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2013 Scores

Status: Not Free
Freedom Rating: 5.5
Civil Liberties: 5
Political Rights: 6

Explanatory Note

Whereas past editions of Freedom in the World featured one report for Israeli-occupied portions of the West Bank and Gaza Strip and another for Palestinian-administered portions, the latest three editions divide the territories based on geography, with one report for the West Bank and another for the Gaza Strip. As in previous years, Israel is examined in a separate report.

Overview

In 2012, the Palestinian Authority government in the West Bank continued to operate without an electoral mandate or a functioning legislature, despite ongoing state-building efforts by the administration. A May 2011 political agreement between the ruling Fatah faction and Gaza-based Hamas failed to produce a new caretaker government or a timetable for elections during the year. Meanwhile, Israel expanded its West Bank settlements, and attacks by Jewish settlers on Palestinian individuals and property continued. In November, the Fatah-led Palestine Liberation Organization won recognition for Palestine as a nonmember observer state at the UN General Assembly, a move which Hamas supported.

The West Bank was demarcated as part of the 1949 armistice agreement between Israel and Jordan. It consists of the land between the armistice line in the west and the Jordan River in the east. The territory was subsequently occupied and annexed by Jordan. During the 1967 Six-Day War, Israel conquered the West Bank along with the Gaza Strip and other territories, and later annexed East Jerusalem, leaving the rest of the West Bank and Gaza under a military administration.

After 1967, Israel began establishing Jewish settlements in the West Bank, a process that – along with the annexation of East Jerusalem – was regarded as illegal by most of the international community according to Article 49 of the Fourth Geneva Convention. Israel maintained that the West Bank was a disputed territory under international law and that the settlements were

consequently legal. In what became known as the first intifada (uprising), starting at the end of 1987, Palestinians in the West Bank and Gaza staged massive demonstrations, acts of civil disobedience, general strikes, stone throwing, and attacks against Israeli settlers and Israel Defense Forces (IDF) troops in the territories, as well as attacks within Israel proper. In 1993, Israel and Yasser Arafat's Palestine Liberation Organization (PLO) signed the Oslo Agreement, providing for a PLO renunciation of terrorism and recognition of Israel, Israeli troop withdrawals, and phased Palestinian autonomy in the West Bank and Gaza.

In subsequent years, the new Palestinian Authority (PA) took control of 40 percent of West Bank territory, including 98 percent of the Palestinian population outside of East Jerusalem. As negotiations stalled, a second and more violent intifada began in September 2000, and the IDF reentered most PA-administered areas.

After Arafat's death in 2004, the PA in January 2005 held its second-ever presidential election; the first voting for president and the Palestinian Legislative Council (PLC) had taken place in 1996. Mahmoud Abbas of Arafat's Fatah faction won with 62 percent of the vote. In municipal voting in the West Bank, Fatah won most municipalities, but the Islamist faction Hamas posted impressive gains. Each group accused the other of fraud, and there was some election-related violence.

Hamas won the January 2006 elections for the PLC with 74 of 132 seats, while Fatah took 45. The two then formed a unity government headed by Prime Minister Ismail Haniya of Hamas. Israel, the United States, and the European Union (EU) refused to recognize the new government, citing Hamas'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.

Armed clashes between Hamas and Fatah supporters escalated in 2007, and in June Hamas militants seized Fatah-controlled facilities in Gaza, resulting in thousands fleeing to the West Bank. Abbas subsequently dismissed the Hamas-led government, declared a state of emergency, and appointed an emergency cabinet led by former finance minister Salam Fayyad. This resulted in a bifurcated PA, with Hamas governing Gaza and Abbas and Fayyad governing the roughly 40 percent of the West Bank not directly administered by Israel. Fatah later cracked down on Hamas in the West Bank, arresting its officials and supporters, shutting down its civic organizations and media outlets, and allegedly torturing some detainees.

In the years after the split, the Fatah-controlled PA in the West Bank benefited from renewed U.S. and EU aid as well as tax revenues released by Israeli authorities. So-called confidence-building measures between Israel and the PA in the West Bank included the release of hundreds of Palestinian prisoners held in Israel, the wider deployment of Palestinian security forces, and the removal of some Israeli checkpoints.

Nevertheless, the IDF reportedly still controlled about 60 percent of the West Bank, and construction continued on a security barrier that ran roughly along the West Bank side of the 1949 armistice line and often jutted farther into the territory to place densely populated Jewish settlements on the Israeli side, frequently expropriating private Palestinian land and greatly reducing freedom of movement.

In April 2011, a UN report argued that recent improvements in governance, rule of law, social services, and infrastructure in the West Bank would allow the PA to effectively govern an independent state. The following month, Hamas and Fatah agreed to form a national-unity government, but no such government had been formed by the end of 2012, despite ongoing attempts at reconciliation. In September 2011, PLO representatives unsuccessfully applied to the UN Security Council for recognition of a Palestinian state. In November 2011, Palestine won membership in the UN Education, Scientific, and Cultural Organization (UNESCO). To protest Fatah's agreement with Hamas and the PLO's moves at the United Nations, Israel withheld or

threatened to withhold hundreds of millions of dollars in tax revenues from the PA. In November 2012, the PLO won recognition for Palestine as a nonmember observer state at the UN General Assembly, which voted 138-9 in favor of the move, with 41 abstentions.

After a construction freeze for most of 2010, Israel continued to expand Jewish settlements in the West Bank during 2012. Settlers also established a number of new "outposts" that were illegal under Israeli law, and although the government dismantled some such outposts during the year, it recognized 10 and failed to remove scores of others. Partly in reaction to the PA leadership's successful bid to upgrade Palestine's status at the United Nations, in early December 2012 the Israeli government announced that it would build 3,000 housing units in the controversial E1 corridor.

Political Rights and Civil Liberties

In 1988, Jordan rescinded citizenship for West Bank Palestinians, and Israel never granted them citizenship. Most Palestinian residents are citizens of the Palestinian Authority (PA), a quasi-sovereign entity created by the 1993 Oslo Accords. Jewish settlers in the West Bank are Israeli citizens.

The PA president is elected to four-year terms. The prime minister is nominated by the president but requires the support of the unicameral, 132-seat Palestinian Legislative Council (PLC), which also serves four-year terms. Voting in the West Bank during the 2005 presidential and 2006 PLC elections was deemed largely free and fair by international observers. However, after the bifurcation of the PA in 2007, elected officials on both sides were prevented from performing their duties. President Mahmoud Abbas appointed a new cabinet in the West Bank that lacked the PLC's approval. In 2008, PA security forces arrested hundreds of Hamas members and supporters. The rift, combined with Israel's detention of many Palestinian lawmakers, prevented the PLC from functioning, and its term expired in 2010.

Abbas's presidential term expired in 2009, and the PLO indefinitely extended his term. Moreover, Abbas issued a law permitting the Fatah-affiliated minister of local government to dissolve municipal councils, leading to the replacement of nearly all Hamas-affiliated municipal officials with Fatah loyalists. The May 2011 agreement between Hamas and Fatah envisioned a unity government that would organize presidential and parliamentary elections, but no such government had been formed by the end of 2012, nor had a timetable for elections been set.

After Israel annexed East Jerusalem in 1967, Arab residents were issued Israeli identity cards and given the option of obtaining Israeli citizenship. However, most have rejected this option. They can vote in municipal elections as well as PA elections, but are subject to restrictions imposed by the Israeli municipality of Jerusalem. In the 2006 PLC elections, Israel barred Hamas from campaigning in the city. By law, Israel strips Arabs of their Jerusalem residency if they remain outside the city for more than three months. East Jerusalem's Arab population does not receive a share of municipal services proportionate to its size.

Corruption remains a major problem in the West Bank, though Abbas has overseen some improvements. Prime Minister Salam Fayyad has been credited with significantly reducing corruption at the higher levels of the PA. An anticorruption commission has investigated over 80 cases, with one resulting in a conviction in June 2012. Critics have accused the commission of political bias.

The media are not free in the West Bank. Under a 1995 PA 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. Several small media outlets are routinely pressured to provide favorable coverage of the PA and Fatah. Journalists who criticize the PA or Fatah face arbitrary arrests, threats, and physical abuse. Since 2007, both the PA and Israeli forces

have shut down most Hamas-affiliated radio and television stations in the West Bank. In 2011, Abbas ordered the closure of a television station affiliated with a Fatah rival, Mohammed Dahlan. According to a report by the Palestinian Center for Development and Media Freedoms (MADA), there were a total of 138 media freedom violations – ranging from physical violence to detentions, threats, and equipment confiscations – in the West Bank in 2012, a slight decrease from the previous year. Of those violations, some 73 percent were allegedly committed by Israeli forces. International press freedom groups regularly criticize Israel for blocking journalists' access to conflict zones, harming and sometimes killing reporters during armed clashes, and harassing Palestinian journalists. Israel insists that reporters risk getting caught in crossfire but are not targeted deliberately.

The 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." Blasphemy against Islam is a criminal offense. Synagogues are occasionally attacked by Palestinian militants. Some Palestinian Christians have experienced intimidation and harassment by radical Islamist groups and PA officials.

Israel generally recognizes freedom of religion in the West Bank, though recent years have featured a spike in mosque vandalism and other attacks by radical Israeli settlers. Citing the potential for violent clashes, Israel occasionally restricts Muslim men under age 50 from praying at the Temple Mount/Haram al-Sharif compound in Jerusalem.

The PA has authority over all levels of Palestinian education. Israeli military closures, curfews, and the security barrier restrict access to academic institutions, particularly those located between Israel and the barrier. Schools have sometimes been damaged during military actions, and student travel between the West Bank and the Gaza Strip has been limited. Israel accuses the PA of teaching incitement in public schools. Israeli academic institutions in the West Bank are increasingly subject to international and domestic boycotts. Primary and secondary education in West Bank settlements is administered by Israel, though religious schools have significant discretion over curriculum. According to the Association for Civil Rights in Israel (ACRI), East Jerusalem's schools are badly underfunded compared with schools in West Jerusalem.

The PA requires permits for demonstrations, and those against PA policies are generally forcibly dispersed. However, in December 2012 the authorities allowed the first Hamas rally in several years. Israel's Military Order 101 requires an IDF permit for all "political" demonstrations of more than 10 people, though demonstrations are routinely broken up with force, which occasionally results in fatalities. In 2012, Israeli forces continued to restrict and disperse frequent and sometimes violent demonstrations in opposition to the security barrier, especially those near the towns of Bil'in, Nil'in, Nabi Saleh, and Kufr Qaddum. The IDF declared many of these protest areas to be closed military zones every Friday, and regularly used rubber-coated bullets, stun grenades, and tear gas to break up demonstrations. Protests also broke out in response to the Hamas-IDF conflict in Gaza in November, and the IDF used force to disperse them in some cases. In May, an Israeli military court sentenced Palestinian activist Bassem Tamimi to 13 months in prison for organizing illegal demonstrations in Nabi Saleh and urging children to throw stones. Human Rights Watch (HRW) said the verdict violated his right to freedom of assembly, and noted that the second charge relied on coercively obtained testimony from a child.

A broad range of Palestinian nongovernmental organizations (NGOs) and civic groups operate in the West Bank, and their activities are generally unrestricted. Since 2007, however, many Hamas-affiliated civic associations have been shut down for political reasons. Researchers, lawyers, and activists are sometimes beaten by the PA security services, according to HRW. 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 PA judicial system is only somewhat independent in practice, and Palestinian judges lack proper training and experience. Laws in effect in the West Bank derive from Ottoman, British Mandate, Jordanian, Israeli, and PA legislation, as well as Israeli military orders. The High Judicial Council handles most legal proceedings. Israel's Supreme Court hears petitions from non-Israeli residents of the West Bank regarding home demolitions, land confiscations, road closures, and IDF tactics. Decisions in favor of Palestinian petitioners, while rare, have increased in recent years. Though most applications have been rejected, the Israeli Supreme Court has repeatedly ordered changes to the route of the West Bank security barrier after hearing petitions from NGOs and Palestinians; for example, a section of the barrier near Bil'in was moved in June 2011, four years after the relevant ruling. As of November 2012, Israel's Ministry of Foreign Affairs reported that six petitions challenging particular sections of the barrier were pending before the Supreme Court.

The PA also has a military court system, which lacks almost all due process rights, including the right to appeal sentences, and can impose the death penalty. These courts handle cases on a range of security offenses, collaborating with Israel, and drug trafficking. There are reportedly hundreds of administrative detainees in Palestinian jails. Human rights groups regularly document torture complaints, but security officers rarely face punishment for such abuses. According to an August 2012 HRW report, the Independent Commission for Human Rights (ICHR), the Palestinian human rights ombudsman, received 584 torture complaints from 2009 to July 2012. Of the 120 cases reported by Amnesty International in 2012, more than 50 were allegedly perpetrated by police.

Palestinians accused of security offenses by Israel are tried in Israeli military courts, which grant some due process protections but limit rights to counsel, bail, and appeal. According to the Israeli human rights group B'Tselem, at the end of 2012 there were 4,517 Palestinians in Israeli jails: 3,089 serving sentences, 219 detainees, 1,031 being detained until the conclusion of legal proceedings, and 178 administrative detainees, held without charge or trial. A temporary order in effect since 2006 permits the detention of suspects accused of security offenses for 96 hours without judicial oversight, compared with 24 hours for other detainees. Most convictions in Israeli military courts are based on confessions, sometimes obtained through coercion. Israel outlawed the use of torture to extract security information in 2000, but milder forms of coercion are permissible when the prisoner is believed to have vital information about impending terrorist attacks. Human rights groups criticize Israel interrogation methods, including binding detainees to a chair in painful positions, slapping, kicking, and threatening violence against detainees and their relatives.

According to Defence for Children International (DCI), there were 178 Palestinian children being held in Israeli jails as of November 2012, and 21 Palestinian youths (ages 12-15). Most were serving sentences – handed down by a Special Court for Minors created in 2009 – for throwing stones or other projectiles at Israeli troops in the West Bank; acquittals are rare. A 2012 report from DCI found that of 311 testimonies gathered between 2008 and 2012, 90 percent of the children reported being blindfolded, 95 percent had their hands tied, 75 percent experienced physical violence, and 60 percent were arrested between midnight and 5 a.m. East Jerusalem Palestinian minors are tried in Israeli civil juvenile courts.

Militant Jewish settlers continued to mount attacks on Palestinian individuals and property in 2012 as part of their "price tag" campaign, so named to imply retribution for Israeli policies aimed at limiting settlement. Following the November conflict between the IDF and Hamas in Gaza, the Israeli military conducted a wave of arrests across the West Bank, targeting suspected members of Hamas and Islamic Jihad.

Israeli soldiers accused of harassing or assaulting Palestinian civilians are subject to Israeli military law. A September 2012 report from B'Tselem stated that from September 2000 until the end of 2011, there were 473 alleged cases of IDF violence against Palestinians. Of the 241 cases sent to the Military Advocate General's Corps, investigations were opened in 200, though 134

were closed without any measures being taken and just seven led to indictments. Of 244 cases sent to the police, 113 were closed without measures being taken, and 12 led to indictments. Soldiers convicted of abuses typically receive relatively light sentences.

The easing of checkpoints and roadblocks and the wider deployment of PA security forces has improved economic conditions in the West Bank in recent years. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that as of mid-2012, there were 542 obstacles to Palestinian freedom of movement within the West Bank, 436 of which were physical security features as opposed to staffed checkpoints. These obstacles stunt trade and restrict Palestinian access to jobs, hospitals, and schools.

Israel's West Bank security barrier, which was declared illegal by the International Court of Justice in 2004, has also cut off many Palestinians from their farms and other parts of the territory. It was 62 percent complete by mid-2012. Some 6,500 Palestinians currently live in the zone between the barrier and the 1949 armistice line, and if the planned route is completed, that number will rise to 25,000.

All West Bank residents must have identification cards to obtain entry permits to Israel, including East Jerusalem. While most roads are open to both Israelis and Palestinians, about 10 are open only to drivers with Israeli documents. A September 2012 report by OCHA noted easing measures put in place by the IDF from mid-2011 to mid-2012 that provided 100,000 Palestinian villagers with better access to six large West Bank cities and to East Jerusalem. However, 190,000 Palestinians are still required to use detour routes that extend their travel time by twice to five times the normal length.

According to the Israeli NGO Peace Now, 6,676 new housing units in Jewish settlements were approved in 2012, excluding East Jerusalem. Of these, only 7 percent were in settlements west of the security barrier; 25 percent were east of the planned route of the fence, and 69 percent were between the existing barrier and the approved route. Four new illegal outposts – meaning settlements that are illegal according to Israeli law – were established during the year, and 10 new settlements were established by approving existing illegal outposts, the first such approval in two decades. In July 2012, an Israeli-led commission tasked with identifying the legal status of Israeli outposts declared that Israel's rule over the West Bank is not occupation. As of the end of 2012, the Israeli cabinet had not decided which parts of the report to adopt.

In 2010, B'Tselem found that while settlements occupy 1 percent of the West Bank's land, 21 percent of that is private Palestinian land. Israel dismantled a number of settler outposts on private Palestinian land in 2012, but Peace Now reported that scores remained intact, and that Israeli authorities demolished unlicensed Palestinian buildings at a far greater rate than Jewish buildings in the IDF-controlled portion of the West Bank. The Israeli government maintains that Jewish and Palestinian residents in the area are subject to the same restrictions.

OCHA reported that two Palestinian families were forcibly evicted from their homes in the East Jerusalem neighborhood of Beit Hanina in April 2012. According to the United Nations, 35 percent of the land in East Jerusalem has been designated as state land by Israel. A 2010 UN Relief and Works Agency report stated that Palestinians can legally build in an area comprising about 13 percent of East Jerusalem, and that over 28 percent of Arab homes are built illegally.

While Palestinian women are underrepresented in most professions and encounter discrimination in employment, they have full access to universities and to many professions. Palestinian laws and societal norms, derived in part from Sharia (Islamic law), put women at a disadvantage in matters of marriage, divorce, and inheritance. For Christians, such personal status issues are governed by ecclesiastical courts. Rape, domestic abuse, and so-called "honor killings" are not uncommon. These murders often go unpunished.

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