

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	179
Land:	Gaza og Vestbredden
Kilde:	Freedom House.
Titel:	Freedom in the World 2012 – West Bank.
Udgivet:	10. september 2012
Optaget på baggrundsmaterialet:	24. september 2012

Title	Freedom in the World 2012 - West Bank
Publisher	Freedom House
Country	Israel Occupied Palestinian Territory
Publication Date	10 September 2012
Cite as	Freedom House, <i>Freedom in the World 2012 - West Bank</i> , 10 September 2012, available at: http://www.unhcr.org/refworld/docid/504ef9831a.html [accessed 24 September 2012]
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Freedom in the World 2012 - West Bank

2012 Scores

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

Overview

In 2011, state-building efforts by the Palestinian Authority (PA) further strengthened the rule of law in Palestinian-ruled areas of the West Bank. At the same time, the PA government continued to operate without an electoral mandate or a functioning legislature. By year's end, a May national-unity agreement between the PA and Gaza-based Hamas failed to produce a new caretaker government or a date for elections. Israeli construction of West Bank settlements continued in 2011, mostly in areas near Jerusalem, and the year featured an uptick in attacks by Jewish settlers. While large demonstrations occurred throughout the year, both Israeli and Palestinian security forces used legal and coercive means to prevent or disperse them.

The West Bank was demarcated as part of the 1949 armistice agreement between Israel and Jordan following the 1948 Arab-Israeli war. 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. Israel maintained that the settlements were legal since under international law the West Bank was a disputed territory. In what became known as the first *intifada* (uprising), in 1987, Palestinians living in the West Bank and Gaza staged massive demonstrations, acts of civil disobedience, and attacks against Israeli settlers and Israel Defense Forces (IDF) troops in the territories, as well as attacks within Israel proper. Israel and Yasser Arafat's Palestine Liberation Organization (PLO)

reached an agreement in 1993 that provided 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 stalled negotiations on a final settlement and the creation of a Palestinian state headed toward collapse, a second intifada began in September 2000, and the IDF reentered most PA-administered areas.

After Arafat died in November 2004, the PA in January 2005 held its second-ever presidential election, which had been repeatedly postponed; 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 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. Fatah and Hamas 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. Thousands of Gazans, particularly those loyal to Fatah, fled 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 Fayad. This resulted in a bifurcated PA, with Hamas governing Gaza and Abbas and Fayad 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 a number of 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, often expropriating private Palestinian land and greatly reducing freedom of movement nearby. The barrier, which by the end of 2011 was about 75 percent complete and had reduced attacks inside Israel by about 90 percent, was declared illegal by the International Court of Justice in 2004.

After a temporary freeze on settlement construction during most of 2010, in 2011 Israel expanded Jewish settlements in the territory. According to the Israeli nongovernmental organization (NGO) Peace Now, between October 2010 and July 2011 there were 2,598 new housing starts in the settlements. The government also approved plans for thousands more, particularly in and around East Jerusalem. While Israel dismantled a number of settler "outposts" on private Palestinian land during the year, Peace Now reported that scores remained, and that the Israeli authorities demolished unlicensed Palestinian buildings at a far greater rate than Jewish buildings in the IDF-controlled area of the West Bank.

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 and end the schism in the PA, but no such government was formed during the year. In September, the PA applied to the UN Security Council for recognition of a Palestinian state – including East Jerusalem, the West Bank, and the Gaza Strip – with full UN membership. In November, Palestine won membership in UNESCO. To protest the agreement with Hamas and the PA's moves at the United Nations, Israel withheld or threatened to withhold hundreds of millions of dollars in tax revenues from the PA.

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 aligned with Abbas 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 elected term as president expired in 2009, and the PLO indefinitely extended his term in December of that year. 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 date for such polls had been set by year's end.

After Israel annexed East Jerusalem in 1967, Arab residents were issued Israeli identity cards and given the option of obtaining Israeli citizenship. However, many have rejected this option because they do not recognize Israeli sovereignty in East Jerusalem. 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 Fayad has been credited with significantly reducing corruption at the higher levels of the PA. In January 2011, Abbas initiated a corruption investigation against a Fatah rival, Mohammed Dahlan, after removing him from the Fatah Central Committee amid rumors of a coup plot.

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 January 2011, Abbas ordered the closure of a television station affiliated with Dahlan. According to a 2011 report on conditions for journalists by the Palestinian Center for Development and Media

Freedoms (MADA), physical attacks, arrests, detentions, and confiscation of equipment by Palestinian security forces increased by over 45 percent between 2009 and 2010, a trend that continued in 2011. According to MADA, in 2011 there were 100 violation of press freedom by Israeli forces (97 in West Bank, 3 in Gaza) and 106 violations by Palestinian authorities (53 in West Bank, 53 in Gaza). International press freedom groups regularly criticize Israel for blocking journalists' access to conflict zones, harming and sometimes killing reporters during battles, and harassing Palestinian journalists. Israel insists that reporters risk getting caught in crossfire but are not targeted deliberately. Both Palestinian and Israeli security forces were accused of assaulting and arbitrarily detaining several journalists in 2011.

The PA generally respects freedom of religion, though no law specifically protects religious expression and there are criminal blasphemy laws against defaming Islam. 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." 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 West Bank 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 anti-Semitism and advocating the destruction of Israel 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 disallowed and forcibly dispersed. Hamas has been effectively banned from holding demonstrations in the West Bank. There were a number of large demonstrations in support of antigovernment protests in Egypt in February 2011, and in March thousands of Palestinians demonstrated for national unity between Fatah and Hamas. According to Human Rights Watch (HRW), Palestinian security officials "harassed, interrogated, arbitrarily detained and assaulted peaceful demonstrators" on a number of occasions during this period.

The IDF sometimes respects freedom of assembly, though permission is required and demonstrations are routinely broken up with force. Israel's Military Order 101 requires an IDF permit for all "political" demonstrations of more than 10 people. In 2011, 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 and Nil'in. 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. The IDF has reported hundreds of injuries to its personnel.

A broad range of Palestinian 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. 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. By the end of 2011, the Ministry of Defense had altered or pledged to alter the route in response to four of six such rulings. The IDF dismantled a section of the barrier near Bil'in in June, four years after the relevant ruling.

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. According to the Palestinian Human Rights Monitoring Group, alleged collaborators are routinely tortured. These practices are not prohibited under Palestinian law. According to an April 2011 HRW report, Palestinian rights groups reported more than 200 torture complaints against PA security agencies in 2010, up from 164 in 2009, but only one case has led to the prosecution of security officers, all five of whom were acquitted. The Independent Commission for Human Rights in Palestine reported 112 torture complaints in the West Bank in 2011.

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. Administrative detention without charge or trial is widely used. According to the human rights group B'Tselem, by the end of 2011 there were 4,772 Palestinians in Israeli jails: 3,753 serving sentences, 131 detainees, 609 being detained until the conclusion of legal proceedings, 278 administrative detainees, and one detained under the Illegal Combatants Law. 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 for continuing to engage in what they consider torture. Interrogation methods include binding detainees to a chair in painful positions, slapping, kicking, and threatening violence against detainees and their relatives.

According to the Israeli Prison Service, as of October 2011 there were 164 Palestinian minors (ages 12-17) in Israeli jails, including 35 aged 12-15. Most were serving two-month 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 on such charges are very rare. East Jerusalem Palestinian minors are tried in Israeli civil juvenile courts. In July 2011, a B'Tselem report criticized the IDF for unfairly arresting and judging minors; the IDF denied the allegations.

While violence in the West Bank has dropped precipitously since the 2007 PA schism, there were a number of clashes in 2011. The IDF staged numerous raids, mostly aimed at Hamas militants and officials. Israeli soldiers and civilians were frequently and at times fatally attacked by Palestinian militants, while settler militants targeted people and property in several Palestinian villages, mosques, and farms. Clashes between Israeli soldiers and radical settlers grew more common in 2011. In December, settler militants rioted through an IDF base in the West Bank. According to B'Tselem, violent acts by Jewish settlers against Palestinian civilians increased significantly in 2011.

Israeli soldiers accused of harassing or assaulting Palestinian civilians are subject to Israeli military law. A September 2010 report by B'Tselem accused the IDF of failing to adequately investigate and prosecute cases of civilian deaths in the West Bank, citing only 23 criminal investigations out of the 148 recommended by the group between 2006

and 2009. Several soldiers were prosecuted in 2010 and 2011 for a range of offenses, although most received relatively light sentences.

The easing of checkpoints and roadblocks and the wider deployment of PA security forces continued to improve economic conditions in the West Bank, particularly in Nablus, Ramallah, and Jenin. However, the IDF maintained a monthly average of 92 permanently and partially staffed checkpoints, 519 staffed obstacles, and an additional 414 "flying" or random checkpoints in the West Bank, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA). These impose extensive delays on local travel, stunt internal and external trade, and restrict Palestinian access to jobs, hospitals, and schools. Israel's security barrier has also cut off many Palestinians from their farms and other parts of the West Bank. While most roads are open to both Israelis and Palestinians, about 10 are open only to drivers with Israeli documents, ostensibly for security reasons.

All West Bank residents must have identification cards to obtain entry permits to Israel, including East Jerusalem. In 2010, the IDF broadened the definition of "infiltrator" in the West Bank to include Palestinians who are not in the PA population registry and do not have a permit to live in the territory, exposing them to deportation within 72 hours, imprisonment, and other penalties. Human rights groups alleged that the change could subject thousands of Palestinians with Gaza residency permits to sudden deportation; Israel claimed that the change affected only a small number of people and was intended to speed up military hearings for potential deportees. By the end of 2010, five people had been deported under the new rule.

According to Peace Now and B'Tselem, Israel denies construction permits and demolishes unauthorized housing at a far higher rate for Palestinian residents than for Israeli settlers in the Israeli-controlled portion of the West Bank, known as Area C. OCHA reported that in the first six months of 2011 Israeli authorities demolished 342 Palestinian-owned structures in Area C, including 125 residential structures. Israel disputed these figures, claiming that authorities have only demolished illegal structures, and that Jewish and Palestinian residents in Area C are subject to the same restrictions.

In 2010, B'Tselem found that while built-up settlements occupy 1 percent of the West Bank's land, 21 percent of that is private Palestinian land. A property dispute in the East Jerusalem neighborhood of Sheikh Jarrah – where a number of Palestinian families have been evicted in favor of Jewish residents – continued to draw protests by both Palestinians and Israelis. In January 2011, Israeli authorities started the controversial demolition of the Shepherds Hotel in East Jerusalem to make way for 20 homes for Jewish families; the ownership of the property is in dispute. According to the United Nations, 35 percent of the land in East Jerusalem has been designated as state land by Israel. A 2010 UNRWA 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 "honor killings," in which women are murdered by relatives for perceived sexual or moral transgressions are not uncommon. These murders often go unpunished.

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 two 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.

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