees freedom of expression and media freedom. In 2012, Hamas's media office banned Palestinian journalists from giving interviews to or working with Israeli media. In 2016, foreign journalists reported various arbitrarily enforced restrictions on their work, including detentions and interrogations, excessive registration fees for vehicles, and unreasonable conditions attached to permits.

Some restrictions imposed in 2007 have been eased. In 2014, Hamas lifted a ban on the distribution of three West Bank newspapers – *Al-Ayyam*, *Al-Quds*, and *Al-Hayat al-Jadida* – that are generally associated with Fatah; it has also allowed the transmission of PA-controlled Palestine TV. Blogging and other online media activities are generally allowed, but critical journalists, bloggers, and users of social media have at times faced harassment and arrests by Hamas authorities. The Palestinian Center for Development and Media Freedoms (MADA) reported 48 media freedom violations by Palestinian forces in Gaza in 2016, down from 76 in 2015 but still higher than in many previous years. Among other cases during the year, Palestinian journalist Ayman Alul was detained for several days in January, allegedly tortured, and released by Hamas authorities after pledging not to cover political affairs in Gaza. In September, journalist Mohammed Othman was similarly arrested and allegedly abused in retaliation for his work.

The Israeli blockade and Egyptian controls on the Rafah crossing restrict the movement of journalists. Israeli authorities repeatedly prevented Gaza-based journalists from traveling to the West Bank. For example, some 28 journalists were reportedly barred from making the trip in November to cover a Fatah party conference, despite having applied for permits.

Freedom of religion is restricted in Gaza. The PA Basic Law declares Islam to be the official religion of Palestine and states that "respect and sanctity of all other heavenly religions (Judaism and Christianity) shall be maintained." Hamas authorities have enforced traditional Sunni Islamic practices and conservative dress, and have attempted to exert political control over mosques.

Hamas has taken over the education system, aside from schools run by the United Nations. A teachers' strike in 2009 led to the replacement of many strikers with new, Hamas-allied teachers. Thousands of teachers are subject to irregular pay as part of the broader financial problems affecting civil servants. Hamas security officials have reportedly confiscated "immoral" books from (mostly university) bookstores in recent years. Israeli and Egyptian restrictions on trade and travel have limited access to educational materials, and university students have difficulty leaving the territory to study abroad. Gazans are now mostly absent from West Bank universities.

Intimidation by Hamas militants and other armed groups have some effect on open and free private discussion in Gaza, and the authorities reportedly monitor social media for critical content.

E. Associational and Organizational Rights 3 / 12

E1. Is there freedom of assembly, demonstration, and open public discussion?

E2. Is there freedom for nongovernmental organizations?

E3. Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining?
Are there free professional and other private organizations?

Hamas significantly restricts freedoms of assembly and association, with security forces violently dispersing unapproved public gatherings of Fatah and other groups. Israeli forces regularly fire on demonstrations near the border fence.

There is a broad range of Palestinian NGOs and civic groups, and Hamas operates a large social-services network. However, Hamas has restricted the activities of aid organizations that do not submit to its regulations, and many civic associations have been shut down for political reasons since the 2007 PA split. Aid and reconstruction efforts after the 2014 conflict, led by UN agencies, have been held up in part by disagreements over international and PA access to the

territory and control over border crossings.

Israeli authorities denied travel permits for many NGO personnel during 2016, citing security concerns. In one high-profile case in August, Israel charged the director of World Vision in Gaza with diverting \$50 million over a seven-year period from the aid group to Hamas. He was arrested at the Erez Crossing and arraigned in a closed hearing. Similar charges of assisting Hamas were levied that month against a Gazan employee of a UN agency, and Save the Children said it was investigating possible Hamas ties to one of its workers. The cases helped to cast suspicion on aid activities in Gaza and led some donors to withdraw or review their funding.

Independent labor unions in Gaza continue to function, and PA workers have staged strikes against Hamas-led management. The Fatah-aligned Palestinian General Federation of Trade Unions, the largest union body in the territories, has seen its operations curtailed. It still negotiates with employers to resolve labor disputes, but workers have little leverage due to the territory's dire economic situation, extremely high unemployment, and the dysfunctional court system, which impedes enforcement of labor protections.

F. Rule of Law 0 / 16

F1. Is there an independent judiciary?

F2. Does the rule of law prevail in civil and criminal matters? Are police under direct civilian control?

F3. Is there protection from political terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system? Is there freedom from war and insurgencies?

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population?

Laws governing Palestinians in the Gaza Strip derive from Ottoman, British Mandate, Jordanian, Egyptian, PA, and Islamic law, as well as Israeli military orders. The judicial system is not independent, and Palestinian judges lack proper training and experience. Hamas security forces and militants continued to carry out arbitrary arrests and detentions in 2016, and torture of detainees and criminal suspects was reported. The Palestinian human rights ombudsman agency, the Independent Commission for Human Rights, receives complaints from Gaza residents but has limited access to Hamas detention centers and Gaza's central prison.

According to the Palestinian Center for Human Rights, Hamas-led military courts issued at least a dozen death sentences in 2016. A smaller number of death sentences handed down by civilian courts included one against a 26-year-old woman who was convicted in a secret trial in October of killing her allegedly abusive husband. The Hamas authorities carried out their first executions since 2014 in May, putting three convicted murderers to death without the legally required approval of President Abbas.

There were 336 Palestinian security detainees and prisoners from Gaza in Israeli prisons as of August 2016, according to the Israeli human rights organization B'Tselem. The group also reported that Israeli forces killed at least eight Gaza residents in 2016, including civilian protesters and farmers working close to the border. Some deaths also resulted from Israeli air strikes and exchanges of fire with Gaza-based militants, who launched rockets into Israel sporadically during the year.

Vulnerable groups including LGBT (lesbian, gay, bisexual, and transgender) people reportedly face societal discrimination and official harassment in Gaza. Laws dating to the British Mandate authorize up to 10 years in prison for sexual acts between men.

G. Personal Autonomy and Individual Rights 2 / 16

G1. Do individuals enjoy freedom of travel or choice of residence, employment, or institution of higher education?

G2. Do individuals have the right to own property and establish private businesses? Is private business activity unduly influenced by government officials, the security forces, political parties/organizations, or organized crime?

G3. Are there personal social freedoms, including gender equality, choice of marriage partners, and size of family?

G4. Is there equality of opportunity and the absence of economic exploitation?

Freedom of movement in Gaza is severely restricted, and conditions worsened in 2014 as civilians were displaced within

the territory by fighting between Israel and Hamas. Roughly 20,000 homes were destroyed or rendered uninhabitable, and nearly 500,000 people were displaced. Only a fraction of the damaged or destroyed homes had been reconstructed by the end of 2016. The effort was further hampered in April, when Israeli officials suspended cement shipments for the private sector for nearly two months; subsequent shipments remained far below demand. Unexploded ordnance also presented a lingering obstacle to internal movement.

Both Israel and Egypt exercised tight control over border areas, and Hamas imposed its own restrictions, for example by requiring exit permits for outgoing travelers. The Rafah border crossing with Egypt was opened only sporadically during 2016, continuing a sharp drop in the number of Gazans entering and exiting the Gaza Strip since the current Egyptian regime came to power in 2013. Only a limited number of people were allowed to cross into Israel for humanitarian or business reasons.

Under Hamas, personal status law is derived almost entirely from Sharia (Islamic law), which puts women at a stark disadvantage in matters of marriage, divorce, and inheritance, and domestic abuse. Rape and domestic violence remain underreported and frequently go unpunished, as authorities are allegedly reluctant to pursue such cases. So-called honor killings reportedly continue to occur, though information on the situation in Gaza is limited. The Hamas authorities have enforced restrictions on women's attire and behavior that is deemed immoral.

The blockade of Gaza's land borders and coastline has greatly reduced economic opportunity in the territory. A dense network of tunnels beneath Gaza's border with Egypt has facilitated much economic activity and is also used to transport weapons. However, the tunnels are sometimes bombed by Israel, and since 2013, Egyptian authorities have made an aggressive effort to shut them down. In 2015 Egypt began flooding the tunnels with seawater, which also threatens drinking water and farmland.

Israeli's intermittent restrictions on the entry of construction materials into Gaza have hampered the economy. Israeli forces also prevented farming near the border fence and limited Gazan fishermen's access to coastal waters beyond six nautical miles from shore during most of 2016. Hamas has imposed price controls and other rules that may further dampen economic activity. The unemployment rate, at about 42 percent, remained among the highest in the world in 2016, according to the World Bank. The youth unemployment rate was nearly 60 percent.

Scoring Key: X / Y (Z)

- X = Score Received
- Y = Best Possible Score
- Z = Change from Previous Year

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