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OPERATIONAL GUIDANCE NOTE

Israel, Gaza and the West Bank

CONTENTS

1. Introduction

1.1 This document evaluates the general, political and human rights situation in Israel, Gaza and West Bank and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that area, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.

1.2 This guidance must also be read in conjunction with any COI Service [Israel, Palestinian National Authority] Country of Origin Information published on the Horizon intranet site. The material is also published externally on the Home Office internet site at: http://www.homeoffice.gov.uk/rds/country_reports.html

1.3 The terms 'Occupied Territories' or 'Occupied Palestinian Territories' refer to the areas occupied continuously by the Israeli authorities since the 1967 Arab/Israeli war to the present time: Gaza, West Bank (including East Jerusalem) and the Golan Heights (Syrian territory). This OGN refers to Israel, Gaza and the West Bank only. For reasons of clarity, it has sometimes been necessary to deal with Israel, Gaza and West Bank (including areas subject to the jurisdiction of the Palestine National Authority) separately. This should not be taken to imply any comment upon the legal or political status of these territories.

1.4 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

1.5 A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

Political history

2.1 Palestine formerly comprised all the territory of what is now Israel, the West Bank and the Gaza strip. Towards the end of the 1st World War Palestine was placed under the administration of Great Britain which expressed support for the establishment in Palestine of a national home for the Jewish people. Large-scale Jewish immigration mainly from Eastern Europe took place, particularly during the Nazi holocaust of the 1930s. Palestinian demands for independence and resistance to Jewish immigration led to continuing terrorism and violence from both sides and the question of Palestine was referred to the United Nations.[1]

2.2 In 1947, the UN proposed the partitioning of Palestine into an independent Arab state and an independent Jewish state. Due to its unique religious and cultural importance for Christians, Jews and Muslims, Jerusalem was to be a 'corpus separatum' under a special international regime to be administered by the UN but this was never set up. When Britain withdrew in 1948, the Jewish leadership proclaimed the establishment of the state of Israel which provoked an attack by neighbouring Arab countries. By the time hostilities were brought to an end by the Armistice Agreements in 1949, Israel had extended its control beyond the boundaries (the Green Line) envisaged by the UN. Israel had occupied 78% of the territory of Palestine including West Jerusalem. The hostilities led to the flight or expulsion of around 750,000 Palestinian refugees to the West Bank, Gaza Strip, Lebanon, Syria and Jordan.[2]

2.3 Much of the history of the region since that time has been one of conflict between Israel and Palestinians, and neighbouring Arab states. In the Six-Day War of June 1967, Israel gained control of the West Bank, Gaza Strip, East Jerusalem (from Jordan), and the Golan Heights

[1] United Nations 'Question of Palestine': history, chapters 1 & 7/ FCO: Middle East Peace Process, historical background
[2] United Nations 'Question of Palestine': history, chapters 1 & 7/ FCO: Middle East Peace Process, historical background

(Syrian).[3] In 1987 the Palestinians of the West Bank and Gaza launched an 'intifada' (uprising) against Israeli occupation which lasted for 6 years. Israel and Yasser Arafat's Palestine Liberation Organisation (PLO) reached an agreement in 1993 following the Oslo Accords 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. Pursuant to the Accords, the 1994 Gaza-Jericho Agreement and the 1995 Israeli/Palestinian Interim Agreement, Israel transferred most responsibilities for civil government in the Gaza Strip and parts of the West Bank to the newly created Palestinian Authority (PA). The 1995 Interim Agreement divided the territories into three types of areas denoting different levels of Palestinian National Authority and Israeli occupation control.[4]

2.4 Negotiations under US sponsorship at the Camp David summit in 2000 failed to produce a final settlement. A second intifada began in September 2000 and violence flared throughout the occupied territories. The Israeli government responded by undertaking security operations in areas previously the sole responsibility of the PNA, citing as its reason the PA's failure to abide by its security responsibilities. Subsequent years were marked by a cycle of violence that included terror attacks by Palestinian militant groups on civilian targets in Israel and a robust Israeli security response that resulted in the deaths of both militants and civilians, and included acts of collective punishment such as a closure regime of roadblocks, checkpoints and curfews.[5]

2.5 In April 2003, Israel and the Palestinians agreed to abide by a "road map" to peace put forward by the Quartet: the United States, Russia, the United Nations and the European Union. The Geneva Accord was signed on 12 October 2003 confirming both sides' commitment to a peaceful solution. EU Foreign Ministers adopted a European Neighbourhood Policy Action Plan with Israel and the Palestinian Authority in 2004. The Israeli PM Sharon and Palestinian President Abbas met in Egypt in 2005 and reaffirmed their commitment to the Roadmap. [6]

2.6 Following presidential elections in 2005, Mahmoud Abbas replaced Yasser Arafat who passed away in 2004. Palestinian Legislative Council elections were held in January 2006. In a surprise victory, Hamas won 74 out of the 132 seats. Israel, the United States and the EU did not recognise the Hamas-led government, citing the group's involvement in terrorism and its refusal to recognise Israel or past Israel-PA agreements. The United States and the EU suspended assistance to the government and Israel withheld tax revenues although donors continued to provide some support to the Palestinian people through the Temporary International Mechanism (TIM).[7] Following an escalation in intra-Palestinian violence, Hamas and Fatah agreed to form a National Unity Government (NUG) in February 2007. However, intra-Palestinian violence continued and during May 2007 there was a dramatic upsurge in both intra-Palestinian factional violence and Israeli-Palestinian violence. On 10 June the violence in Gaza increased with reports of kidnappings, public executions and looting, culminating in Hamas seizing full control of Gaza and Hamas's expulsion of Fatah-aligned political and security forces from the Gaza Strip.[8]

2.7 On 14 June, Fatah leader, President Abbas dissolved the NUG and declared a state of emergency. On 17 June, he announced the formation of an emergency West Bank-based Palestinian Government headed by Salam Fayyad. The PA government is currently made up of independent and Fatah ministers. The Hamas-free government in the West Bank has received widespread support from Western countries and recognition by Israel. The United States and the EU renewed aid flows, while Israel released millions of dollars in PA tax revenues. The Gaza-based institutions controlled by Hamas were excluded from accessing these funds. Peace negotiations accelerated between President Abbas and Israel. A series

[3] United Nations 'Question of Palestine': history, chapters 1 & 7/ FCO: Middle East Peace Process, historical background
[4] Freedom House, Freedom in the World Report 2008/ FCO Country Profile October 2007
[5] United Nations 'Question of Palestine': history, chapters 1 & 7/ FCO: Middle East Peace Process, historical background
[6] FCO Q&A
[7] Freedom House: Freedom in the World 2008
[8] FCO Country Profile October 2007/Freedom House: Freedom in the World Report 2008

of confidence-building measures preceded participation in the Annapolis Conference in November 2007.[9]

2.8 A six-month truce, brokered by Egypt, was agreed between Hamas and Israel on 19 June 2008.[10] The ceasefire was often broken in practice. Its terms were never written, but were widely understood to include Hamas ending all rocket fire from Gaza and weapons smuggling from Egypt, while Israel stopped military activity against militants in the strip and carried out a phased lifting of its blockade of Gaza. Negotiations on the kidnapped Israeli soldier Gilad Shalit were also supposed to begin. Rocket fire was greatly reduced, though not completely stopped, for the first few months of the truce. The volume of goods allowed into Gaza also increased for some of the time, but remained well below pre-embargo levels. Events began to reach a climax after the Israelis carried out their first incursion into southern Gaza during the truce, killing six militants, on 4 November 2008. Israel said its troops entered to destroy a tunnel which could be used to abduct its soldiers. This led to the further firing of Hamas missiles into Israel and in turn to a much tighter Israel blockade. Hamas said Israel had broken the truce by failing to lift the blockade; Israel said Hamas had used the period to smuggle more rockets into Gaza, was planting explosive devices on the border fence and had not stopped the rocket fire completely. Hamas demanded that the blockade be ended or it would not renew the ceasefire.[11]

2.9 Between 19 and 27 December, Hamas fired almost 300 rockets on southern Israel.[12] In an attempt to end the rocket attacks, on 27 December Israel launched a series of land, sea and air attacks against Hamas in Gaza.[13] After 22 days of bombardment, Israel announced a unilateral ceasefire on 18 January, followed hours later by Hamas announcing a one-week ceasefire. Israel said its soldiers would remain inside Gaza for the time being and reserved the right to strike back if militants continued to launch attacks.[14] An Israeli soldier was killed by a bomb on the border with the Gaza Strip on 27 January and troops then killed a Palestinian.[15] On 31 January, a rocket fired from Gaza exploded near the Israeli city of Ashkelon, with no casualties reported, and at least two were fired in the days before. On 1 February, rockets landed in the Eshkol region of southern Israel, one landing between two nursery schools. On 1 February, the Israeli Prime Minister, Ehud Olmert, warned that Israel would respond forcefully to renewed rocket fire.[16]

2.10 In its latest field update (26 January 2009) the United Nations Office for the Coordination of Humanitarian Affairs (OHCA) reported that in general the ceasefire continues to hold but incidents had occurred which were imposing strains on the agreement. During the offensive, over 1,300 Palestinians had been killed and over 5,000 injured. Four Israelis had been killed and 182 injured since 27 December by Palestinian militants. In Gaza extensive destruction has been caused to commercial enterprises and to public infrastructure. Many families are homeless. Most of the displaced are currently staying with host families and face shortages of food, non-food items, water and intermittent electricity. Unexploded ordnance posed a significant threat to the population of Gaza and to the work of humanitarian organisations. Although hospitals still have a large number of intensive care patients, capacity in hospitals is gradually freeing up for the provision of routine care for chronically ill patients who are now returning for treatment, as well as regular services such as elective surgery. The Gaza population continues to face difficulties accessing food due to price increases and the lack of currency. In addition, the destruction to agricultural fields has added to a shortage of locally-produced foods. All 10 UNRWA distribution centres are open, feeding 25,000 people per day.[17]

[9] FCO Country Profile October 2007/Freedom House: Freedom in the World Report 2008
[10] BBC News 'Israel and Hamas agree truce' 18.06.08, 'UK MPs call for talks with Hamas' 24.07.08
[11] BBC News 'Q&A
[12] FCO David Milliband statement to the House of Commons 19.01.09.
[13] BBC News 'Gaza offensive – Week One' 5 January 2009
[14] BBC News 'Q&A Gaza conflict'
[15] Reuters Alertnet 'Israeli soldier killed, Gaza truce breached' 27.01.09
[16] BBC News 'Israel hits Hamas targets in Gaza' 1.02.09
[17] OCHA field update 26.01.09

Freedom of movement

2.11 **The separation barrier** is a complex series of walls, barriers, trenches and fences which Israel began constructing in 2002 in the context of continuing violence and terror attacks against its civilians.[18] Since the Israeli decision to build the Separation Barrier, Palestinians have filed dozens of complaints against the Barrier's route. Construction of the barrier on occupied territory contravenes international law and sections which stray from the Green Line into the West Bank are, therefore, illegal. According to the United Nations Office for the Co-ordination of Humanitarian Affairs (UNOCHA), 56.6% of the barrier had been completed by December 2007.[19] The Barrier runs through the West Bank, for the most part close to the Green Line (which marks the armistice line between Jordanian and Israeli forces prior to the 1967 war), but has serious implications for those Palestinians in its vicinity. Key problems are access to farm land (Palestinians are often denied the necessary permits to get through the agricultural gates). This in turn has serious implications for Palestinians along the barrier's route who depend on farming as their primary source of income. Palestinians living in 'closed areas' have to pass through gates (with unpredictable opening times) in the barrier to reach markets, schools, universities, medical care and maintaining contact with family and friends living in other parts of the West Bank. The barrier, added to the hundreds of checkpoints within the occupied territories, has seriously hindered freedom of movement and threatens the contiguity of a future Palestinian state.[20]

2.12 Since 1967, Israel has established at least 135 unauthorised Israeli **settlements** in the West Bank (including East Jerusalem). In addition, dozens of outposts of varying size have been established.[21] Settlements established in the Gaza Strip were dismantled in 2005 which entailed removal of around 8,000 settlers from Gaza and northern West Bank, as well as the withdrawal of the IDF from Gaza. [22] However, the Israeli authorities retained decisive control over important elements of Palestinian life in the Gaza strip including the airspace over Gaza and coastal waters, population registry, the tax system and all movement of people and goods between Gaza and the West Bank.[23]

2.13 Settlements are illegal under international law. Settlement activity around East Jerusalem, and throughout the West Bank combined with the construction of the barrier on occupied Palestinian land, is an obstacle to peace. Israel has made little progress on removing outposts, and has continued to construct within and expand settlements. Each settlement requires a range of security measures to protect its inhabitants, which further hinders Palestinian movement and access within the West Bank, impacting heavily on the Palestinian economy, and threatens Palestinian territorial contiguity. Violence and harassment of Palestinians is carried out by settlers from the more extremist settlements in the West Bank.[24]

2.14 An **Agreement on Movement and Access** (AMA) was made by Israel and the Palestinian Authority in November 2005 to give Palestinian people more freedom to move and to trade. However this stalled following the election of Hamas in 2006.[25] In the aftermath of the Hamas takeover and indiscriminate rocket attacks against Israel, Israel declared Gaza a hostile entity and tightened further the sanctions it had imposed since Hamas won the January 2006 elections. This included dramatically restricting cross-border traffic for both goods and people from/to Gaza. From 16 June 2007, Israel **closed the Gaza crossings** for people (Rafah and Erez) and for goods (Karni), and sharply limited the passage of imports to Gaza at the secondary crossings of Kerme Shalom, Nahal Oz and Sufa.[26] A single section of the Karni terminal reopened in September 2007 to allow the import of grain and

[18] Europa
[19] FCO Human Rights report 2007
[20] FCO Human Rights Report 2006
[21] B'Tselem 'Land Expropriation & Settlements'
[22] FCO Human Rights report 2006, P77
[23] B'Tselem 'The Gaza Strip after disengagement'
[24] FCO Human Rights Report 2007
[25] FCO Human Rights Report 2007
[26] Human Rights Watch Report 2008

animal feed. A limited number of senior Palestinian traders and Palestinian staff from international organisations are permitted to use the Erez crossing. A number of compassionate and medical cases have also been granted permits to enter Israel.[27]

2.15 By the end of 2007, the Israeli authorities had reduced the number of commercial crossings into the **West Bank** from 12 to 5.[28] They also continued to impose severe restrictions on the movement of Palestinian civilians within the West Bank, including occupied East Jerusalem. There are approximately 630 permanent roadblocks, manned and unmanned checkpoints across the West Bank. In addition, there are some 60-80 'flying' or temporary checkpoints erected across the West Bank by the Israeli Defence Force (IDF) every week. When completed, the Barrier will stretch for 724 kilometres around the West Bank, further isolating the population. At least 65% of the main roads leading to 18 Palestinian communities in the West Bank are closed or fully controlled by the IDF. There are around 500 kilometres of restricted roads across the West Bank. In addition, approximately one third of the West Bank, including East Jerusalem, is inaccessible to Palestinians without a permit issued by the IDF which are extremely difficult to obtain.[29] Israel has split the West Bank into six geographical areas: North, Centre, South, the Jordan Valley and northern Dead Sea, the enclaves resulting from the Separation Barrier, and East Jerusalem. Movement between the sections and within each section, which are further divided into subsections, has become hard, slow, and complicated in recent years.[30] Israel handles security procedures at the Allenby Bridge, the international crossing into the West Bank from Jordan.[31]

2.16 Movement is further restricted through a magnetic **ID card and travel permit system**. Identity cards are issued by the PA but Israel assigns identification numbers to the cards and controls the Palestinian Population Registry which allows it to administer the permit system. [32] Palestinians with a blue Israeli ID card have the right to live in Israel but are denied a vote in the Israeli national elections and cannot hold an Israeli passport. Blue ID cardholders (known as Jerusalem cards) have the right to request Israeli citizenship. Other Palestinians have green West Bank ID cards or orange Gaza ID cards. Travel permits are required for Palestinians to obtain entry into Israeli territory, East Jerusalem, settlements in the West Bank and to enter, remain or leave other large areas inside the West Bank including the seam zone (the area between the Barrier and the Green Line). All permits must be renewed at least every 3 months. B'Tselem has identified a number of different types of travel permits for people and vehicles inside the West Bank.[33] According to the Palestinian Central Bureau of Statistics figures, approximately 66,800 West Bank workers depended on daily employment in Israel, the settlements and Jerusalem in the third quarter of 2007. In seam zone communities in the West Bank, Israel also requires Palestinians to obtain residency permits to remain in their homes.[34]

2.17 Israel almost completely forbids the **movement of Palestinians between the West Bank and the Gaza Strip** and impedes Palestinians from both entering Israel and going abroad.[35] During 2007 Israeli authorities prohibited passage between Gaza and the West Bank, except for a very limited number of Palestinians holding Israeli permits.[36] According to B'Tselem, since the beginning of the current intifada in 2000, Israel has taken various measures to separate the West Bank and Gaza Strip and split the Palestinian population into two separate entities. This policy escalated in 2007 with a new requirement imposed on Palestinians whose registered address is in the Gaza Strip, to hold a permit in order to be present in the West Bank. A number of qualifying conditions must be met for entitlement to a permit which is valid for 3 months only. Due to this separation policy, many families are

[27] FCO Human Rights Report 2007
[28] USSD Israel and the Occupied Territories 2007
[29] Palestinian Centre for Human Rights (PCHR), Weekly report 23-29 October 2008
[30] B'Tselem 'The Separation Barrier'
[31] Immigration and Refugee Board of Canada RIR: ISR102571, Travel Documents 17.03.08
[32] Immigration and Refugee Board of Canada RIR: ISR102571, Travel Documents 17.03.08
[33] FCO Human Rights Report 2006, P79
[34] USSD Israel and the Occupied Territories 2007
[35] B'Tselem: Restrictions on Movement
[36] USSD Israel and the Occupied Territories 2007

forced to live apart. There have been some enforced removals from West Bank to Gaza of those considered by the Israeli authorities to be 'illegal aliens'. To encourage Palestinians to leave the West Bank permanently, a number of measures are employed including denying permission for visits and giving approval only to one way permits to Gaza.[37]

2.18 The PA issued **passports** for Palestinians in the West Bank and Gaza. Because there were no commercial flights from the territories and permits to use Ben Gurion airport were not available, travellers departed by land into Jordan (via the Allenby Bridge) or Egypt (via the Rafah Crossing).[38] Rafah International Crossing Point at Egypt (under the provisions of the AMA, monitored by the EU Border Advisory Mission), the only border crossing from Gaza to the outside world via a country other than Israel, remains closed.[39] Foreign citizens of Palestinian ethnicity had difficulty obtaining or renewing visas permitting them to enter the West Bank and Israel both from Ben Gurion airport and land entry points. A June study by the NGO Campaign for the Right of Entry/Re-Entry found that 30% of applicants were denied visa extensions to the West Bank. Palestinians with Jerusalem identification cards issued by the Israeli government needed special documents to travel abroad. On individual request, the Jordanian government issued passports to Palestinians in the West Bank and East Jerusalem.[40]

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Israel, Gaza and the West Bank. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the guidance below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on Considering the Asylum Claim).

3.3 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in section 4 below or on the individual circumstances.

3.4 This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see the Asylum Instructions on 'Considering the Asylum Claim' and 'Assessing Credibility in Asylum and Human Rights Claims'. [Case owners should also refer to the Asylum Instruction on Nationality.]

3.5 All Asylum Instructions can be accessed on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at

[37] B'Tselem: Separated Entities, Israel divides Palestinian Population of West Bank and Gaza Strip
[38] USSD Israel and the Occupied Territories 2007
[39] Palestinian Centre for Human Rights: Weekly Report 29.10.08 (via ReliefWeb)
[40] USSD Israel and the Occupied Territories 2007

http://www.ukba.homeoffice.gov.uk/documents/asylumpolicyinstructions/

3.6 General country situation

3.6.1 Many claimants make an asylum or human rights claim based on ill-treatment amounting to persecution due to the violent and volatile general situation in the West Bank and Gaza.

3.6.2 ***Treatment*** President Abbas and his subordinates control PA security forces in the West Bank. Armed militias and terrorist organisations were still active in some areas. There were reports of PA torture, arbitrary and prolonged detention, poor prison conditions, insufficient measures to prevent attacks by terrorist groups, corruption and lack of transparency. In Gaza, Hamas established its own de facto security forces which answer to former Hamas Prime Minister Ismail Hanniyeh and which continued to kill, kidnap and harass PA security forces and Palestinian opponents and shell civilian targets in Israel. The Israeli government maintained effective control of its security forces but both Israeli and Palestinian NGOs reported that the Israeli authorities used excessive force, abused civilians and detainees, tortured Palestinian detainees, failed to take proper disciplinary actions, improperly applied security internment procedures, maintained austere and overcrowded detention facilities, imposed severe restrictions on freedom of movement and limited cooperation with NGOs.[41]

3.6.3 The increasing lack of law and order in Gaza eroded public confidence in security forces and many Palestinians sought protection by turning to individual clans and family groups; consequently family disputes were increasingly fatal with 72 deaths between January 2006 and July 2007. Palestinian terrorist groups killed Israeli civilians in Israel and in the occupied territories by suicide bombs, rockets and mortars. They frequently fired at Israeli forces from civilian areas, increasing the risk that return fire would harm non-combatants.[42]

3.6.4 In 2007, frequent air strikes and other attacks by Israeli forces killed more than 370 Palestinians, including 50 children; 84 from the West Bank and 293 from the Gaza Strip.[43] Thousands more were injured. The Israeli authorities maintained their strikes were in response to "Qassam" rocket and mortar attacks by Gaza-based Palestinian armed groups against nearby southern Israeli towns and villages and against Israeli army positions along the perimeter of the Gaza Strip. More than half of the Palestinians killed by Israeli forces were armed militants who were participating in armed confrontations or attacks. The rest were unarmed civilians not involved in the hostilities. Seven Israeli civilians and six soldiers were killed by Palestinian armed groups.[44]

3.6.5 The continued closure of Gaza's crossings has had a devastating impact on Gaza's economy, which has caused the humanitarian situation to deteriorate further.[45] (see 2.9 – 2.16) Punitive measures imposed include cuts in electricity and fuel which have directly affected the water and sewage systems as pumps are unable to operate. Some 30% of residents of Gaza are denied a regular water supply because of the cuts. The Israeli Customs Authority has stopped releasing goods intended for Gaza apart from basic foodstuffs and humanitarian equipment. Exports from Gaza have largely been blocked. Since June 2007, no raw materials have entered Gaza, forcing 90% of enterprises to cease operations. 3,500 businesses have closed down and over 75,000 workers, who support half a million dependants, have lost their jobs.[46] Goods entering Gaza have decreased 73% since June 2007 and, according to a November report by the UN Office for the Co-ordination of Humanitarian Affairs (UNOCHA), only 41% of Gaza's food import needs were met at the end of 2007.[47] 80% of households in Gaza now live below the poverty line and

[41] USSD Israel and the Occupied Territories 2007
[42] USSD Israel and the Occupied Territories 2007
[43] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[44] Amnesty International 2008
[45] FCO Human Rights Report 2007
[46] Amnesty International 2008
[47] USSD Israel and the Occupied Territories 2007

are dependent on food aid from international agencies.[48] Health services and supplies continue to be severely affected and emergency treatment denied outside Gaza. Many students from Gaza are currently unable to resume their university studies abroad as they cannot exit Gaza.[49]

3.6.6 The December 2008 Israeli offensive (see 2.9) in Gaza, has led to a further deterioration in humanitarian conditions. Over 1,300 Palestinians have been killed and over 5,000 injured. In its latest field update (26 January 2009) the United Nations Office for the Coordination of Humanitarian Affairs (OHCA) reported that extensive destruction had been caused to commercial enterprises and to public infrastructure. Many families are homeless. Most of the displaced are currently staying with host families and face shortages of food, non-food items, water and intermittent electricity. Unexploded ordnance posed a significant threat to the population of Gaza and to the work of humanitarian organisations. Although hospitals still have a large number of intensive care patients, capacity in hospitals is gradually freeing up for the provision of routine care for chronically ill patients who are now returning for treatment, as well as regular services such as elective surgery. The Gaza population continues to face difficulties accessing food due to price increases and the lack of currency. In addition, the destruction to agricultural fields has added to a shortage of locally-produced foods. All 10 UNRWA distribution centres are open, feeding 25,000 people per day. Needs and damage assessments are currently being undertaken. The initial response is focusing on the re-establishment of basic services, including water, health, food, cash assistance, education and psychosocial support. Work has been initiated to conduct essential repairs.[50] Details of the UK government's position on latest events in Gaza can be found at: http://www.fco.gov.uk/en/fco-in-action/conflict/mepp/uk-gaza

3.6.7 In the West Bank, the Israeli authorities continue to impose severe restrictions on movement by means of roadblocks, checkpoints and permit requirements and continued construction of the separation barrier (2.9 – 2.16). These restrictions have seriously affected the daily lives of Palestinians hindering access to their farmland, marketing of produce, places of employment, schools and medical facilities.[51] Israel has continued to construct within and expand Israeli settlements in the West Bank which further hinders Palestinian movement and access within the West Bank, and has impacted heavily on the Palestinian economy. Violence and harassment of Palestinians is carried out by settlers from the more extremist settlements in the West Bank.[52] Due to Israeli restrictions on the granting of housing permits to Palestinians in Jerusalem and Area C of the West Bank (under Israeli control), Palestinians often build houses without obtaining permits. Properties that have been constructed without the necessary permits are targeted by the Israeli authorities for demolition. In 2007, a total of 250 residential properties were demolished in the West Bank according to B'Tselem. In East Jerusalem, 68 houses were demolished, leaving 239 people homeless.[53]

3.6.8 Residency restrictions have affected family reunification. Israeli authorities did not permit Palestinians who were abroad during the 1967 War, or who subsequently lost residence permits, to reside permanently with their families in the occupied territories. It was difficult for foreign-born spouses and children of Palestinian residents to obtain residency. Palestinian spouses of Jerusalem residents must obtain a residency permit and reported delays of several years before being granted residency. According to B'Tselem in October 2005 there were 120,000 outstanding family reunification requests to permit Palestinians to live with foreign spouses in the occupied territories; some have been outstanding for years. The Israeli government occasionally issued limited-duration permits, but renewing their permits could take up to eight months, which resulted in many Palestinians falling out of

[48] B'Tselem 'The Gaza Strip, Tightened siege and intensified economic sanctions.'
[49] Amnesty International Report 2008
[50] OCHA field update 26.01.09
[51] Amnesty International Report 2008
[52] FCO Human Rights Report 2007
[53] FCO Human Rights Report 2007

status. Palestinians in East Jerusalem also reported extensive delays in registering newborn children with Israeli authorities.[54]

3.6.9 According to the domestic Violence Survey 2005 of the Palestinian Central Bureau of Statistics, violence against wives, especially psychological, was common in the West Bank and Gaza at 73.5% and 53.4% respectively. A woman must provide two eye-witnesses, not relatives, to initiate divorce on the grounds of spousal abuse. Amnesty International reports that the high level of conflict-related violence has contributed to an increase in family and societal violence.[55] In 2007 there was a sharp increase in the number of "honour crimes" committed in Gaza, with 14 cases reported. In comparison, four such crimes were reported in 2006.[56]

3.6.10 ***Sufficiency of Protection****:* Because claimants in this category fear mistreatment on the basis of the general country situation and not by state or non state agents, the issue of state protection does not arise.

3.6.11 ***Internal relocation****:* As the whole of Gaza and the West Bank is affected by the armed struggle between Palestinians and the Israeli authorities, internal flight is not a viable option.

3.6.12 ***Caselaw***

MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKIAT 00017 promulgated 20 February 2007

Upheld by Court of Appeal 9 April 2008 EWCA Civ 304 – permission to appeal to House of Lords requested

The AIT find:-

Para 129 ' The difficulties faced by Palestinians in the Occupied Territories (economic situation, food insecurity, travel restrictions etc) taken cumulatively are not such that the minimum level of severity for persecution or serious harm is reached, nor is the minimum threshold for a breach of a returnees' rights under Article 3 reached. This applies even in the case of a Palestinian male within the 16 to 35 age group who is from the northern part of the West Bank who would have to endure greater restrictions on his ability to move in the Occupied Territories.'

Para 128 'There is no evidence to suggest that individuals who are forcibly returned and/or who have lived abroad for some time would be treated any differently from other Palestinians, whether at the time of seeking re-entry into the West Bank via the King Hussein Bridge, or thereafter.'

Para 122 '……However, if a Palestinian Arab who comes from the West Bank is refused re-entry by the Israeli security forces, this would not, of itself, amount to persecution or serious harm or Article 3 ill-treatment. Palestinian Arabs from the West Bank are stateless and have no right of re-entry into the Occupied Territories unlike a citizen. If a Palestinian Arab returnee is refused re-entry into the West Bank at the Israeli checkpoint on the King Hussein Bridge, then he would simply have to turn back to Jordan. The guidance in **NA (Palestinians – Not at general risk) Jordan CG [2005] UKIAT 00094** that ethnic Palestinians, whether or not recognised as citizens of Jordan, are not persecuted or treated in breach of their protected human rights by reason of their ethnicity although they may be subject there to discrimination holds good. Appeals on asylum grounds and humanitarian protection grounds must be determined on the hypothetical assumption that a returnee will be successful in re-gaining entry into the West Bank.'

3.6.13 ***Conclusion*** A state of general insecurity does not of itself give rise to a well founded fear of persecution within the terms of the 1951 Refugee Convention unless the claimant is at serious risk of adverse treatment over and above others. The reports of tension and

[54] USSD Israel and the Occupied Territories 2007
[55] USSD Israel and the Occupied Territories 2007
[56] FCO Human Rights Report 2007

security breaches do not indicate that there would be a consistent pattern of gross and systematic violation of rights under Article 3 of the ECHR. Whilst it is acknowledged that the general economic and humanitarian situation in the West Bank and Gaza is poor, it is considered that the cumulative difficulties faced by residents do not reach the minimum level of severity for persecution or serious harm, nor is the threshold for a breach of Article 3 likely to be reached. The grant of Humanitarian Protection on account of generalised violence will only be appropriate where the particular circumstances of the individual are such that their return will breach Article 3. Case owners should refer to the Asylum Instructions on Humanitarian Protection for further information.

3.7 Members of militant groups

3.7.1 Some claimants make an asylum or human rights claim based on ill-treatment amounting to persecution at the hands of the Israeli authorities due to their involvement in a militant group.

3.7.2 ***Treatment*. [See Annex for description of main Palestinian groups, including designated terrorist groups]** While the lethality of individual terrorist attacks declined in 2007 and there was an overall decrease in the number of successfully perpetrated terrorist attacks, Israel nevertheless continued to suffer from terrorist threats emanating from the West Bank and Gaza. While rocket fire against Israeli civilian targets from Gaza by Hamas and other terrorist organisations continued, Hamas did not otherwise take responsibility for terrorist attacks pursuant to a unilateral conditional ceasefire it announced in 2005. Hamas likely aided other terrorist organisations in Gaza, included Palestinian Islamic Jihad (PIJ), the al-Aqsa Martyrs' Brigades (AAMB) and the Popular Resistance Committees (PRC), particularly after Hamas seized power and expelled the Palestinian Authority government from Gaza in June. The Israeli Foreign Ministry claimed that from mid-June until mid-December 2007, 428 Qassam rockets and 590 mortar shells were fired from Gaza towards Israeli civilians and soldiers. Israel responded to the terrorist threat as it has in recent years with targeted operations directed at terrorist leaders and weapons experts, IDF incursions into the West Bank and Gaza to conduct roundup operations, and other efforts designed to increase pressure on Palestinian terrorist organisations and their supporters. Israeli security services also imposed strict and widespread closures and curfew in Palestinian areas and continued constructing an extensive security barrier in the West Bank which Israeli officials believe has played an important role in making terrorist attacks more difficult to undertake.[57]

3.7.3 Israeli security forces in the West Bank consisted of the Israeli Defence Force (IDF), the Israel Security Agency (Shin Bet), the Israeli National Police (INP) and the Border Police, an operational arm of the INP that is under IDF command when operating in the occupied territories. Israeli military courts tried Palestinians accused of security offences. The Israeli government maintained effective control of its security forces; however, there were reports that Israeli security forces used excessive force, abused, and tortured Palestinian detainees.[58]

3.7.4 Israeli security personnel may arrest without warrant or hold for questioning a person suspected of having committed or being likely to commit a security-related offence. Israeli Military Order 1507 permits Israeli security forces to detain persons for 10 days, during which they cannot see a lawyer or appear before court. Administrative security detention orders could be issued for up to six-month periods and renewed indefinitely by judges. No detainee has ever successfully appealed a detention order under this process. Israeli Military Order 1369 provides for a seven year prison term for anyone not responding to a summons in security cases.[59]

3.7.5 Palestinians claimed that security detainees held under Israeli security detention military orders were in fact political prisoners. According to Palestinian and Israeli NGOs, there

[57] US Country Reports on Terrorism 2007: Israel, the West Bank and Gaza
[58] USSD 2007 Israel and the occupied territories
[59] USSD 2007 Israel and the occupied territories

were approximately 11,500 Palestinian prisoners and detainees, including 1,800 common law criminals, in Israeli Prison Service (IPS) prisons and the three IDF detention centres in Israel and the West Bank. This number also included 300 minors and 800 to 850 administrative detainees. Israel conducted some mass arrests in the West Bank but most targeted specific persons. During 2007 the IDF arrested an average of 96 persons weekly in the West Bank. At the end of 2007, 45 of the 132 elected members of the Palestine Legislative Council remained in jail in Israel, including 40 from Hamas, 4 from Fatah and one from the Popular Front.[60]

3.7.6 Israeli law provides for an independent judiciary, and the government generally respected this in practice. The IDF tried Palestinians accused of security offences in military courts in the West Bank. The law comprehensively defined security offences. Israeli military courts rarely acquitted Palestinians charged with security offences; sentences occasionally were reduced on appeal. Trials of Palestinians before Israeli military tribunals follow the same evidentiary rules as in regular criminal cases. The accused is entitled to counsel. Charges are made in Hebrew but the court may order an Arabic translation. The court may hear evidence in security cases denied to the defendant or his attorney; however, a conviction may not be based solely on such evidence. Convictions may not be based solely on the defendant's confession, although in practice some security prisoners were convicted on the basis of allegedly coerced confessions by themselves and others. Defendants can appeal in certain instances. In a report on military court procedures released in December 2007, the NGO Yesh Din criticised the military judicial system for failing to meet minimum standards of due process because of de facto restrictions on public presence in military courts, unpublished verdicts, no explicit right to a presumption of innocence, indictments provided to defendants and attorney only after they have been filed in court, restrictions on the right to be tried without undue delay, and limitations on the ability of attorneys to provide clients with effective counsel.[61]

3.7.7 According to B'Tselem, during 2007 Israeli authorities targeted and killed 18 Palestinians, many affiliated with terrorist organisations. On 13 December 2006, the High Court of Justice ruled that targeted killings, which the state has carried out officially since the beginning of the second intifada in 2000, are not per se illegal, but that each case must be meticulously examined through an independent investigation. Section 64 states that 'the law of targeted killing is established under customary international law, and the legality of each said individual act must be determined in light of it'. The High Court ruled that members of armed Palestinian organisations engaged in hostilities against the State do not fall within the category of combatants; they are necessarily civilians and should be treated in accordance with the provisions of law relating to civilians who take part in hostilities. It held that the principle of proportionality requires Israel to use arrest, interrogation and trial where possible rather than lethal force. The High Court also discussed the question of who is a legitimate target of a targeted killing and held that international humanitarian law permits the killing of civilians who take part illegally in hostilities, if there is no reasonable possibility to arrest them, only if their participation is 'direct'. It does not include those who play an 'indirect' part.[62]

3.7.8 The High Court held that a civilian who has joined a terrorist organisation and carried out a chain of hostilities with short periods of inactivity in between, loses his immunity from attack for the entire time of his activity. However, a person who takes part in hostilities for a certain period of time, but later ceases to take part is deemed not to be a legitimate object of a targeted killing. The High Court also held that after an attack on a civilian suspected of taking part in hostilities, a thorough independent investigation should be performed. An attack against a legitimate target is forbidden when the harm liable to be caused to innocent civilians is excessive in comparison with the military advantage anticipated from the attack. B'Tselem believe that the court's ruling 'will possibly reduce the number of persons

[60] USSD 2007 Israel and the occupied territories
[61] USSD 2007 Israel and the occupied territories
[62] B'Tselem: Use of Firearms: 19 Dec. 06: High Court of Justice imposes limitations on Israel's targeted-killing policy

unjustifiably killed as a result of Israel's targeted-killing policy…..but that the real test lies in its implementation.[63]

3.7.9 ***Sufficiency of protection.*** As this category of claimants' fear is of ill treatment/persecution by the Israeli authorities, they cannot apply to these authorities for protection. The Palestinian Authority is unlikely to provide protection for those involved in security offences.

3.7.10 ***Internal relocation.*** Claimants are not able to relocate to a different area to escape the threat of persecution where the alleged source of persecution is state-sponsored. If it is accepted that the claimant is likely to be known to the Israeli authorities as an anti-Israeli activist, internal flight will not be an option.

3.7.11 ***Conclusion.*** Individuals likely to be of interest to the Israeli authorities would be those wanted for serious offences. These cases will be exceptional and will normally be high-profile members of one of the militant groups who are wanted by the authorities. Such individuals may face persecution on return. Case owners should refer such cases to a Senior Caseworker in the first instance.

3.7.12 Case owners should note that militant groups have been responsible for numerous serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant and has been involved in such actions, case owners should consider whether one of the Exclusion Clauses is applicable.

3.8 Fatah members residing in Gaza

3.8.1 Some Fatah affiliated claimants from Gaza may make a claim based on persecution by members of Hamas following the Hamas takeover of Gaza in June 2007.

3.8.2 ***Treatment.*** After the formation of the Hamas government in March 2006, the Preventive Security Organization (PSO), Civil Police, and Civil Defence came under the authority of the Hamas-controlled Minister of Interior. The National Security Forces (NSF) and General Intelligence Services (GI or Mukhabarat) remained under the authority of President Abbas. President Abbas and his subordinates maintained control of security forces in the West Bank and over some forces in Gaza. The Interior Ministry created a new security branch, the 'Executive Force' in Gaza, over which President Abbas had no authority. The Executive Force killed or injured several Palestinians affiliated with security forces loyal to President Abbas or the Fatah movement.

3.8.3 Neither the President nor the Interior Ministry maintained effective control over security forces under their respective authorities, and there were reports that members of security forces committed numerous, serious abuses. Palestinian police were normally responsible for security and law enforcement for Palestinians and other non-Israelis in PA-controlled areas of the West Bank and Gaza. There was a widespread public perception of corruption, notably within the PA security forces and the Executive Force. [64]

3.8.4 During 2007 there was an increase in human rights violations committed by Palestinians against Palestinians, both in number and severity, as a result of the violent struggle waging between Fatah and Hamas in the West Bank and Gaza. The violence peaked in June when Hamas seized control of the security apparatus in Gaza. 160 persons were killed in June alone during violent clashes between the PA's security forces most of whom belong to Fatah, and Hamas militias headed by the Hamas Executive Force and it military wing, the 'Iz a-Din al-Qassam Brigades. In the weeks leading up to the Hamas takeover, the

[63] B'Tselem: Use of Firearms: 19 Dec. 06: High Court of Justice imposes limitations on Israel's targeted-killing policy
[64] USSD 2007 Israel and the occupied territories

organisation's militias abducted several senior members of the PA's security forces and executed them without trial. Other PA security officials who were abducted were tortured.[65]

3.8.5 Following the Hamas takeover of Gaza in June 2007, Hamas established its own de facto security forces in Gaza which answer to the former Hamas Prime Minister. After the Hamas takeover, the street battles came to an almost complete halt. The ruling Hamas government in Gaza, headed by deposed PA Prime Minister Ismai'il Haniyeh, imposed an oppressive regime against its critics, especially those identified with Fatah. The Executive Force carried out arrests daily. The prisoners were held for a number of days and no charges were filed against them. Amnesty International has taken many testimonies from Palestinians in Gaza who have been arrested in this manner, and the victims report being ill-treated and tortured. The Executive Force has frequently broken into the homes of Palestinians in search of weapons in the hands of opposition members.[66] Hamas forces were reported to have arrested approximately 1,000 Fatah members. At the end of 2007, twelve were sentenced by Hamas-controlled courts and most others remained in Hamas custody. Many of those held in Gaza as Israeli collaborators reportedly were released after Hamas took over. Three deaths were recorded in Gaza prisons in 2007.[67]

3.8.6 The militias were reported to have used excessive force in dispersing demonstrations in 2007. The gravest use of excessive force occurred on 12 November when 9 Fatah members were killed and 60 injured after Hamas police fired on a Gaza city commemoration of Yasser Arafat's death. On 13 November, other Fatah supporters were killed after Hamas police fired on and beat protesters, claiming that Fatah snipers on rooftops had triggered the violence.[68]

3.8.7 In Gaza Hamas reportedly enforced laws selectively according to its priorities. Hamas aligned militias provided local security and abused human rights in Gaza. On 26 September 2007, the former Hamas Prime Minister, Ismai'il Haniyeh, named a de facto high judicial council for Gaza. Hamas affiliated members replaced PA prosecutors and judges. The PA declared the council illegal. However, it continued to function. On 26 November, Hamas militants took over the judicial compound in Gaza city and required all personnel to leave the premises after recording their names and IDs. [69] Some lawyers and human rights activists in Gaza say that a semblance of normality has returned to the justice system in recent months, especially compared to the chaotic period after June 2007. Arrest warrants are issued more regularly and detainees are increasingly brought before prosecutors and judges within the required time. Reports of torture are down.[70]

3.8.8 Human Rights Watch has reported that, despite a lack of experience in running government affairs, Hamas has managed to reduce the crime and chaos endemic in 2006 and the first half of 2007. It began by reorganising the security forces under its control. Both the Qassam Brigades and the Executive Force engaged in arbitrary detentions, torture and inhumane and degrading treatment of detainees, many of them affiliated with Fatah security forces. Under criticism for using the Qassam Brigades as an internal security force, in September 2007 Hamas created the Internal Security Force (ISF), staffing it largely with members of the Qassam Brigades, and dissolved the Executive Force, absorbing its personnel into the police. Hamas also assumed full control in Gaza of the National Security Force (NSF), a PA-wide force, responsible for security along Gaza's borders. Reports of violations in both Gaza and the West Bank declined in the first months of 2008.[71]

3.8.9 Mid 2008 saw potential for progress as Hamas and Fatah discussed possible reconciliation. On 4 June, President Abbas announced the formation of a committee of senior Palestinian

[65] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[66] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[67] USSD 2007 Israel and the occupied territories
[68] USSD 2007 Israel and the occupied territories
[69] USSD 2007 Israel and the occupied territories
[70] Human Rights Watch report: Internal Fight, Palestinian abuses in Gaza and the West Bank 2008
[71] Human Rights Watch report: Internal Fight, Palestinian abuses in Gaza and the West Bank 2008

officials to prepare for "national dialogue" with Hamas and called for implementation of the Yemeni initiative. Later that month, Israel and Hamas agreed to a six-month ceasefire after indirect negotiations brokered by Egypt and encouraged by the US. As of early July, however, both sides had failed fully to respect the truce.[72]

3.8.10 Further breaches followed (see 2.8) and events began to reach a climax in November when an Israeli incursion into southern Gaza led to further firing of Hamas missiles into Israel and in turn a much tighter Israel blockade. Hamas demanded that the blockade be ended or it would not renew the ceasefire. [73] Between 19 and 27 December, Hamas fired almost 300 rockets on southern Israel.[74] In an attempt to end the rocket attacks, on 27 December Israel launched a series of land, sea and air attacks against Hamas in Gaza.[75] After 22 days of bombardment, Israel announced a unilateral ceasefire on 18 January, followed hours later by Hamas announcing a one-week ceasefire.[76] The ceasefire continues to hold although incidents have occurred which are imposing strains on the agreement.[77] On 1 February, the Israeli Prime Minister, Ehud Olmert, warned that Israel would respond forcefully to renewed rocket fire.[78]

3.8.11 Hamas is still in control of Gaza.[79] There are some reports of reprisal attacks inside Gaza of those suspected of collaborating with the Israeli military, criminals who escaped from Gaza City's main jail when it was bombed, and security officials from Fatah. It is not clear who is responsible. Hamas dismissed the claims but said it had arrested suspected collaborators, apparently as part of an effort to reassert control over Gaza.[80] Since Israel and Hamas declared unilateral ceasefires, it is reported that Hamas has acted rapidly to assert its control over assistance to civilians. A struggle is taking place over the right to oversee the reconstruction of Gaza. The international community is calling for the involvement of Palestinian president, Mahmoud Abbas. But Hamas is insisting on sole control of Gaza's rebuilding, as well as claiming moral leadership of the Palestinian people.[81]

3.8.12 ***Sufficiency of Protection.*** As claimants fear the de facto authorities in Gaza, they will not be able to obtain protection from these authorities.

3.8.13 ***Internal relocation.*** As claimants fear the de facto authorities in Gaza, internal relocation within Gaza is not feasible. Although it would not be unduly harsh in most cases for Fatah affiliates to internally relocate to the West Bank, this is unlikely to be viable at present due to the activities of the Hamas-controlled NSF along Gaza's borders and also the travel and residency restrictions currently imposed by the Israeli authorities in response to the security situation.

3.8.14 ***Conclusion.*** There are likely to be few claims in this category due to the reported difficulty of Palestinians exiting Gaza. Case owners should carefully establish full details of the claimant's journey to the UK. Only those known by Hamas to be involved in anti-Hamas activities or affiliated with Fatah security services are likely to be of current interest to the de facto authorities in Gaza. For such claimants a grant of asylum is likely to be appropriate.

3.8.15 However, case owners should note that members of security forces and militias controlled by Fatah have been responsible for serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant and has been involved in such

[72] Human Rights Watch report: Internal Fight, Palestinian abuses in Gaza and the West Bank 2008
[73] BBC News 'Q&A
[74] FCO David Milliband statement to the House of Commons 19.01.09.
[75] BBC News 'Gaza offensive – Week One' 5 January 2009
[76] BBC News 'Q&A Gaza conflict'
[77] Reuters Alertnet 'Israeli soldier killed, Gaza truce breached' 27.01.09
[78] BBC News 'Israel hits Hamas targets in Gaza' 1.02.09
[79] Reuters Alertnet 'Q&A What's next in the Gaza Strip 26.01.09
[80] Guardian 'Dozens believed dead in reprisals as Hamas retakes control' 30.01.09
[81] Guardian Hamas fights to rebuild Gaza in new battle for hearts and minds' 25.01.09

actions, case owners should consider whether one of the Exclusion Clauses is applicable. Case owners should refer such cases to a Senior Caseworker in the first instance.

3.9 Hamas members residing in the West Bank

3.9.1 Some Hamas affiliated claimants from the West Bank may make a claim based on persecution by members of Fatah following the Hamas takeover of Gaza in June 2007.

3.9.2 ***Treatment***. After the formation of the Hamas government in March 2006, the Preventive Security Organization (PSO), Civil Police, and Civil Defence came under the authority of the Hamas-controlled Minister of Interior. The National Security Forces (NSF) and General Intelligence Services (GI or Mukhabarat) remained under the authority of President Abbas. President Abbas and his subordinates maintained control of security forces in the West Bank and over some forces in Gaza. The Interior Ministry created a new security branch, the 'Executive Force' in Gaza, over which President Abbas had no authority. The Executive Force killed or injured several Palestinians affiliated with security forces loyal to President Abbas or the Fatah movement. Neither the president nor the Interior Ministry maintained effective control over security forces under their respective authorities, and there were reports that members of security forces committed numerous, serious abuses. Palestinian police were normally responsible for security and law enforcement for Palestinians and other non-Israelis in PA-controlled areas of the West Bank and Gaza. There was a widespread public perception of corruption, notably within the PA security forces and the HEF. Since the Hamas takeover in June 2007, President Abbas and his subordinates control PA security forces only in the West Bank.[82]

3.9.3 During the week before and the week after the Hamas takeover of Gaza, Fatah militia forces in the West Bank, spearheaded by the al-Aqsa Martyrs' Brigades, carried out revenge attacks against persons and institutions identified with Hamas. Abductions and executions took place, as well as attacks on businesses and charitable institutions linked with Hamas. In late June, these attacks diminished, only to pick up again to a lesser degree in the following months, especially in the Nablus District.[83]

3.9.4 Fearful of a Hamas takeover of the West Bank, in June PA security forces, the Preventive Security body in particular, carried out mass arrests of Hamas supporters suspected of trying to establish a branch of the Executive Force in the West Bank. Arrests continued, in smaller numbers, in July and August.[84] There were estimated to be 1,000 arrests of Hamas members in the West Bank for membership in Hamas' military wing or possession of firearms and explosives. At the end of 2007, 300 to 350 remained in custody.[85] According to Amnesty International and the Palestinian Human Rights Monitoring Group, most of the arrests flagrantly violated Palestinian criminal law. Most of the persons arrested were released without charges brought against them, reinforcing the concern that the arrests were arbitrary and political. Some of the persons arrested reported that they were ill-treated and tortured during their time in detention.[86]

3.9.5 Armed factions continued to exercise de facto rule over significant portions of PA administered area in 2007. News reports identified at least 5 autonomous armed militias operating in PA territory; frequent and violent clashes occurred between Hamas and Fatah gunmen. In the weeks preceding and following the Hamas takeover, the PA's security forces failed to take any action against the militias in the West Bank.[87] In November 2007 PA security forces began a large-scale crackdown on armed groups in the West Bank, including Hamas allied groups.[88]

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[82] USSD 2007 Israel and the occupied territories
[83] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[84] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[85] USSD 2007 Israel and the occupied territories
[86] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[87] B'Tselem 'Violations of the Human Rights of Palestinians by Palestinians'
[88] Freedom House: Freedom in the World Annual Report 2008

3.9.6 Palestinian law prohibits arbitrary arrest and detention. It allows police to hold detainees without charges for 24 hours and with court approval for up to 45 days. A trial must start within 6 months or the detainee must be released. In practice the PA detained many without charge for months. PA security forces often ignored laws by detaining persons without warrants. They also occasionally disregarded court decisions calling for release of alleged security criminals. Suspects often were held without evidence and denied access to lawyers, families or doctors. The PA Basic Law prohibits torture or use of force against detainees; however, international human rights groups stated that torture was a significant problem. Torture by PA security forces reportedly was widespread and not restricted to security detainees.[89] In the West Bank, local human rights groups reported slight improvements in recent months but serious violations persisted with impunity. Methods of abuse included: mock executions, kicks and punches, and beatings with sticks, plastic pipes and rubber hoses. The most common form of torture was forcing detainees to hold stress positions for prolonged periods, known in Arabic as *shabah*, causing intense pain. Human rights abuses have been recorded by all of the West Bank security forces, but the least problematic force appears to be the civil police, which deals primarily with common crimes. The most abusive forces, local groups say, are the Preventive Security of General Intelligence Services.[90]

3.9.7 The PA court system is based on PA legal codes as well as Israel military orders and Jordanian and Ottoman Law that predate the 1967 occupation. A High Judicial Council maintained authority over most court operations. Military courts, established in 1995, have jurisdiction over police and security force personnel as well as crimes by civilians against security forces. PA courts were inefficient, lacked staff and resources, and often did not ensure fair and expeditious trials. A severe shortage of funds and judges, and an absence of lawyers and witnesses, due to check points and other travel restrictions, has led to an estimated backlog of 54,103 civil cases and 3,900 criminal cases in the West Bank. Continued violence adversely affected PA administration of justice. PA prison conditions were poor. Many prisons were destroyed during the Intifada and were not reconstructed. Prisoners were kept informally incarcerated. The PA generally permitted the ICRC access to detainees but denied access to some detainees within 14 days following arrests.[91]

3.9.8 Pursuant to the law, the PA can impose the death penalty on a person convicted of any of 42 offences. Military courts and state security courts have imposed most death sentences attributed to the PA. There is no judicial procedure to appeal these sentences, and only the PA president has the authority to ratify or alter the sentence. In June 2005 the PA executed four men, but none since.[92]

3.9.9 Mid 2008 saw potential for progress as Hamas and Fatah discussed possible reconciliation. On 4 June, President Abbas announced the formation of a committee of senior Palestinian officials to prepare for "national dialogue" with Hamas and called for implementation of the Yemeni initiative. Later that month, Israel and Hamas agreed to a six-month ceasefire after indirect negotiations brokered by Egypt and encouraged by the US. As of early July, however, both sides had failed fully to respect the truce.[93]

3.9.10 Further breaches followed (see 2.8) and events began to reach a climax in November when an Israeli incursion into southern Gaza led to further firing of Hamas missiles into Israel and in turn a much tighter Israel blockade. Hamas demanded that the blockade be ended or it would not renew the ceasefire. [94] Between 19 and 27 December, Hamas fired almost 300 rockets on southern Israel.[95] In an attempt to end the rocket attacks, on 27 December Israel

[89] USSD 2007 Israel and the occupied territories
[90] Human Rights Watch report: Internal Fight, Palestinian abuses in Gaza and the West Bank 2008
[91] USSD 2007 Israel and the occupied territories
[92] USSD 2007 Israel and the occupied territories
[93] Human Rights Watch report: Internal Fight, Palestinian abuses in Gaza and the West Bank 2008
[94] BBC News 'Q&A Gaza conflict'
[95] FCO David Milliband statement to the House of Commons 19.01.09

launched a series of land, sea and air attacks against Hamas in Gaza.[96] After 22 days of bombardment, Israel announced a unilateral ceasefire on 18 January, followed hours later by Hamas announcing a one-week ceasefire.[97] The ceasefire continues to hold although incidents have occurred which are imposing strains on the agreement.[98] On 1 February, the Israeli Prime Minister, Ehud Olmert, warned that Israel would respond forcefully to renewed rocket fire.[99]

3.9.11 ***Sufficiency of Protection.*** As claimants fear the PA authorities in the West Bank, they will not be able to claim protection from these authorities.

3.9.12 ***Internal relocation.*** As claimants fear the PA authorities in the West Bank, internal relocation within the West Bank is not feasible. Although it would not be unduly harsh in most cases for Hamas affiliates to internally relocate to Gaza, this is unlikely to be viable at present due to the activities of the PA-controlled NSF in areas of the West Bank under PA control, and also the travel and residency restrictions currently imposed by the Israeli authorities in response to the security situation.

3.9.13 ***Conclusion.*** There are likely to be few claims in this category due to the reported difficulty of Palestinians exiting the West Bank. Case owners should carefully establish full details of the claimant's journey to the UK. Only those known by the Fatah-controlled PA to be involved in anti-Fatah activities or affiliated with Hamas security services are likely to be of current interest to the PA authorities in the West Bank. For such claimants a grant of asylum is likely to be appropriate.

3.9.14 However, case owners should note that members of security forces and militias controlled by Hamas have been responsible for serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant and has been involved in such actions, case owners should consider whether one of the Exclusion Clauses is applicable. Case owners should refer such cases to a Senior Caseworker in the first instance.

3.10 Forced recruitment by armed groups

3.10.1 Some claimants will make an asylum or human rights claim based on ill treatment amounting to persecution at the hands of Hamas or another militant group due to enforced recruitment.

3.10.2 ***Treatment.*****[see Annex for details of groups]**

3.10.3 Hamas maintains an active social service network as well as operating a terrorist wing which carries out suicide bombings and attacks using mortars and short-range rockets. The group has launched attacks both in the West Bank and Gaza, and Israel. In addition to its military wing, the Izz al-Din al-Qassam Brigade, Hamas devotes much of its estimated $70 million dollar budget to its extensive social services provision. It funds schools, orphanages, mosques, healthcare clinics, soup kitchens, and sports leagues. Hamas' efforts in this area, as well as a reputation for honesty, help to explain the broad popularity it summoned to defeat Fatah in the PA's recent elections. Its military wing is believed to have more than 1,000 active members and thousands of supporters and sympathizers. On March 22, 2004, more than 200,000 Palestinians are estimated to have marched in Yassin's funeral. [100]

3.10.4 Suicide bomb attacks against Israeli targets have become the most dramatic weapon in the armoury of the Palestinian militant groups. There appears to be no shortage of recruits. Most of the bombers are affiliated to the Palestinian militant groups Hamas or Islamic Jihad.

[96] BBC News 'Gaza offensive – Week One' 5 January 2009
[97] BBC News 'Q&A Gaza conflict'
[98] Reuters Alertnet 'Israeli soldier killed, Gaza truce breached' 27.01.09
[99] BBC News 1 February 2009 'Israel hits Hamas targets in Gaza'
[100] Council on Foreign Relations: Backgrounder: Hamas

They are likely to be motivated by religious fervour. According to Islamic tradition, he who gives his life for an Islamic cause will have his sins forgiven and a place reserved in paradise. For many years, suicide attacks on Israelis have been seen by some Palestinians as such acts of martyrdom. Recruits are reassured by their organisation that their families will be looked after materially until they die, and there are charitable organisations that exist for this purpose.[101]

3.10.5 Hamas recruits its suicide bombers by targeting deeply religious young men, although some bombers have been older. The recruits do not fit the usual psychological profile of suicidal people. They often hold paying jobs. What they have in common, say studies, is an intense hatred of Israel. After a bombing, Hamas gives the family of the suicide bomber between $3,000 and $5,000 and assures them their son died a martyr in a holy jihad.[102] This question was touched upon in a Paper published by The Foundation for the Defense of Democracies; The Globalisation of Hamas Terrorism, 2003, which cited a Canadian case in which it was decided that forced recruitment and consequent fear of reprisal was not an issue.[103]

3.10.6 In relation to the practice of forced recruitment in West Bank universities by Hamas, Fatah or any other organisation, the Palestinian Human Rights Monitoring Group (PHRMG) stated in January 2008 that political groups may try to convince students to join their specific movement, but it was unaware of anybody being forcefully recruited to any particular movements. A 2005 US Army Handbook indicated that terrorist organisations use a variety of methods to recruit their members, including using "recruiters" to find appropriate candidates for suicide missions, especially women in northern West Bank universities. In certain cases, recruits of Islamic terrorist organisations may be "blackmailed or pressured into conducting attacks." [104]

3.10.7 ***Sufficiency of protection.*** Palestinian police are responsible for security and law enforcement for Palestinians and other non-Israelis in PA-controlled areas of the West Bank. Hamas has established its own de facto security forces in Gaza. There is no evidence that security forces would be unwilling or unable to provide protection for claimants in this category.

3.10.8 ***Internal relocation.*** Although it would not be unduly harsh in most cases for those who fear non-state agents to internally relocate within or between Gaza and the West Bank, this is unlikely to be viable at present due to the travel and residency restrictions currently imposed by the Israeli authorities in response to the security situation.

3.10.9 ***Conclusion.*** There are a number of armed Palestinian groups operating in Gaza and West Bank that support and carry out politically-motivated violent acts. Ideologies are based on nationalist, religious or left wing beliefs, or a combination thereof. There is no evidence of individuals being coerced into membership of any group. The grant of asylum or Humanitarian Protection in such cases is, therefore, unlikely to be appropriate.

3.10.10 Case owners should note that armed groups have been responsible for numerous serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant and has been involved in such actions, case owners should consider whether one of the Exclusion Clauses is applicable. Case owners should refer such cases to a Senior Caseworker in the first instance.

3.11 Israeli collaborator

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[101] BBC News 'Who are the suicide bombers'
[102] Council on Foreign Relations: Hamas
[103] FDD: Globalization of Hamas, P3
[104] Immigration and Refugee Board of Canada RIR: PSE102762.E, Forced recruitment. 15 February 2008 and
Time "Moms and Martyrs" 3.05.07
BBC News 'Just married and determined to die' 13.10.08

3.11.1 Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the Palestinian authorities and militant groups due to being suspected of being Israeli informants.

3.11.2 ***Treatment.*** Although the Israeli government does not officially sanction the practice of forcing Palestinian civilians to assist in its military activities, Palestinians have been known to be placed in situations where it was very difficult to avoid assisting. Some may collaborate for financial gain, because they are being blackmailed after being arrested, or because of their opposition to certain militant group members. B'Tselem maintains that some members of the security forces ask Palestinians to collaborate with them in exchange for permits allowing them to work or access medical treatment inside Israel.[105]

3.11.3 According to Human Rights Watch, as of 2003 there were three significant kinds of 'collaborators' in West Bank and Gaza Strip; 'informants' who gave Israeli security forces information about the activities of Palestinian militants; 'infiltrators' who penetrated Palestinian organisations, and 'land dealers' who assisted Israelis in purchasing Palestinian-owned land. Other types of informants were more active before 1994 but may still have been active in 2003. For example, 'intermediaries' who helped Palestinians with paperwork and security checks; 'armed collaborators' who helped the Israeli Special Forces locate the houses of Palestinian militants; 'economic collaborators' who represented Israeli companies and promoted Israeli products; and 'political collaborators' who represented Israel interests, occasionally assuming a public role. According to Human Rights Watch, a Palestinian suspected of belonging to any of the above-mentioned categories carries the risk of being assassinated or arrested.[106]

3.11.4 Since the beginning of the Al-Aqsa Intifada in 2000, dozens of Palestinians suspected of collaborating with Israel have been executed, sometimes publicly, with the aim of deterring future collaborators. According to B'Tselem, a total of 86 Palestinians have been killed by other Palestinians for alleged collaboration with Israel since 2000. Killings included assassinations by militant organisations, lynching by crowds of people, and also at the hands of the PA security forces by executions, during torture or when attempting to escape. Statistics provided by B'TSelem indicate that between 29.09.00 and 28.02.07, 118 Palestinians were killed by Palestinians for suspected collaboration with Israel. In 2007, 2 Palestinians were killed. None are recorded for 2008. [107]

3.11.5 Some human rights groups have suggested that, as at 2002, around 15,000 Palestinians were collaborating with Israel in the West Bank and Gaza. A former Shin Bet (Israel's internal security service) agent who was involved in recruiting Palestinian informants said that Israel promised protection in the Jewish state to collaborators who are discovered. Protected collaborators are typically high-ranking informants; Shin Bet assigns them a new identity and places them in neighbourhoods developed by Shin Bet where former Israeli informants live.[108]

3.11.6 In 1997, the Jewish Telegraphic Agency (JTA) reported that a programme was being implemented to assist Palestinian collaborators; the programme took care of about 1,000 collaborators' families living in Israel, but that number did not include some 3,000 collaborators families who did not have legal residence permits. The families who resettled legally received financial assistance – sometimes as much as hundreds of thousands of American dollars from the Israeli government. During 2004 the consul from the Embassy of Israel in Ottawa said that Palestinians who work with the Israeli government for Israeli security purposes generally are entitled to financial assistance, accommodation, a job and tuition for their children. In some cases, these people may obtain Israel citizenship. For example, if a person were discovered in the Gaza Strip, he or she would be sent to Israel

[105] Immigration & Refugee Board of Canada: RIRs :AL42588.E, 26.04.04
[106] Immigration & Refugee Board of Canada: RIRs :AL42588.E, 26.04.04
[107] B'Tselem Harm to Palestinians suspected of collaborating with Israel: Fatalities statistics
[108] Immigration and Refugee Board of Canada:RIRs ISR43052.FE, 4.01.05

because Palestinian authorities are not sympathetic to the cause of an alleged collaborator and would not give police protection. [109] [110]

3.11.7 Palestinian sources estimated the PA imprisoned less than 100 persons suspected of collaboration with Israel during 2007. Many of those held in Gaza as Israeli "collaborators" reportedly were released after Hamas took over. In the West Bank, the PA continued to hold persons arrested in 2006 and made new arrests of persons suspected of collaboration with Israel; in total, several dozen persons were imprisoned. [111]

3.11.8 ***Sufficiency of protection.*** Claimants who fear reprisals from local residents due to the discovery of their actions in collaborating with the Israeli authorities are provided with protection and support from the Israeli authorities.

3.11.9 ***Internal relocation.*** Collaborators who seek the assistance of the Israeli authorities are able to relocate to Israel.

3.11.10 ***Conclusion.*** The evidence indicates that there are around 15,000 Palestinians collaborating with Israel in Gaza and the West Bank and that, if discovered, Israeli authorities have undertaken to provide protection, financial assistance and accommodation in Israel for collaborators and their families. It is unlikely, therefore, that such claims would engage the UK's obligations under the 1951 Refugee Convention and a grant of asylum or Humanitarian Protection is unlikely to be appropriate.

UNRWA

3.12 Some applicants may make an asylum claim having previously received support from the United Nations Relief and Works Agency for Palestinian Refugees (UNWRA) before 28 July 1951.

3.12.1 ***Treatment:*** Following the1948 conflict, UNRWA, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, was established by the United Nations to carry out direct relief and works programmes for Palestine refugees. The Agency began operations on 1 May 1950. In the absence of a solution to the Palestine refugee problem, the General Assembly has repeatedly renewed UNRWA's mandate, most recently extending it to 30 June 2008. Since its establishment, it has delivered services in times of relative calm and in times of hostilities. It has fed, housed and clothed tens of thousands of fleeing refugees and at the same time educated and given health care to hundreds of thousands of young refugees. Originally envisaged as a temporary organisation, it has gradually adjusted its programmes to meet the changing needs of the refugees. Today, UNWRA is the main provider of basic services – education, health, relief and social services – to over 4.3 million registered Palestine refugees. Its five fields of operation are Jordan, Lebanon, Syria, West Bank and Jordan. Some 1.2 million refugees live in 59 recognised camps. UNWRA does not own, administer or police the camps as this is the responsibility of the host authorities. In the case of Gaza and West Bank this is the Palestinian Authority.[112]

3.12.2 For the purposes of considering an asylum claim from this category of claimant, case owners should apply the Article 1D exclusion clause of the 1951 Refugee Convention. This clause states that the Refugee Convention does not apply to persons who "are at present receiving from organs or agencies of the United Nations other than the UNHCR protection or assistance" and that "when such protection or assistance has ceased for any reason without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of the Convention".

[109] Immigration and Refugee Board of Canada:RIRs ISR43052.FE, 4.01.05
[110] Guardian 'A secret fresh start: former Palestinian collaborators forge new life in Israel' 13.06.08
[111] USSD Israel and the Occupied Territories 2007
[112] UNWRA official website

3.12.3 ***Caselaw:*** The meaning of 'at present' was considered by the Court of Appeal in the case of **El-Ali and Daraz [2002] EWCA Civ 1103**. The Court held that the term 'at present' related to the date on which the Refugee Convention was signed – 28 July 1951. This means that Article 1D is relevant only to a person who was receiving protection or assistance from UNRWA on or before 28 July 1951. It is not relevant to anyone else, not even to the descendants of people who were receiving such protection or assistance on that date. The effect of this judgement is that very few Palestinian asylum claimants will be affected by Article 1D.

3.12.4 ***Conclusion***: Where a claimant's circumstances fall within the ambit of clause Article 1D, i.e applicants who were in receipt of support from UNWRA at the time the Refugee Convention was signed on 28 July 1951 they should be excluded from the scope of the Convention for as long as UNWRA continues to operate. Accordingly, an asylum claim from such a claimant would fall to be refused on the grounds that a person is not a Convention refugee. This would be so even where a claimant could show a well-founded fear of persecution on one of the five Convention grounds. However, consideration should be given in the normal way as to whether the claimant qualifies for Humanitarian Protection or Discretionary Leave. Where this is considered appropriate, the period of Humanitarian Protection or Discretionary Leave should be in accordance with normal practice. A claimant who has a well-founded fear of persecution but is excluded from being a refugee by virtue of Article 1D would normally qualify for leave on the basis of Humanitarian Protection. Case owners should refer to the Asylum Instructions on Humanitarian Protection and Discretionary Leave. Further information and guidance can also be found in Asylum Instruction 'UNRWA assisted Palestinians' Case owners should consult APU via SCW's for further clarification.

3.13 Statelessness

3.13.1 An asylum claim from a Palestinian may be accompanied by a claim to stay in the UK on the grounds that they are stateless.

3.13.2 ***Treatment.*** Article 1 of the 1954 Convention Relating to the Status of Stateless Persons defines a stateless person as ' a person who is not considered as a national by any state under the operation of its law.' The UNHCR identifies a stateless person as someone who is 'not recognized by any country as a citizen,' and this definition generally refers to a specific group of people known as *de jure* (legally) stateless persons. It generally does not encompass the many people, *de facto* (or effectively) stateless persons, who are unable to establish their nationality or whose citizenship is disputed by one or more countries. However, a resolution attached to the 1961 Convention recommends that persons who are *de facto* stateless should as far as possible be treated as *de jure*, to enable them to acquire an effective nationality.[113]

3.13.3 Millions of Palestinians are not only refugees, but are stateless as well. Following the war in 1948, more than 750,000 Palestinians were displaced and became refugees in neighbouring Arab States and in lands now occupied by Israel. Over the succeeding years, the number of Palestinians worldwide has grown to an estimated 8 and 9½ million people. While the Palestinian population theoretically has had a state since the approval of UN General Assembly Resolution 1984 (1947), they have been unable to return to their homes. Their claim to a right of return to their homes has been disputed by Israel, leaving them stateless. Apart from Jordan, neighbouring Arab countries have not granted citizenship to Palestinian refugees, leaving around 4 million individuals as *de jure* stateless persons. [114]

3.13.4 ***Sufficiency of protection.*** For the purposes of considering an asylum claim under the Refugee Convention, the applicability of 'state' protection is not a relevant consideration for those considered to be stateless.

[113] Refugees International 'Lives on hold, the scope of statelessness'
[114] Refugees International 'Lives on hold, the scope of statelessness'

3.13.5 ***Internal relocation.*** For Refugee Convention claims based on statelessness, consideration of the internal flight is not relevant.

3.13.6 ***Caselaw.***

MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKIAT 00017 Promulgated 20 February 2007

Upheld by Court of Appeal 9 April 2008 EWCA Civ 304 – permission to appeal to House of Lords requested

The Tribunal find:-

Para 27 'On the question of returnability, we informed the parties that, in our view, pursuant to the recent judgment of the Court of Appeal in Gedow and Others v Secretary of State for the Home Department [2006] EWCA Civ 1342, the precise method of return is not a matter which needs concern us…..'

Para 57 ' In our judgment, in the event that a Palestinian Arab is denied re-entry to the Occupied Territories at the Israeli end of the crossing at King Hussein Bridge, this would not amount to persecution. Palestinian Arabs from the Occupied Territories are stateless and have no right of re-entry into the Occupied Territories unlike a citizen. For the same reason, we do not consider that the denial of re-entry would in itself amount to degrading or inhuman treatment contrary to Article 3.'

Para 62 'If a Palestinian Arab formerly resident in the West Bank who is being removed to the West Bank is refused re-entry into the Occupied Territories at the Israeli checkpoint on the King Hussein Bridge, then he would simply have to turn back into Jordan. The country guidance case on the situation of Palestinians in Jordan is NA (Palestinians – Not at general risk) Jordan CG [2005] UKIAT 00094. That case decided that ethnic Palestinians, whether or not recognised as citizens of Jordan, are not persecuted or treated in breach of their protected human rights by reason of their ethnicity, although they may be subject there to discrimination in certain respects in their social lives in a manner which does not cross the threshold from discrimination to persecution or breach of protected human rights….'

Para 128 'There is no evidence to suggest that individuals who are forcibly returned and have lived abroad for some time would be treated any differently from other Palestinians, whether at the time of seeking re-entry into the West Bank via the King Hussein Bridge, or thereafter.'

3.13.7 **Conclusion** The UK is a signatory to the 1954 Convention on the status of Stateless Persons, but that Convention does not require signatories to grant leave to stateless persons. There is no provision in primary legislation, the Immigration Rules or Home Office published polices that requires leave to be granted to a person on the basis that they are stateless. A claim on this basis alone would, therefore, fall to be refused on the grounds that leave is being sought for a purpose not covered by the Immigration Rules.

3.13.8 The 1954 Convention relating to the Status of Stateless Persons has a similar, although not identical, provision to Article 1D of the Refugee Convention.This is Article 1(2)(ii). This provision should be interpreted as meaning that a person who was receiving protection or assistance form UNRWA on 28 September 1954 (the date that Convention was signed) is not covered by the terms of the Stateless Persons Convention, even if they otherwise meet the definition of statelessness set out in that Convention. Similarly to the Article 1D exclusion clause, the numbers covered by this exclusion provision will be relatively low. Case owners should consult a Senior Caseworker for further guidance.

3.13.9 No distinction is made between applications for leave to remain from stateless people and from people who have a nationality. Stateless people whose applications are successful are granted leave to enter or remain in the usual way. Those whose applications fail are expected to leave the United Kingdom, usually to return to their countries of habitual residence (see **MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKIAT 00017,** above). The fact of being stateless is not, therefore, in itself a reason for granting leave to enter or remain in the UK and would not give rise to a grant of asylum or Humanitarian Protection.

3.14 Prison conditions

3.14.1 Claimants may claim that they cannot return to Israel, Gaza or the West Bank due a serious risk that they will be imprisoned on return and that prison conditions are so poor as to amount to torture or inhuman treatment or punishment.

3.14.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

Israel

3.14.3 **Treatment** The law provides detainees the right to live in conditions that do not harm their health or dignity. Conditions in IPS facilities for common criminals and security prisoners generally met international standards. Israeli Detention centres were less likely than Israel Prison Service prisons to meet international standards with some, such as the Ofer detention centre, being particularly overcrowded. On 23 January 2007, a complaint was submitted on behalf of 388 detainees contesting crowded conditions in the three provisional detention centres in the West Bank. Israel permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC). Human rights groups reported delays and difficulties in gaining access to specific detainees, un-notified transfers of detainees, and the significantly limited ability of families of Palestinians imprisoned in Israel to visit.[115]

3.14.4 **Conclusion** IPS and IDF prison conditions in Israel generally meet international standards for Israeli citizens and Palestinians. Whilst police detention and interrogation facilities for Palestinians in Israel are poor, with overcrowding and poor conditions being a particular problem, conditions are unlikely to reach the Article 3 threshold. Where Palestinian claimants can demonstrate a real risk of imprisonment in police detention or interrogation facilities on return to Israel, a grant of Humanitarian Protection will not usually be appropriate.

3.14.5 However, individual factors should always be considered, to determine whether detention will cause an individual in his particular circumstances to suffer treatment contrary to Article 3. Relevant factors are the likely length of detention, the type of detention facility, and the individual's age and state of health. Where the particular circumstances suggest that treatment is likely to breach the Article 3 threshold, a grant of Humanitarian Protection will be appropriate. If, however, the risk of imprisonment arises for a Convention reason, a grant of asylum will be appropriate.

Gaza and the West Bank

3.14.6 Treatment Prison conditions in Gaza and the West Bank were poor in 2007; most were destroyed during the Intifada and have not been reconstructed; prisoners were kept informally incarcerated. The Palestinian Authority generally permitted the ICRC access to detainees and allowed regular inspections of prison conditions; however, the PA denied access to some detainees for 14 days following their arrests. The PA permitted monitoring of its prisons, but human rights groups, humanitarian organisations, and lawyers reported difficulties gaining access to specific detainees. Human rights organisations stated their ability to visit PA prisons and detention centres varied depending on which organisation ran

[115] USSD Country Report 2007: Israel and the occupied territories

the facility. There were reports that beating and sleep deprivation were used to coerce confessions.[116]

3.14.7 ***Conclusion*** Whilst prison conditions in Palestinian National Authority run prisons remain poor, with reports of dilapidated facilities and overcrowding, these conditions will not normally be sufficiently severe to meet the high Article 3 threshold.

3.14.8 Even where claimants can demonstrate a real risk of imprisonment on return to the Gaza or the West Bank, a grant of Humanitarian Protection will not generally be appropriate. However, individual factors should always be considered, to determine whether detention will cause an individual in his particular circumstances to suffer treatment contrary to Article 3. Relevant factors are the likely length of detention, the type of detention facility, and the individual's age and state of health. Where the particular circumstances suggest that treatment is likely to breach the Article 3 threshold, a grant of Humanitarian Protection will be appropriate. If, however, the risk of imprisonment arises for a Convention reason, a grant of asylum will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Israel, Gaza and West Bank the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to the West Bank, Gaza or Israel due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

Israel

4.4.2 Primary care is highly accessible in Israel. In three of the four health plans, the cost of primary care visits to health plan physicians is fully covered by NHI where co-payments are limited to specialist visits. There are over 5000 primary care providers (PCPs) working with

[116] USSD 2007 Annex: Section 1

the health plans throughout the country.[117] Family health centres are primarily staffed by public health nurses, with a small number of physicians involved, and have developed the capacity to engage in intensive outreach efforts in the areas of immunization and well-child care more generally in Israel.[118]

4.4.3 Vaccination coverage in Israel is high with about 90–92% coverage reported among infants in 2003.[119] Whilst all Israeli hospitals operate outpatient clinics, most specialized ambulatory care has traditionally been provided in community-based settings. There has been a further shift in the locus of specialist care from the hospital to the community.[120] Specialists tend to be concentrated in urban areas. This can result in inconvenience and access problems for people living in the periphery and in small villages, although distance does not prevent most residents from visiting specialists. Waiting times for specialists also appear to be reasonable.[121] Israelis have access to a secure, safe and stable supply of a wide range of pharmaceuticals.[122]

4.4.4 In 2000 Israel had approximately 5600 psychiatric beds – 1.23 beds per 1000 population over age 14. Only 5% of those psychiatric beds were in general hospitals; 95% were in psychiatric hospitals. The proportion of psychiatric beds in general hospitals is lower than in most western countries, but as in other countries the trend is for a higher proportion of the beds to be located in general hospitals. The psychiatric hospital network comprises 18 psychiatric hospitals, of which 10 are government owned, 6 privately owned and 2 owned by health plans. In addition, there are 12 psychiatric departments in general hospitals and one in the prison system.[123]

4.4.5 The Article 3 threshold will not be reached in the great majority of medical cases and a grant of Discretionary Leave will usually not be appropriate. However, where a caseworker considers that the circumstances of the individual claimant reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

Gaza and the West Bank

4.4.6 In addition to the public health services available and those provided by charitable and voluntary organizations, the main providers of health care for the Palestinian population are the Palestinian Red Crescent Society and other Palestinian nongovernmental organizations and UNRWA. [124]

4.4.7 UNRWA's policy is to provide essential health services to eligible Palestinian refugees, consistent with the humanitarian policies of the United Nations and the basic principles and concepts of the World Health Organization. The level of service corresponds to the varying needs of the refugees which, in turn, depend upon their living conditions. Camp residents use UNRWA facilities because of ease of access. Many refugees residing outside the camps also use UNRWA health centres, especially for preventive services. Other refugees, living in towns or remote villages situated at a distance from the nearest UNRWA health centre, tend to use local community facilities whether private, voluntary or public health. [125]

4.4.8 The Palestinian Red Crescent Society, established in 1986, has adopted the principles of primary health care. Accordingly, in 1990 the Society formulated a national health plan for the Palestinian population, in coordination with responsible officials in health centres inside

[117] European Observatory on Health Care Systems 2004.
[118] European Observatory on Health Care Systems 2004.
[119] European Observatory on Health Care Systems 2004.
[120] European Observatory on Health Care Systems 2004.
[121] European Observatory on Health Care Systems 2004.
[122] European Observatory on Health Care Systems 2004
[123] European Observatory on Health Care Systems 2004
[124] WHO
[125] WHO

the occupied territories as well as with other Palestinian health institutions beyond their borders. [126]

4.4.9 The Palestinian Red Crescent Society channels its services through 200 health centres providing primary health care facilities and 15 maternal and child health care centres. Secondary and tertiary health care facilities are made available through a series of hospitals located in places with large Palestinian population densities. [127]

4.4.10 There were two psychiatric hospitals, in Gaza with 34 beds (started in 1979) and in the West Bank with 320 beds (started in 1960). There are two general hospital psychiatric units at Nablus and Tulkarm with 4 inpatient beds each (established in 1980). There are no private psychiatric hospitals. There is a child mental health clinic and the Gaza Community Mental Health Centre. There are no specialised drug dependence treatment centres. Nongovernmental organizations such as the Swedish International Relief Association run facilities for those with learning difficulties.[128]

4.4.11 The Israeli Health Ministry reported in May 2008 that Israel continued to provide ambulatory, outpatient and inpatient services to Palestinian patients who access care in the PA hospitals, on the request of the Palestinian Ministry of Health. At times these services were provided in conjunction with Israeli and international NGOs. More patients have been referred to Israel since June 2007 due to the closure of the border between Egypt and the Gaza Strip. In 2007 over 15,000 permits were granted to Palestinian patients and their companions to receive treatment in Israel. Israelis who facilitated the passage of patients from the West Bank and Gaza were often targeted themselves. Israel continues to provide public health laboratory services, as well as to provide training programmes to Palestinian physicians, nurses and other health professionals. Through the Israel Defence Forces Coordination and Liaison Office, Israel enabled and facilitated the entrance of medical and pharmaceutical supplies donated by donor countries, WHO, the ICRC and NGOs into both Gaza and the West Bank. 66,671 patients from the West Bank and 7, 226 patients from Gaza were treated in Israeli hospitals in 2007.[129]

4.4.12 WHO reported in May 2008 that internal closure, the construction of the separation barrier and the permit system continued to affect patients' access to various levels of health care in the West Bank. The difficulties of delivering supplies, particularly to the Gaza Strip, have led to deterioration in the quality of health care. There were reports of decreased access to secondary and tertiary health care. The number of patients unable to access treatment outside Gaza increased during the second half of 2007. The lack of essential spare parts, basic consumables, supplies and medicines further weakened the health care delivery system. WHO continued to provide essential medical supplies and consumables for primary health care services and worked with the Palestinian Ministry of Health to deliver pharmaceuticals to the West Bank and Gaza. The 6 east Jerusalem hospitals received most of the internal referrals for specialised hospital care from the health centres of the Palestinian Ministry of Health in the West Bank and Gaza.[130]

4.4.13 Human Right Watch reported in 2008 that while Israel has usually allowed urgent medical cases to leave Gaza through the Erez crossing, by mid-September 2007 it had stopped allowing most patients out, reducing the average number of patients leaving Gaza each month to five, down from 40 in the preceding months. Israel denied exit to many seriously ill patients on unspecified security grounds; at least five patients died in Gaza after being denied treatment in Israel.[131] B'Tselem reported that restrictions on Palestinian movement in the West Bank affected the ability of Palestinians to obtain proper medical treatment and impaired the ability of West Bank hospitals to function properly. The closure of Gaza has

[126] WHO
[127] WHO
[128] WHO
[129] WHO 'Health conditions in the occupied Palestinian territory', 21 May 2008
[130] WHO 'Health conditions in the occupied Palestinian territory' 13 May 2008
[131] Human Rights Watch World Report 2008

barred patients from receiving treatments unavailable within Gaza and has caused a grave dearth of medical supplies, while the sporadic cuts in fuel supply have greatly reduced the activity of ambulances and healthcare clinics. According to WHO figures, in January 2008, 19% of necessary medicines and 31% of vital medical equipment were lacking in Gaza. WHO reported that in the first 3 months of 2007, Israel approved 90% of the requests; in the last three months of 2007, following the Hamas takeover, the figure dropped to 69%.[132]

4.4.14 Following the recent Israeli offensive on Gaza, hospitals still have a large number of intensive care patients but capacity in hospitals is gradually freeing up for the provision of routine care for chronically ill patients who are now returning for treatment, as well as regular services such as elective surgery.[133]

4.4.15 The Article 3 threshold will not be reached in the great majority of medical cases and a grant of Discretionary Leave will usually not be appropriate. However, where a caseworker considers that the circumstances of the individual claimant reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

Voluntary return

5.2 Nationals of Israel, Gaza and the West Bank may return voluntarily at any time by way of the Voluntary Assisted Return and Reintegration Programme (VARRP) implemented on behalf of the UK Border Agency by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Those wishing to avail themselves of this opportunity for assisted return should be put in contact with the IOM offices in London on 0800 783 2332 or www.iomlondon.org

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Central Operations and Performance Directorate

4 February 2009

ANNEX

Palestinian Factions

NB: This list is not exhaustive

The Nationalists:-

The Palestine Liberation Organization (PLO)

The establishment of the state of Israel in 1948 and the rise of Palestinian nationalism throughout the 1950s led to the creation of the Palestinian National Liberation Movement in1957 headed by Yasir Arafat. In 1964, in partial response to the wider trend of militant radicalism, the Arab League founded the Palestine Liberation Organization (PLO). It is a diverse organisation that represents all Palestinians around the world, administered by an executive committee, elected by a Central Council, which in turn is elected by the Palestine National Council (PNC). The PNC is the highest decision-making body of the PLO. Although the PLO is separate from the PA, most analysts contend that the PLO dominates PA institutions. Palestinian factions generally agree that the PLO is the most legitimate representative of Palestinians. [134]

Its original goal was the destruction of the state of Israel through armed struggle. It was initially controlled for the most part by the Egyptian government. The original PLO Charter stressed Israel's annihilation, as well as a right of return and self-determination for Palestinian Arabs. The 1993 Oslo Accords led to the creation of the Palestinian Authority, following which the PLO officially adopted a two-state solution, with Israel and Palestine living side by side contingent on specific terms, such as making East Jerusalem the capital of the Palestinian state, and giving Palestinians the right of return. [135]

In 1993, PLO chairman Yasser Arafat recognized the State of Israel in an official letter to its Prime Minister, Yitzhak Rabin, and renounced terrorism and acts of violence. In response to Arafat's letter, Israel recognized the PLO as the legitimate representative of the Palestinian people. Since 1993, the PLO has transformed itself into a quasi-government, the PA, with Fatah still playing a dominant role. Arafat was the Chairman of the PLO Executive Committee from 1969 until his death in 2004. He was succeeded by Mahmoud Abbas (also known as Abu Mazen).

Fatah [136]

Fatah (or al-Fatah, an acronym standing for Harakat Al-Tahrir Al-Watani Al-Filastini - the Movement for the National Liberation of Palestine), was founded in 1959 by Yasser Arafat and served as his power base within the PLO. Fatah is a secular Palestinian nationalist organisation whose original ideology rejected the legitimacy of Israel and advocated violence as a means to drive Israel out of Palestine. Initially Fatah operated in secret, organising attacks against Israel. It stressed Palestinian self-sufficiency as the key to defeating Israel and creating an independent Palestinian state. Fatah emerged from the underground in the mid-1960s and aligned itself with the PLO, establishing itself as the dominant faction in the PLO. By 1969 Arafat was serving as the PLO's Chairman.

Many Fatah members are actively engaged in legitimate PA government activities, However, certain factions within Fatah have recommitted themselves to violence. The al-Asqsa Martyrs Bridgade (AAMB) and the Fatah-Tanzim have been implicated in terrorist activities against Israeli targets. The exact nature of the relationships between the Tanzim, the al-Fatah leadership and the al-Aqsa Martyrs Brigade remains unclear. Al-Fatah's leadership has publicly renounced terrorist activity and claims that the Tanzim and al-Aqsa Martyrs Brigades operate independently.

Al-Aqsa Martyrs Bridgade (AAMB) [137]

[134] CRS Report for Congress: 8.06.05: Palestinian Factions
[135] MIPT Terrorism Knowledge Base
[136] MIPT Terrorism Knowledge Base
[137] MIPT Terrorism Knowledge Base

Al-Aqsa Martyrs Brigade (AAMB) is a secular, nationalist terrorist group. Its primary tactics are suicide bombings and firearms attacks. While the group's primary objective is to forcibly remove Israelis from the West Bank, Gaza Strip and Jerusalem, the group also targets civilians and soldiers in Israel. It emerged at the outset of the 2000 Palestinian intifada and has carried out shootings and suicide operations against Israeli civilians and military personnel in Israel and the Palestinian territories, rocket and mortar attacks against Israel and Israeli settlements from the Gaza Strip, and the killing of Palestinians suspected of collaborating with Israel. It operates in Israel, the West Bank, and Gaza Strip and has only claimed attacks inside these three areas.

Al-Tanzim [138]

The origins of the Tanzim lie in the leadership group of al-Fatah that remained in the Occupied Territories while the mainstream branch of al-Fatah was based in Jordan, Lebanon and finally Tunisia. After the 1993 Oslo Accords brought the al-Fatah and PLO leadership back to the Occupied Territories, tension rose. The Tanzim held political and military sway on the ground but were not included in the PA leadership. Marwan Barghouti emerged as the leader of this group. He originally acted as a reformer, crusading against corruption in the PA and advocating peaceful negotiations with Israel. As he realised that the time and political climate were not ripe for reform in the territories, Barghouti and his group resorted to terrorism rising to public prominence during the beginning of the al-Aqsa intifadah in September 2000.

The Popular Front for the Liberation of Palestine-General Command (PFLP-GC) [139]

The PFLP-GC was established in 1968 by Ahmed Jabril, a former captain in the Syrian Army, when itsplit from the PFLP. It has supported armed insurrection against the Israeli occupation. It joined the PLO in 1974 but its membership was suspended 10 years later. It since became violently anti-PLO. It has certain Marxist characteristics. The group's operational infrastructure is primarily located in Syria and Lebanon. It usually launches attacks from Lebanon, minimising its presence in Gaza and the West Bank.

Democratic Front for the Liberation of Palestine (DFLP) [140]

The DFLP is a Marxist-Leninist Palestinian secular nationalist movement. It broke away from the Popular Front for the Liberation of Palesitne in 1969 over ideological and personal differences. It sought to refocus on leftist ideology, believing that the ultimate goal of Palestinian nationalism could not be achieved without Marxist revolutions throughout the entire Middle East. It has generally focused its violent activities within Israel and the Palestinian Territories. In the late 1990s, the DFLP appeared to reverse its opposition to the peace process, increasing cooperation with the Palestinian Authority and reconciling with Arafat. As a result, the DFLP was removed from the US State Department's list of Foreign Terrorist Organizations. Nevertheless, it appears that the DFLP has remained engaged in anti-Israel activities, and has continued to conduct limited operations against Israeli targets.

Popular Resistance Committees [141]

Popular Resistance Committees (PRC) is a radical Palestinian terrorist organisation based in the Gaza Strip. It was founded by Jamal Abu Samhadana (killed June 2006) a former member of al-Fatah and the Tanzim. The membership of the PRC encompasses both the secular and fundamentalist Palestinian movements – terrorists from Hamas, the PFLP, al-Fatah and the Tanzim are all in the ranks of the group. Ex-members of the Palestinian Preventive Security apparatus, part of the security forces of the PA, are also reported to be active in the PRC. The group maintains its 'armed wing' under a separate name, the Salah al-Din Battalions/Brigades, although the PRC as a whole does not have any focus beyond armed terrorism. The PRC continue

[138] MIPT Terrorism Knowledge Base

[139] MIPT Terrorism Knowledge Base
[140] MIPT Terrorism Knowledge Base
[141] MIPT Terrorism Knowledge Base

to be an active force where their main method of attack has been firing rockets from the Gaza Strip into towns in southern Israel and Jewish settlements inside Gaza. This group are reported to have killed two Israeli soldiers and captured another soldier Gilad Shalit in June 2006. They also announce they had kidnapped a Jewish settler in the West Bank shortly afterwards. However, it is unclear whether or not PRC or Hamas were the main group behind these high-profile kidnappings.

The 'Islamists':-

Hamas [142]

Hamas is an acronym of the Harakat al-Muqawama al-Islamiyya or 'Islamic Resistance Movement'. The acronym is also the Arabic word for 'zeal.' Hamas is an outgrowth of the Muslim Brotherhood. The Muslim Brotherhood is a Sunni, Islamist, religious movement that originated in Egypt and seeks broad social, moral, and political reforms based upon Islam. From the late 1960s, Hamas's founder and spiritual leader, Sheikh Ahmed Yassin, was actively involved in non-violent Muslim Brotherhood activities in the Palestinian Territories, including preaching, education and charity work. By the early 1980s Yassin's ideology had begun to radicalize with Yassin more openly espousing violence against Israel. After the outbreak of the first Palestinian intifada in December 1987, Hamas was established as the political arm for MB activities and Hamas members began actively promoting the uprising. In August 1988, Hamas released its official charter. Hamas is dedicated to creating an Islamic state in the territory of 'Palestine' (all of Israel and Palestinian Territories). According to Hamas' charter, the land of Palestine has been endowed to Islam, and it is therefore the duty of all Muslims to liberate Palestine through violent jihad.

As part of its Islamist ideology, Hamas maintains an active network of social services within the Palestinian Territories. Hamas's substantial financial support has enabled it to provide social services, such as education, health care, and recreation services that the PA has been unable to provide. This social work has substantially increased popular support for Hamas, drawing political support away from the Palestinian Authority. Hamas has been able to leverage its popular support into increased support for its terrorist activities.

In January 2006, Hamas ran candidates for Palestinian parliamentary elections and won a landslide victory. It has continued to maintain a hard line against Israel and remains an active militant group. In 2006, factional clashes with its main rival, al-Fatah, consumed the Gaza Strip and led to many deaths on both sides.

Izz al-Din al-Qassam Brigades [143]

Hamas maintains a political wing that manages the group's overall policy and a highly compartmentalised military wing formed in 1992, the Izz al-Din al-Qassam Brigades, that conducts terrorist activities. Hamas terrorists have conducted many attacks, including large-scale suicide bombings, against Israeli civilian and military targets. The group curtailed major terrorist acitivities in 2005 after agreeing to a temporary period of calm brokered by the Palestinian Authority in February. Despite Hamas's general adherence to the calm, it maintained its military capabilities and launched Qassam rockets from the Gaza Strip against Israeli targets on a number of occasions. Hamas has limited its terrorist operations to Israeli military and civilian targets in the West Bank, Gaza Strip and Israel. It has tens of thousands of supporters and sympathizers.[144]

Palestine Islamic Jihad (PIJ) [145]

The PIJ was founded in the late 1970s by a group of radical Palestinian activists living in Egypt. It is a violent offshoot of the Muslim Brotherhood and is committed to the creation of an Islamic state in all of historic Palestine and the destruction of Israel through attacks against Israeli military and civilian targets. It believes that the Arab-Israeli conflict is not a national dispute over territory but

[142] MIPT Terrorism Knowledge Base
[143] MIPT Terrorism Knowledge Base
[144] US State Foreign Terrorist Organizations Chapter 8
[145] MIPT Terrorism Knowledge Base

rather a fundamentally religious conflict. The group rejects any political arrangements or diplomatic activity to solve the conflict. It initially operated out of Egypt but was exiled to Gaza in the 1980s. During the first Palestinian intifada that began in 1987, the PIJ leadership was exiled to Lebanon. Many of its leaders established direct contact with Iranian official and PIJ operatives began training at Hezbollah camps in Lebanon. Its headquarters were established in Damascus in 1989 where it has remained. PIJ strongly opposed the Oslo Accords and attempted to derail the peace process by committing a number of terrorist attacks against Israel. The Israel authorities assassinated leader Shaqaqi in 1995 but the group sprang back to life at the beginning of the second intifada. Since 2000 it has claimed responsibility for scores of terrorist attacks in Israel. It remains a relatively small organisation with a limited base of support partly because of its exclusive focus on terrorist attacks and unwillingness to offer a network of social services like Hamas. Its prominence has fallen since 1995 due to a change in leadership, a series of US arrests and the construction of security fences making terrorist attacks more difficult.