



**Violations of Freedom of Expression
and Freedom of the Press
Under the Palestinian Authority and Hamas**



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The Jerusalem Institute of Justice (JIJ) does not present this report as a denial of human rights violations charged against Israel, since materials are readily available on that subject. IJ itself has litigated human rights cases within Israel for more than a decade. This report covers largely unreported, often censored, violations by the Palestinian governing authorities against Palestinians so that their voices may be heard and facts might replace distorted misunderstandings of the regional situation.

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Introduction

Two of the most basic Human Rights in a democratic society are freedom of expression and freedom of press. They contribute to a free society in which all opinions and viewpoints contribute to public opinion.

As the General Comment No. 34 of the Human Rights Committee¹ states:

“Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions. Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.”

The basis for any Human Right is dignity, founded on religious or secular principles, as both can justify the existence of human dignity.² As the European Union has stated in its Guidelines, “the right to freedom of expression includes freedom to seek and receive information. It is a key component of democratic governance as the promotion of participatory decision-making processes is unattainable without adequate access to information”.³ Palestinian media is not independent enough, according to an international ranking.⁴ Furthermore, violations against media are committed every day, and they have increased in the last few years. In the first half of 2015 alone, there were 110 abuses against journalists, 103% more than during the same period one year before.⁵

¹ General Comment No. 34, Human Rights Committee, 102nd Session, 11-29 July 2011, CCPR/C/CG/34. Available at <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> accessed on December 17, 2015.

² Although it is always underlined that Human Rights are tightly linked with dignity, they are also essential for economic growth, in the opinion of philosopher, economist and Nobel Prize Amartya Sen., he states that a country with independent media never suffers from famine. (Vid. SEN A., “Democracy as a Universal Value”, *Journal of Democracy*, 0, 3, 1999, pp. 3-17). For a detailed Sen’s Human Rights theory, see SEN A., “Elements of a Theory of Human Rights”, *Philosophy and Public Affairs*, 2004, 32, 4, pp. 315-356. Available at <http://www.mit.edu/~shaslang/mparg/asenETHR.pdf> accessed on November 10, 2015

³ *EU Human Rights Guidelines on Freedom of Expression Online and Offline*, Council of the European Union, 12 May 2014. Available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/142549.pdf accessed on December 3, 2015

⁴ The 2015 World Press Freedom Index ranks Palestine 140 out of 180. Web 3 Dec. 2015, <http://index.rsf.org/#!/index-details/PSE>

⁵ *Media freedoms Violations in Palestine. Semiannual report 2015*, MADA Center, p. 7. Available at http://www.madacenter.org/images/text_editor/simireportEE2015.pdf accessed on December 8, 2015

Except for the right to life and the right prohibiting torture or inhuman or degrading treatment, there are no unlimited rights. One human right can never be used to attack another's human right. Therefore, freedom of press and freedom of expression have, or must have, a clear limit: *inter alia*, those cases where an opinion is intended to offend a person or a group (an insult can never be considered freedom of expression) or where it calls for action against a person or a group. These latter assumptions are considered hate speech, which must be prohibited by law. Articles 19(3) and 20(2) of the International Covenant for Civil and Political Rights outline some restrictions to freedom of expression. On many occasions, Palestinian media and politicians, as well as social network users, broadcast clear anti-Semitic or anti-Israeli statements or comments, with complete impunity. This is not freedom of expression, but hate speech.⁶

Methodology

This report is written taking into account the present legal standards, both national and international, as well as news reports from reputable media outlets, interviews with citizens who have links to the Palestinian Authority concerning freedom of expression and the press, and Palestinian organizations that monitor violations of these freedoms. Due to the high volume of reported violations from organizations and the media, only some representative cases are mentioned in this report. To protect the safety and privacy of such individuals, names have been withheld and records of interviews maintained internally by the Jerusalem Institute of Justice.

The majority of the sources used in this report are from the West Bank. The reality within Gaza is reported using statements made by informants who know the situation on the ground, and through information found on the Internet regarding human rights violations.

Regarding the second part of this report, there are many examples of incitement found in the media, via the Internet, spoken by officials and religious leaders. For this reason, much of the information in this report has been gleaned from online sources.

⁶ "Hate speech refers to insults, slurs, or epithets directed to a group of people, based on a shared characteristic of that group. Usually the characteristics are race, gender, or religion, but they also can include ethnicity, sexual orientation, disability, or even Vietnam-era veteran's status", p.139. Fraleigh D. M. and Tuman J.S, *Freedom of Expression in the Marketplace of Ideas*, SAGE Publications, 2011.

Part I: Freedom of Expression and the Press



Legal Framework

International Law

International Covenant on Civil and Political Rights 1976

Signed by the Palestinian Authority in July 2014, the International Covenant on Civil and Political Rights contains a broad range of statutes designed to promote and defend the basic liberty of all citizens from both their fellow countrymen and their respected government. Article 19 of this Covenant ensures protection of the civil rights of expression, freedom of opinion, and freedom to seek information. The text of the article reads as follows:

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in form of art, or through any other media of their choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the right of reputation
 - (b) For the protection of national security or of public order (order public), or of public health or morals.⁷

This article is at the core of civil and political rights, as the aforementioned General Comment No. 34 of the Human Rights Committee reiterates.⁸ The first paragraph of the article defines freedom of opinion as an unlimited right, whether political, moral, religious, or historical. Opinion of any nature is protected. However, harassing, intimidating or stigmatizing a person due to his opinions, are examples of violations of Article 19 (1).

⁷ "International Covenant on Civil and Political Rights." *International Covenant on Civil and Political Rights*. UN. Available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> accessed on October 19, 2015

⁸ General Comment No. 34, Human Rights Committee 102nd Session, 11-29 July 2011, CCPR/C/CG/34. Available at <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> accessed on December 17, 2015.

The second paragraph contains the protection for freedom of expression, information and the press. An abundant jurisprudence of the United Nations Human Rights Committee has emerged from this precept. Therefore, Article 19(2) has definite clarity and includes political, cultural, artistic or religious comments, expressed through spoken, written, sign language or even in non-verbal ways, such as dress, image, or objects of art. Concerning the link between freedom of expression and the media, state parties must guarantee a free and uncensored independent media that implies independence for journalists but also free access to media for citizens.

Article 19 (3) declares that freedom of expression is not a limited right, since the restrictions are specified in the same paragraph, but the General Comment emphasizes that the “restrictions on the exercise of freedom of expression, may not put in jeopardy the right itself”.⁹

The Universal Declaration on Human Rights “proclaimed by the General Assembly on 10 December 1948, [has] since [become] widely regarded as forming part of customary international law.”¹⁰ The High Commissioner for Human Rights Navi Pillay said, “The Universal Declaration was not merely congruent with some customs and foreign to other cultures. It drew its principles from many diverse traditions, and it made them more robust through a uniform codification.”¹¹ The document was designed to be as transcultural as possible relating to all nations of the Earth, an international standard by which all governments could be held accountable. Article 19 of the Declaration addresses freedom of speech, opinion, and information, stating:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.¹²

As the primary basis for the ICCPR, the declaration also protects multiple avenues of expression and again specifically protects the freedom to receive and impart information. Through these two documents the international community has made its stance on the importance of freedom of speech and open information.

⁹ Ibid., p. 5.

¹⁰ "Digital Record of the UDHR." *United Nations Human Rights: Office of High Commissioner on Human Rights*. Feb. 2009. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DigitalrecordoftheUDHR.aspx> accessed on October 19, 2015

¹¹ "Digital Record of the UDHR." *United Nations Human Rights: Office of High Commissioner on Human Rights*. Feb. 2009.

¹² "The Universal Declaration of Human Rights, UDHR, Declaration of Human Rights, Human Rights Declaration, Human Rights Charter, The Un and Human Rights." *UN News Center*. UN. Available at <http://www.un.org/en/documents/udhr/> accessed on December 9, 2015

Non Legally-binding Instruments

In 2011, Palestine joined UNESCO¹³, the only UN body that explicitly encourages freedom of expression. In 1978, UNESCO passed a declaration to protect freedom of expression and speech in the press and banning incitement to hatred and propaganda of war.¹⁴ Although at that time the Palestinian Authority was not a member, its principles are part of the Human Rights acquis (rules), given that they mark the path to follow for the organization itself and its member states. In addition, it can be considered *soft law*, indicating that the rules therein are not legally binding per se, but they strongly encourage compliance.¹⁵

International Law in Gaza

Currently, the Hamas government of the Gaza Strip is not recognized as an official state actor by the United Nations and is a *de facto* government, unable to ratify international treaties. Nevertheless, Hamas is engaged with human rights and the Rule of Law. In 2006, Prime Minister Haniyeh, of the new Hamas government, stated that “[Hamas will] promote the rule of law, the respect for the judiciary, the separation of powers, the respect for human rights, equality among citizens; to fight all forms of discrimination; to protect public liberties, including the freedom of the press and opinion.” One year later, he specified: “[We will] respect international law and international humanitarian law insofar as they conform with our character, customs, and original traditions.”¹⁶

Domestic Laws

Legal codes in the West Bank and Gaza are numerous, inconsistent with one another, and inconsistently applied across cases. This creates a very complicated legal system that is difficult to study and assess.¹⁷ However, for the purpose of this report there are

¹³ United Nations Educational, Scientific and Cultural Organization.

¹⁴ The official name was “Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, apartheid and incitement to war”. The text of the Declaration is available on the UNESCO website, available at http://portal.unesco.org/en/ev.php-URL_ID=13176&URL_DO=DO_TOPIC&URL_SECTION=201.html accessed on November 9, 2015

¹⁵ Soft law refers specifically to that kind of rules that are not legally binding but they oblige compliance to some extent. A general explanation on the concept is found on Guzman A. T. and Meyer T. L., *International Soft Law*, 2 Journal Legal Analysis, 2010, pp. 171-225. Available at <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1694&context=facpubs> accessed on December 21, 2015

¹⁶ *Abusive System. Failures of criminal justice in Gaza*. Available at <https://www.hrw.org/report/2012/10/03/abusive-system/failures-criminal-justice-gaza> accessed on October 20, 2015

¹⁷ This report focuses on a subset of legal codes from Gaza and the West Bank. For materials from laws not cited, see “Palestinian Women and Security: A Legal Collection,” edited by Al-Mashni et al. and available to download at <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Collection>

relevant domestic laws relating to the freedoms of expression and information that need to be addressed. The signing of the International Covenant on Civil and Political Rights requires the Palestinian Authority to uphold a certain standard regarding freedom of speech and expression. However, the patchwork of Palestinian, Egyptian, Jordanian and even Ottoman legal codes in the West Bank and Gaza and their inconsistent application render the Palestinian Authority and Hamas non-compliant with international expectations regarding free expression.

West Bank (Palestinian Authority)

The legal codes present in the West Bank derive primarily from the Ottoman Penal Code of 1916, the Jordanian Penal Code of 1960, the Palestinian Basic Law of 2003, in addition to Palestinian Authority legislation. On one hand, there exist statutes in Palestinian Law that protect the freedom of expression by private individuals and the media. However, there also exist laws that give the government the authority to silence the press under certain circumstances. The existence of this legal dichotomy allows the Palestinian Authority to give the appearance of freedom of speech while also maintaining a hold on opinion and public thought.

Palestinian Basic Law of 2003

The Palestinian Basic Law, passed by the Palestinian Legislative Council (PLC) in 1997, and ratified by President Yasser Arafat in 2002, serves as the interim Constitution of Palestine.¹⁸ The document contains two articles relevant to the protection of freedom of speech:

Article 19

Freedom of opinion may not be prejudiced. Every person shall have the right to express his opinion and to circulate it orally, in writing or in any form of expression or art, with due consideration to the provisions of the law.

Article 27

Establishment of newspapers and all media means is a right for all, guaranteed by this Basic Law. Their financing resources shall be subject to the scrutiny of the law.

Freedom of audio, visual, and written media, as well as freedom to print, publish, distribute and transmit, together with the freedom of individuals working in this field, shall be guaranteed by this Basic Law and other related laws.

¹⁸ Policy Paper: "Palestinian Basic Law: Are Public Freedoms Protected?" Pal-Think for Strategies Studies, January 2014, p. 2. Available at <http://palthink.org/en/wp-content/uploads/2014/01/Policy-Paper-Palestinian-Basic-Law-Are-Public-Freedoms-Protected.pdf> accessed on December 3, 2015

Censorship of the media shall be prohibited. No warning, suspension, confiscation, cancellation or restriction shall be imposed upon the media except by law, and pursuant to a judicial ruling.¹⁹

Article 19 clearly delineates individual freedom of expression as an inherent right of all Palestinians in speech, “in writing or in any form of art.” Article 27 expounds upon the freedoms and establishment of the press. The article states a clear mandate for the freedom to establish media outlets and the freedom for those outlets to transmit information in any form. Additionally, it stipulates a provision that prohibits the censorship or harassment of the media without legal grounds.

However, some legal scholars consider that the Palestinian Basic Law provides insufficient protection for the media. In this regard, they affirm that “at present, authorities that violate constitutional rights do not fear sanction because the legal provisions are unclear, because no punishment is stipulated in the law and because there is no proper mechanism to enforce the Basic Law. As a result, the executive branch of government, along with the various security apparatuses, generally views journalists with suspicion and closely monitors what is published in the media. The legislative branch, for its part, enacts laws that restrict the work of journalists and that provide for harsh punishment for offenders” (p. 1).²⁰

Although the Palestinian Basic Law does provide freedom of speech, its lack of clarity allows the government to commit abuses without directly violating the law.²¹

The Press and Publication Law of 1995

The Press and Publication Law of 1995 raises serious concerns about how free individuals are to express themselves. The law itself includes several provisions that fail to comply with the Palestinian Basic Law as well as international standards. Bassem Eid,²² founder of the Palestinian Human Rights Monitoring Group (PHRMG), explained the haphazard drafting of the law that resulted in its current ambiguous form, saying: “It was merely copied from several Arab legislations on press, especially Yemen. It was slightly modified and then signed by Arafat.”

The law contains numerous articles that provide grounds for the government to censor threatening speech:

¹⁹ Ibid. International Covenant on Civil and Political Rights

²⁰ Mendel T. and Khashan A., *The Legal Framework for Media in Palestine and Under International Law*. Available at <https://www.article19.org/data/files/pdfs/analysis/palestine-media-framework.pdf> accessed on November 19, 2015

²¹ The failures of the legal framework to protect journalists and freedoms have been underlined. For further information, see the report by Suau J. and Garcia A. “Assessment of Media Legislation in Palestine”, MedMedia, 2015. Available at http://www.med-media.eu/wp-content/uploads/2015/09/MEDMEDIA_PALESTINE.pdf accessed on December 21, 2015

²² Interview with Bassem Eid, June 12, 2015.

Article 7

- a. Publications shall refrain from publishing anything that contradicts the principles of freedom, national responsibility, human rights and the respect of the truth, and they shall consider the freedom of thought, opinion, expression and access to information as a right for the citizens as much as it is a right of their own.

As noted in a report conducted by The International Programme for the Development of Communication, “Under this provision, the publication of any material that contradicts ‘national responsibility’ is prohibited. This term is open to various interpretations and may easily be used to prevent the publication of an article.”²³

Article 37 contains a list of restrictions on publication:

- a. *Publication is precluded from publishing the following:*

Any classified information on the police or public security forces, or their weapons, requirement, locations, movement, or training.

Articles and material that contain contempt to religious rites, the freedom of which is guaranteed by the law.

Articles that may harm national unity encourage the commitment of crimes or disseminate grudges, hatred, dissension, antipathy and sectarianism among individuals of the society.

Minutes of closed sessions of the National Council and the Council of Ministers of the Authority.

Articles of news that aim at undermining the confidence in the national currency.

Articles or news that may cause harm to the dignity or personal freedom of individuals or that may damage their reputations.

News, reports, letters, articles and photographs, which are contrary to public ethics and morals.

- b. *Entry of Publications from abroad shall be prohibited, if such Publications contain material prohibited under the provisions of this law.*

Violation of these provisions is punishable, sometimes by imprisonment. The Palestinian Center for Human Rights (PCHR) has criticized this law for the limitations it

²³ *Assessment of Media Development in Palestine*. The International Programme for the Development of Communication. Accessed November 26, 2015. Available at <http://unesdoc.unesco.org/images/0022/002277/227784e.pdf>.

imposes on journalists.²⁴ In its report on the freedom of opinion and expression under the Palestinian authority, the PCHR commented on Article 37 of the Press and Publication Law: “The list of prohibitions includes the publication of everything that contradicts democratic principles and national responsibility, anything against morals, values and Palestinian traditions and anything that can agitate violence, hatred and fanaticism. These concepts are elastic and vague and can be misused”.²⁵

Similarly, the 2012 Report by the UN Special Rapporteur on freedom of opinion and expression highlights the “excessive Government control over the media, including licensing of print media and censorship of publication, and broad restrictions on the content of what may be published, many of which are vague.”²⁶ The Palestinian Legislative Council has not amended the Press and Publication Law to bring it into compliance with the Basic Law and with international standards.²⁷

Gaza Strip (Hamas)

The status of freedom of expression is worse in the Gaza Strip than the West Bank.²⁸ It has been argued that in the West Bank there are violations but respect for procedure and formalities. In Gaza, authorities act without trials, ignoring all rules.²⁹

Influenced by Egyptian Law, the same laws apply in the Gaza Strip as in the West Bank, including the Palestinian Basic Law, but with a prominent distinction: since 2007, Hamas has implemented a *de facto* Islamization. Thus, a Committee for the Propagation of Virtue and the Prevention of Vice was created by the civil society with unspoken governmental support³⁰ in order to enforce public behavior based on Sharia Law. This body enacts rules on how women must [be] dressed or couples have to behav[e] in public. It acts as a moral police, according to a source.³¹

²⁴ “Report on the Right to Freedom of Opinion and Expression and the Right to Peaceful Assembly under the Palestinian Authority” The Palestinian Centre for Human Rights, 2010, p.6. Available at <http://www.pchrgaza.org/files/2011/freedom%202010.pdf> accessed on November 26, 2015

²⁵ Ibid, p.5.

²⁶ “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression”, Frank La Rue, *Mission to Israel and the occupied Palestinian territory*, United Nations 2012, p.12 Web 3 Dec. 2015 Available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-17-Add2_en.pdf accessed on December 3, 2015 (Hereinafter: the “Report of the Special Rapporteur on the right to freedom of opinion and expression.”)

²⁷ Mendel, Toby, and Ali Khashan, Dr. “The Legal Framework for Media in Palestine and under International Law.” p.5. *Article 19*. Available at <https://www.article19.org/data/files/pdfs/analysis/palestine-media-framework.pdf> accessed on December 9, 2015

²⁸ Interview with B., Ramallah, October 13, 2015.

²⁹ Interview with L., Ramallah, November 24, 2015.

³⁰ *Gaza gets its own’ religious police’*, Al Arabiya News. Web 19 Oct. 2015. Available at <http://www.alarabiya.net/articles/2007/10/08/40105.html> accessed on October 19, 2015

³¹ Interview with B., Ramallah, October 13, 2015.

Conclusion

Though the Palestinian Basic Law does address and protect the freedom of expression and the press, its unclear legal framework allows government officials to overlook Articles 19 and 27. In correlation, The Press and Publication Law of 1995 provides a wide range of grounds by which the government can legally censor and/or punish individuals or members of the press.³² At present, the Palestinian Authority does not have a law code that upholds the statutes stated in the ICCPR. The situation in the Gaza Strip has been reported to be even worse according to one source³³ who claims that Sharia Law³⁴ is replacing the Palestinian Basic Law. In any case, freedom of expression in both territories has been described “as a joke.”³⁵ Palestinian Basic Law and other regulations are not accomplished.³⁶ The Palestinian Authority is believed to have signed and ratified these human rights treaties as a response to the peace process block with Israel. Therefore, the PA has not changed its legislation due to a lack of political initiative.³⁷ However, the problem is deeper, due to an institutional and political crisis.



Government Influence in Media

The development of professional media and citizen journalism is a fundamental pillar of a transparent and effective government. The most recent IREX Media Sustainability Index report, published in 2011, reveals that Palestine’s average score has decreased in recent years. In 2011, Palestine scored 1.75 on IREX’s four-point scale, placing Palestine in the category of “Unsustainable mixed system” along with Syria, Yemen, and Iraq. The index used assesses five criteria, including freedom of speech, plurality of news sources, and supporting institutions.³⁸ An independent, pluralistic, and free press must be free from governmental, political, or economic control of the media or means of production thereof.³⁹ Although the large number of Palestinian media outlets may give

³² Moreover, this Law collides with the Palestinian Basic Law and it is a sufficient reason to be repealed.

³³ Interview with B., Ramallah, October 13, 2015

³⁴ In many Arab countries, Sharia Law inspires private Law. Taking Islam as a religion of tolerance and inclusion, Sharia Law applied to private or public law is in fully accordance with human rights standards. Islam is misunderstood by Muslims themselves, according to the statements made during an interview with L., Ramallah, November 24, 2015.

³⁵ Interview with I., Jerusalem, August 12, 2015.

³⁶ Interview with L., Ramallah, November 24, 2015

³⁷ Interview with L., Ramallah, November 24, 2015

³⁸ "Media Sustainability Index (MSI)." (2011), IREX.. Available at https://www.irex.org/sites/default/files/u105/MENA_2010-2011_MSI_Score_Charts.pdf accessed on October 27, 2015

³⁹ "Declarations on Promoting Independent and Pluralistic Media." UNESCO, 3 May 1991. Available at http://www.unesco.org/webworld/fed/temp/communication_democracy/windhoek.htm accessed on December 9, 2015

an impression of pluralism of opinion, media sources and political parties are so intimately intertwined as to eliminate true pluralism.

Broadcasting Licenses

With the passing of the Oslo Accords and the creation of a semiautonomous Palestinian State, radio and television stations emerged, some broadcasting from Gaza but the vast majority broadcasting from the West Bank. For a period of ten years there existed no official legislation to control independent media sources. However, in 2004 the Palestinian Authority issued the Resolution of the Council of Ministers No. 182 of 2004 Concerning the Regulation of the Licensing of Radio, Television, Satellite and Wireless Stations, which began to regulate local radio and Television stations.⁴⁰

The decision gave the authority of regulating radio and television stations to a Tripartite Committee composed of the Ministers of Information, the Interior, and Telecommunications and Information Technology.⁴¹ This body has the sole authority to allocate broadcasting licenses, grant security approval, accept media content, and allocate broadcast frequencies. The committee began its work in 2004 and has held regular meetings since that date.⁴² It attributes the Ministry of Interior the power to intervene on media, on behalf of security. However, without limits, it becomes a clear control on media. Furthermore, Article 12 of the aforementioned Resolution establishes that media directors do not have to be convicted of some criminal offenses, such as infidelity.⁴³ It constitutes a violation of the right to privacy, as stated in Article 12 of the Universal Declaration of Human Rights, among other international human rights documents.

As stated by a UNESCO report on the Assessment of Media Development in Palestine, "After the political differences in 2007, the mandate to allocate the renewed radio and TV stations in the Gaza Strip was entrusted to the general administration for Press and Publication Department, affiliated with the Ministry of Information and the Governmental Media Office of the de facto authorities." It is important to note that the governing authorities in both the West Bank and Gaza possess complete control over the granting of TV and radio and licenses.⁴⁴

⁴⁰ Decision of the Council of Ministers No. 182 of 2004. Concerning the regulation of the Licensing of Radio, Television, Satellite and Wireless. Available at <http://unesdoc.unesco.org/images/0022/002277/227784E.pdf> accessed on December 12, 2015

⁴¹ Ibid.

⁴² UNESCO, The International Programme for the Development of Communication, "Assessment of Media Development in Palestine", 2014. Available at <http://unesdoc.unesco.org/images/0022/002277/227784E.pdf> accessed on December 9, 2015

⁴³ "The Right to Freedom of Opinion and Expression and the Right to Peaceful Assembly", *Palestinian Centre of Human Rights*, 2009. Available at <http://www.pchrgaza.org/files/2011/freedom%202009.pdf> accessed on November 9, 2015

⁴⁴ Ibid, p. 34

The Human Rights Committee of the United Nations in their General Comment 34 on Article 19 of the ICCPR stated: “It is recommended that State parties that have not already done so should establish an independent and public broadcasting licensing authority, with the power to examine broadcasting applications and to grant licenses.” The current practice of the governing bodies of the West Bank and Gaza to directly regulate audio and visual media without an independent body is in direct violation of international standards on freedoms of press.

The Decision of the Council of Ministers No. 182 of 2004 Concerning the Regulation of the Licensing of Radio, Television, Satellite and Wireless Stations states in Article 13 Item 3 that the Palestinian Authority must exercise “respect of the human person, freedom and the rights of others, pluralist expression of thoughts, objective news broadcasts, preservation of public decisions, and requirements of the national security and public interest.” Though the text of the decision supports pluralistic news sources, a study conducted by UNESCO reported:

“The Tripartite Committee is not subject to public scrutiny. There is no system to review or monitor its decisions or how it uses its powers. It is therefore difficult to assess the extent to which the Committee attempts to enhance media pluralism. No reports appear to have been published that evaluate the Committee’s work or the extent to which it adheres to media pluralism and freedom of expression.”⁴⁵

The West Bank has a total of 70 radio stations, 17 local TV stations, and two satellite TV stations that broadcast within the jurisdiction of the Palestinian Authority. All of these stations must receive approval from the Tripartite Committee in order to broadcast to the public. Likewise, the 15 radio stations and two satellite TV stations located in Gaza must receive approval from the General Administration for Press and Publication Department of the Hamas Government. Freedom of the press cannot exist unless the issuing of broadcasting licences and approval of program content is governed by an independent body that is, as stated in the Joint Declaration on the Protection of Freedom of Expression and Diversity in the Digital Terrestrial Transition, “protected from political, commercial and other forms of unwarranted interference in accordance with international human rights standards.”⁴⁶

Consequently, the current legal framework of the Palestinian Authority does not accord with international human rights standards. An urgent change of legislation is required.

⁴⁵ “Assessment of Media Development in Palestine”, p. 35

⁴⁶ “Joint Declaration on the Protection of Freedom of Expression and Diversity in the Digital Terrestrial Transition.”, International Mechanism for Promoting Freedom of Expression, 5 April 2013. Available at <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/WPFD/Joint-Declaration-foe-rapporteurs-2013-en.pdf> accessed on December 9, 2015

Government Controlled Media Outlets

In addition to controlling the issuing of broadcasting licenses, the Palestinian Authority (PA) and the Hamas Government either directly control or wield high influence within a number of media outlets.

Fatah Media

As President and leader of the Fatah Party (PLO), Mahmoud Abbas has control over four of the most popular Palestinian media channels in the West Bank.⁴⁷ As Chairman of the Palestinian Authority, he has direct control over the government's official media, the Palestinian Broadcasting Corporation (PBC) by possessing the power to appoint the corporation's governance.⁴⁸ The PBC is composed of a television channel called Palestinian Satellite Channel or Palestinian TV and a radio station called Voice of Palestine.⁴⁹ To be hired by Palestine TV, journalists must be loyal to Fatah.⁵⁰ According to a study published by the Palestinian Central Bureau of Statistics, 40% of homes with a television watch Palestinian TV on a daily basis, and nearly 55% of all persons over the age of 10 listen to the Voice of Palestine as a source of news.⁵¹ These figures make it apparent that the Palestinian Authority has the ability to influence a very large sector of Palestinian society.

As head of the PLO Executive Committee, Abbas also controls the Palestinian news agency, Palestine News and Information Agency (WAFA). The Palestinian Authority also places its official daily newspaper *Al-Hayat Al-Jadida* under Abbas' "intimate patronage."⁵² Besides *Al-Hayat Al-Jadida*, the other two most widely circulated newspapers are also considered pro-government and pro-Fatah; *Al-Quds*⁵³ is privately owned by the Abu Zalat family, which has close ties to the Palestinian Authority, and the editor-in-chief of *Al-Ayyam* was an unofficial advisor to Yasser Arafat.⁵⁴

⁴⁷ "About Palestinian media." *Palwatch*. Palestinian Media Watch. Available at <http://palwatch.org/main.aspx?fi=914> accessed on December 9, 2015

⁴⁸ Ibid "Assessment of Media Development in Palestine" p.71.

⁴⁹ Ibid p. 70.

⁵⁰ Interview with D., Ramallah, November 24 2015.

⁵¹ "Palestinian Central Bureau of Statistics - State of Palestine." *Palestinian Central Bureau of Statistics - State of Palestine*. Palestinian Central Bureau of Statistics, 3 Mar. 2015. Available at <http://www.pcbs.gov.ps/site/512/default.aspx?tabID=512&lang=en&ItemID=1342&mid=3171&wversion=Staging> accessed on December 9, 2015

⁵² "PA daily under "intimate patronage" of Abbas and is 'national media'" *Palwatch*. Palestinian Media Watch, 8 May 2015. Available at http://palwatch.org/main.aspx?fi=914&doc_id=15044 accessed on December 9, 2015

⁵³ "Pro-Fatah Al-Quds newspaper enters Gaza." *Alray*. Palestinian Media Agency, 7 May 2014. Available at <http://alray.ps/en/index.php?act=post&id=4264#.VZJNrOcrhpK> accessed on December 9, 2015

⁵⁴ Khatib G. *Palestinian Politics and the Middle East Peace Process: Consensus and Competition in the Palestinian Negotiating Team*, p.109, Routledge, 2011

Additionally, in April 2014, a committee of journalists selected from within the WAFA agency, the PA radio and television channels and the *Al-Hayat Al-Jadida* newspaper raised the issue of “the collective agreements in the governmental media institutions.”⁵⁵ This committee protested against the media conglomerate, controlled by the Fatah party, which monopolizes the journalistic scene in the West Bank. In May 2015, president Mahmoud Abbas decided to take the newspaper *Al-Hayat Al-Jadida* “under his wing”⁵⁶. *Al-Hayat Al-Jadida*’s editor-in-Chief Mahmoud Abu Al-Hija has praised this decision stating: “it is not the patronage of an official newspaper but of the national media... [that will express] Palestinian collective consciousness, and serve the truth.”⁵⁷ This example illustrates how Fatah influences and puts pressure on the media in the West Bank.

Hamas Media

Hamas also pays close attention to the media and owns several media outlets in Gaza, most of which were established after Hamas’ victory in the 2006 elections. These outlets include two newspapers: *Al-Resala* and *Felesteen*. The latter was issued for the first time on June 3, 2007, which also happens to be World Press Freedom Day.⁵⁸ Hamas also operates a satellite TV channel, Al-Aqsa TV, which began broadcasting in the Gaza Strip in January 2006. The TV channel is headed by Fathi Ahmad Hammad, the chairman of Al Ribat Communications and Artistic Productions, a Hamas-run company that also produces Hamas’ radio station, *Voice of Al Aqsa*, and its biweekly newspaper, *The Message*.⁵⁹

Other media outlets in Gaza include a number of local FM radio stations, local news agencies and websites, and Hamas’ second satellite TV channel⁶⁰, *Al-Quds TV*, launched on November 11, 2008. On *Al-Quds*’ first day of broadcasting, a program aired and commented on the editorial line of Hamas’ media, condemning its political rival, Fatah. Furthermore, the program broadcasted Hamas leader Khaled Mashal’s eulogy of Arafat

⁵⁵ “About Palestinian media.” *Palwatch*. Palestinian Media Watch. Available at <http://palwatch.org/main.aspx?fi=914> accessed on December 9, 2015

⁵⁶ “PA daily under “intimate patronage” of Abbas and is ‘national media’” *Palwatch*. Palestinian Media Watch, 8 May 2015. Available at: http://palwatch.org/main.aspx?fi=914&doc_id=15044 accessed on December 9, 2015

⁵⁷ *Ibid.*

⁵⁸ “Felesteen, a new Hamas-associated daily newspaper”, The Meir Amit Intelligence and Terrorism Information Center, 14 May 2007. Available at <http://www.terrorism-info.org.il/en/article/18624> accessed on December 9, 2015

⁵⁹ “Hamas Expands Reach Through Media.” Anti-Defamation League, 24 November 2008. Available at http://archive.adl.org/main_terrorism/al_quds_tv.html#.VYvY-ecrhpm accessed on December 9, 2015

⁶⁰ Legrain, Jean-François. “Palestine : Les Médias.” 2 May 2013. Available at <http://www.mom.fr/guides/palestine/pales005.htm> accessed on December 9, 2015

in which he claimed that “Zionists and their proxies poisoned the former Palestinian Authority leader.”⁶¹

Using the media to express criticism against any political party is usually part of constructive debate in society. However, Hamas employs significant effort to pressure media outlets into adopting its political line. For instance, the party tried to control the Fatah-led Palestinian Journalists Syndicate in Gaza by forming its own board of directors. The attempt nonetheless failed, after the board, composed of journalists affiliated with Hamas and Islamic Jihad, resigned.⁶²

Promotion of Plurality

As stated in the UNESCO report, the priorities for public station broadcasting should be “ensuring the provision of balanced and impartial content, providing comprehensive news and current affairs programming, and offering programming which reflects the diversity of political, social, economic and cultural development in Palestinian society.” However, there has been wide spread criticism as to what degree the public broadcasting in Palestine attempts to uphold the above stated standards.

In 2010, President Abbas passed the Presidential Decree No. 2 that sets out a list of objectives for PBC programming. The Decree states:

[It] [s]eek[s] to achieve the following objectives:

Provide efficient radio and TV broadcasting services and ensure that these are devoted to the service of the homeland and the public interest within the framework of the authentic values and traditions of the Palestinian people.

Support national unity and social peace, safeguard the dignity and freedoms of individuals, and work towards the dissemination of a democratic national culture.

Raise public awareness of Palestinian, Arab and world history and heritage.

Inform and educate the public, develop their knowledge and artistic taste, and provide purposeful entertainment to them through various types of television programming.

Address public issues, contribute to expressing the demands and problems of the public, and support their right to express opinions, participate and obtain information.

⁶¹ “Hamas Expands Reach Through Media.” Anti-Defamation League. Available at http://archive.adl.org/main_terrorism/al_quds_tv.html#.VYvY-ecrhpm accessed on December 9, 2015

⁶² Balousha, Hazem. "Hamas to Launch New Satellite TV Channel - Al-Monitor: The Pulse of the Middle East." *Al-Monitor*. 01 Apr. 2014. Available at <http://www.al-monitor.com/pulse/fr/originals/2014/04/hamas-alrai-satellite-tv-channel-media.html> accessed on December 9, 2015

In their collaborative report, the Public Service Broadcasting in the MENA Region, the Panos Paris Institute, and the Mediterranean Observatory of Communication were extremely critical of the Presidential Decree and of the general effort put forward by the Palestine Authority (PA) to foster and promote pluralism.⁶³

The report expresses concern over the lack of legislation to regulate program diversity, which is evidenced by the “death of sports, economic, social, and artistic shows, especially when compared to the abundance of political programs”.⁶⁴ Though this is a natural response for a state in its position, that fact does not absolve them from this clear breach of the right of Palestinians to free and unbiased information. Furthermore, it is of great concern that there exists no mechanism designed to ensure the impartiality and independence of these frequent news programs from the Palestinian Authority (PA).⁶⁵ The report concludes that the “Presidential Decree No. 2 of 2010 contains a number of lofty ideals with respect to content on Palestine TV (e.g. pluralism, professionalism, national production, etc.). However, neither the decree itself nor related documents contain concrete steps or mechanisms which can help translate these ideals into actual programming that can fulfil a public service mission.”⁶⁶

There is no independent media (newspapers, television, or radio) under the Palestinian Authority. Their independence can only be financial, [by] avoiding being funded by the government.⁶⁷

Equal Treatment of Public and Private Media Outlets

Although there is both private and public media, in practice private media cannot act in a completely independent and neutral way because Palestinian journalists are often paid by the Palestinian Authority.⁶⁸

The practice of the Palestinian Authority (PA) of providing preferential treatment to public media in regard to the “rapid access of information and its dissemination, priority in news coverage, or even exclusive right to access to certain events”⁶⁹ is extremely alarming. This practice, which occurs frequently in both the West Bank and Gaza, often forces private journalists to rely on public media outlets for second hand information on current events. Similarly, private TV stations often resort to replaying

⁶³ "Public Service Broadcasting in the MENA Region: Potential for Reform". *Institute PANOS Paris and Observatoire Méditerranéen de la Communication*, 2013, p.56. Available at <http://iwsaw.lau.edu.lb/publications/documents/PSB-Book.pdf> accessed on December 9, 2015

⁶⁴ Ibid p.74

⁶⁵ Ibid p.74-75

⁶⁶ Ibid p.76

⁶⁷ Interview with I., Jerusalem, August 12, 2015.

⁶⁸ Interview with Abu Tomer, 15 July 2015.

⁶⁹ "Assessment of Media Development in Palestine" p. 52.

broadcasts on restricted events or activities from public television stations like Palestinian TV.⁷⁰ This represents a serious breach in the rights of the Palestinian media to access and distribute information to Palestinian people. It also presents an opportunity for public media to manipulate the portrayal and presentation of current events before they are released to the public and private media outlets.

As quoted above, media is not completely independent, nor is non-state owned media. However, the control of media is rather indirect. If a journalist working for a private media publishes something against the government, his media company is harassed until the journalist is fired. If a journalism student criticizes the government, it will be more difficult for him to find a job.⁷¹

Foreign Journalists

Foreign correspondents in the Palestinian territories are not given any sort of preferential treatment. As a matter of fact, foreign journalists need a Palestinian fixer, another local journalist who makes the work possible, to act as a translator and also to protect the journalist. But a fixer can also influence how the news is to be reported and how it should be written. In a few words, there is no autonomy for foreign journalists. An additional problem for foreign journalists is the split between the West Bank and Gaza. In Gaza, they are more pressured, and they feel less free than in the West Bank.⁷²

In a statement published on August 15, 2014, the Foreign Press Association (FPA) protested against “blatant, incessant, forceful and unorthodox” intimidation of journalists in Gaza by Hamas. Harassment of foreign reporters is intended to deny readers and viewers “an objective picture from the ground.” Hamas’ press abuses compel journalists to leave Gaza before being able to report news.⁷³

For instance, in July 2014, Italian journalist Gabriele Barbati left Gaza before reporting on a Hamas misfire that killed nine children at the Shati camp. He wrote on Twitter: “Out of #Gaza far from #Hamas retaliation: misfired rocket killed children yday [yesterday] in Shati. Witness: militants rushed and cleared debris.”⁷⁴

Similarly, Tamer El-Ghobashy, a Middle East correspondent for the *Wall Street Journal* based in Cairo, tweeted a photo of rubble with the explanation: “An outside wall on the campus of Gaza’s main hospital was hit by a strike. Low level damage suggests Hamas misfire.” Soon after, the reporter deleted the tweet and replaced it with the same photo and the text: “The outer wall of Gaza City’s main hospital was struck. Unclear

⁷⁰ Ibid.

⁷¹ Interview with D., Ramallah, November 24, 2015.

⁷² Interview with K., Jerusalem, October 25, 2015.

⁷³ Foreign Press Association Statements in 2014. Available at <http://www.fpa.org.il/?categoryId=101307> accessed on December 7, 2015

⁷⁴ Available on <https://twitter.com/gabrielebarbati/status/494131918732926976> accessed on November 24, 2015.

what the origin of the projectile is.” The *Jerusalem Post* reported that El-Ghobashy modified his tweet because it was speculative.⁷⁵

Israeli filmmaker Michael Grynszpan posted on Facebook a discussion with a Spanish journalist reporting from Gaza on July 30, 2014. Grynszpan asked the journalist why foreign television channels never show footage of armed Hamas people. The journalist answered: “It’s very simple, we did see Hamas people there launching rockets, they were close to our hotel, but if ever we dare pointing our camera on them they would simply shoot at us and kill us.”⁷⁶

In yet another example of suppression of the press, French-Palestinian journalist Radjaa Abou Dagga wrote on July 24, 2014 in the French newspaper *Libération* that he was detained and questioned by members of Hamas’s Al-Qassam Brigade in the Al-Shifa hospital. He was forced to leave the Gaza Strip without his papers immediately.⁷⁷

In addition to inflicting physical abuse on journalists, Hamas also restricts freedom of information by mandating that journalists hold press cards. The Hamas press office said that the new directives were aimed at “facilitating and organizing the mission of our foreign colleagues.” Journalists are also required to provide their address of residence in Gaza and information about their Palestinian translators and guarantors. One might ask whose mission is this directive facilitating: foreign journalists’ or Hamas security? Journalists constantly feel under surveillance and as a result they do not feel free themselves, which results in alterations of their reports. The UN Special Rapporteur also stresses the difficulties that foreign journalists face in Gaza, with arrests and intimidations over both local and foreign journalists.⁷⁸

Protection of Sources

The confidentiality of sources is absolutely necessary for the press to report with essential accuracy on sensitive topics. Without this inherent right, it would be extremely difficult for sources whose testimonies may endanger their safety, to cede important information to the media. This right is specifically addressed and protected in the Press and Publication Law of 1995 whose Article 4 (b) states that “the right of the press, news agency, editor and journalist to keep sources of information and news confidential unless the court decides otherwise to protect national security or stop a crime or serve justice.” In spite of the written law, in practice this basic press right is

⁷⁵ Harkov, L. “Journalists threatened by Hamas for reporting use of human shields.” Available at <http://www.jpost.com/Operation-Protective-Edge/Journalists-threatened-by-Hamas-for-reporting-use-of-human-shields-369619> accessed on December 3, 2015.

⁷⁶ Available at <https://www.facebook.com/michael.grynszpan/posts/10152140390486065> accessed on December 5, 2015.

⁷⁷ This article is no longer available.

⁷⁸ “Report of the Special Rapporteur on the right to freedom of opinion and expression”, p. 16.

not respected by the Palestinian Authority. Both journalists and sources can be subject to reprisals; there is no protection for any of them.⁷⁹

In any case, journalists are allowed to reveal sources under some cases, and always when ordered by a court. It has been reported that in recent times journalists are forced to confess their sources when pressed by prosecutors and to some extent, the problem derives from the unclear legal framework where the 1960 Jordanian Penal Code is still in force along with the Palestinian Basic Law. The norms are contradictory.⁸⁰

Censorship and self-censorship

According to a source, in the past three years the situation has deteriorated for citizens and journalists, and government has closed offices of journalists opposed to the Palestinian Authority and journalism students face a crackdown in the University. The fear of reprisals has created an atmosphere of self-censorship.⁸¹

Officially, there is no censorship⁸² under the Palestinian Authority, but many journalists are arrested and imprisoned for months without trial for publishing their opinions, and both journalists and citizens restrain themselves from publicly expressing their opinions.⁸³ In other words, there is no pre-censorship, a revision of documents prior to publication, but punishment after the fact, for the antagonizing content on media, causing self-censorship.⁸⁴ Other journalists have come to the same conclusion, finding that there is no direct censorship but that journalists try to refrain from writing about certain topics or care strongly about the language they use.⁸⁵ Two informants, both university professors, revealed that they could speak about any topic or for them it was easy to speak out. If this is true, it seems that a higher status in society grants more freedom. It is important to remember that human rights are consubstantial to human nature, and they are for everyone in every occasion.⁸⁶

Without a doubt, reporting on corruption is a forbidden issue, as well as some other red lines: the President and his family, and criticism towards allied countries.⁸⁷ In

⁷⁹ Interview with L., Ramallah, November 24, 2015.

⁸⁰ Zeidan B., *"The state of press freedom in Palestine"*, Al Monitor, 18 December 2013. Available at <http://www.al-monitor.com/pulse/politics/2013/12/press-freedom-palestine-journalists.html> accessed on December 6, 2015

⁸¹ Interview with D., Ramallah, November 24 2015.

⁸² There is no censorship as a previous control before publication.

⁸³ Interview with A., Jerusalem, June 12 2015.

⁸⁴ Interview with B., Ramallah, October 13, 2015.

⁸⁵ Interview with K., Jerusalem,, October 25, 2015 and Interview with X., Ramallah, November 25, 2015.

⁸⁶ Interview with C., Ramallah, November 23, 2015. and Interview with Y., Ramallah, November 24, 2015

⁸⁷ Interview with B., Ramallah, October 13, 2015

addition,⁸⁸ corruption is considered by S, to be the key challenge for human rights in Palestine, up to the point of saying that the current problems on human rights, as well as the economy, derive from the corrupt system.⁸⁹ During an interview with M, he expressed the fear of NGOs to act freely, both in the West Bank and Gaza, under threat of being shut down. This fact also produces self-censorship.⁹⁰

Regarding the consequences of being censored, those who are targeted endure arrests, detentions, and in certain cases, they can be dismissed from their jobs. That applies not only to journalists, but also to citizens who exercise their freedom of expression.⁹¹ Additionally, during detentions it is common to suffer torture, both in the West Bank and Gaza.⁹² In April 2015, media student Bara Alqadi was kidnapped and beaten for posting a satiric criticism about President Abu Mazen. He had been arrested the year before for writing press reports and comments on Facebook.⁹³ Neither the university as an institution nor university professors can protect students.⁹⁴

West Bank

In June 2015, a Palestinian journalist, Youssef Al-Shayeb, was prosecuted for conducting and publishing some research concerning a case of corruption in the Palestinian embassy in France three years earlier. Again, the reason for trial was for reporting on corruption.⁹⁵

In the first quarter of 2014, it was reported that there exists mutual prohibition on media between the West Bank and Gaza, whereby certain forms of media from Gaza are prohibited in the West Bank, and vice versa. Thus, in the West Bank, they banned the printing and distribution of *Palestine* and *al-Risala* newspapers.⁹⁶

In January 2014, Palestinian Security Forces detained two photographers, Samer Nazzal and Shadi Hatem during the re-opening of the main road in northern Ramallah. Because of some protests, the road had been closed. The photographers were released

⁸⁸ Corruption in the Palestinian Authority is a serious problem, which caused loss of aid of about 2 billion dollars in the period 2008-2012, according to an EU study. *Corruption in the Palestinian Authority*, MEMO. Middle East Monitor, December 2013, p. 4. Available at www.middleeastmonitor.com accessed on December 2, 2015

⁸⁹ Interview with S, 14 June 2015.

⁹⁰ Interview with M, 12 July 2015.

⁹¹ Interview with L., Ramallah, November 24, 2015.

⁹² Interview with Q., Ramallah,,15 July 2015.

⁹³ MADA: *Kidnapping media student in Ramallah*. Available at http://www.madacenter.org/report.php?id=1542&category_id=6&lang=1 accessed on December 8, 2015

⁹⁴ Interview with D., Ramallah, November 24, 2015.

⁹⁵ Palestinian Journalist "Youssef Al-Shayeb" Still Prosecuted, The Arabic Network for Human Rights Information, 18 June 2015. Available at <http://anhri.net/?p=145819&lang=en> accessed on December 3, 2015

⁹⁶ "Report on the Human Rights situation in the oPt", Palestinian Centre for Human Rights, p. 21.. Available at <http://www.pchrgaza.org/files/2014/Quarter%20-english-2014.pdf> accessed on November 1, 2015

after the content of their cameras was deleted.⁹⁷ Later this year, the reconciliation between Fatah and Hamas led them to sign the al-Shati agreement, including the publication of the aforementioned newspapers in both areas, but the situation deteriorated and the violation of this right continued.⁹⁸

In June 2014, Security Forces beat some journalists and destroyed their material, while they were covering a peaceful protest. In the same month, new attacks on journalists were reported including the destruction of their cameras. This time the journalists were in a demonstration organized by the Journalists Syndicate, ironically, to protest against the treatment of media by the Palestinian Security Forces.

As one of the informants stated, in the West Bank journalists are arrested and judged by military courts, but the censorship is exerted also by the population, or by religious citizens.⁹⁹ In those cases, the State must act to protect freedom.

Gaza

As mentioned above, in the first quarter of 2014, Gazans could not access several newspapers based in the West Bank, such as *al-Quds*, *al-Hayat al-Jadeeda* and *al-Ayyam*.¹⁰⁰

Journalists were the specific victims of censorship. In May 2014, police officers beat radio journalist Yousef Hammad while interviewing civilians who were protesting against the quality of life in the Strip. In June, two policemen stole Dubai TV correspondent Bassam al-Madhoun's laptop apparently as an act of censorship.¹⁰¹ Also in June 2014, four journalists covering a non-violent protest, were beaten with sticks by Security Forces.¹⁰²

In Gaza, the situation is worse for journalists, because they are not only arrested, but also beaten without trial. The situation is worse than in the West Bank.¹⁰³ But B stated also that the differences between both territories are slight.¹⁰⁴ For a journalist, it is possible to criticize Hamas, on the condition that he criticizes Fatah for a longer period of time.¹⁰⁵

⁹⁷ Ibid., p. 21.

⁹⁸ "Annual report 2014, Palestinian Centre of Human Rights", Palestinian Centre for Human Rights, p. 19-20. Available at http://www.pchrgaza.org/files/2015/annual_pchr_eng_2014.pdf accessed on November 1, 2015

⁹⁹ Interview with I., Jerusalem, August 12, 2015

¹⁰⁰ "Report on the Human Rights situation in the oPt", Palestinian Centre for Human Rights, p. 21. Available at <http://www.pchrgaza.org/files/2014/Quarter%20english-2014.pdf> accessed on November 1, 2015

¹⁰¹ "Annual report 2014, Palestinian Centre of Human Rights", Palestinian Centre for Human Rights, p. 110. Available at http://www.pchrgaza.org/files/2015/annual_pchr_eng_2014.pdf accessed on November 3, 2015

¹⁰² Ibid, p. 110-111.

¹⁰³ Interview with I., Jerusalem, August 12, 2015.

¹⁰⁴ Interview with B., Ramallah, October 13, 2015

¹⁰⁵ Interview with O., Jerusalem, June 12, 2015.

Garments are taken as a freedom of expression, especially when religious clothing is banned or imposed. In February 2014, hospitals in Gaza obliged female workers to wear hijab, tie their hair back, and wear long coats below the knee.¹⁰⁶



Freedom of Expression on the Internet

Like other countries around the world, Palestinians use social networks to share their experiences with friends and relatives, but also to express their opinions on a wide range of topics. Politics is unquestioningly included among these topics. However, this is a subject of discussion strongly limited by the Palestinian government. Naturally, criticizing the PA is taboo; however, a citizen's comments which praise or compliment Palestinian officials are perfectly acceptable. It has been reported that within the Palestinian security forces there is a special unit in charge of monitoring and controlling social networks on the Internet.¹⁰⁷ Some cases of arrest have been reported after criticizing President Abbas' sons or even the King of Saudi Arabia. So while informants speak out about red lines, they do so carefully, again indicating the presence of self-censorship.¹⁰⁸

In March 2014, Ayman Ghazi al-'Aloul was detained for several hours for publishing a video on Facebook in which he criticized a festival organized by Hamas. He was later released.¹⁰⁹

In February 2013, 26-year-old Anas Awwad was sentenced to one year in prison in absentia¹¹⁰ for publicizing a prank on President Abbas.¹¹¹ The same comment would have gone unnoticed in other countries and would be taken as freedom of expression. The same case was quoted during interviews with E. and I., as an example of the violation of freedom of expression.

¹⁰⁶ "Report on the Human Rights situation in the oPt", Palestinian Centre for Human Rights, p. 24.. Available at <http://www.pchrgaza.org/files/2014/Quarter%20-english-2014.pdf> accessed on November 2, 2015

¹⁰⁷ Interview with L., Ramallah, November 24, 2015.

¹⁰⁸ Interview with X., Ramallah, November 25, 2015.

¹⁰⁹ "Report on the Human Rights situation in the oPt", *Palestinian Centre for Human Rights*, p. 21. Available at <http://www.pchrgaza.org/files/2014/Quarter%20-english-2014.pdf> accessed on November 1, 2015

¹¹⁰ "Palestine's Democratic Deficit", *The New York Times*, 12 February 2013. Available at http://www.nytimes.com/2013/02/12/opinion/palestines-democratic-deficit.html?hp&_r=4& accessed on October 28, 2015

¹¹¹ The Facebook user called Abbas the "new striker of Real Madrid", following Abbas visit to FC Barcelona, the Spanish soccer team. From "Make fun of Mahmoud Abbas at your peril", *Al Jazeera*, 13 February 2015. Web 28 Oct. 2015, Available at <http://www.aljazeera.com/indepth/opinion/2013/02/201321261532152376.html> accessed on October 28, 2015

According to I.,¹¹² security forces can persecute and beat journalists and internet users who are critical of the authorities, but on the Internet it is more difficult for censorship to have effect and one can have more freedom than on non-digital media.

Freedom of Expression and Political Parties

Political parties play a main role in the public scene. As private associations with a public interest, they bear different ideologies to public institutions. In fact, they are an archetype of freedom of expression. In Palestine, there is a lack of freedom to create a political party that is critical of the government, as stated by M. in an interview.¹¹³ On other occasions, citizens are free to create a new party, but not free to speak out or publish their activities. Nonetheless, it is recognized that there are more parties, other than Fatah and Hamas in the Palestinian territories, who are free to express themselves, as long as they do not cross the red lines (for instance, criticizing President Abbas). Therefore, they are not truly free.¹¹⁴ The rivalry between Fatah and Hamas limits the freedom of those parties in the territories, and they face arrests.¹¹⁵

Some events threatening freedom of speech for political parties occurred in the West Bank during 2014. In February, dozens of members of a political party, the Islamic Liberation Party, were arrested after they published a statement criticizing President Abbas. The Public Prosecution accused them of inciting the public to fight against the Palestinian Authority. The response of Palestinian courts was unlawful and disproportionate, releasing some of them and keeping others in detention. In March, Ahmed Melhem and Ahmed Zaki, two members of the local Watan TV were prevented from covering both a religious sermon organized by the same party and the attacks that followed carried out by the security forces against civilians. Police also arrested journalists and released them later on.¹¹⁶

In Gaza, some civilians created a social movement in 2010, similar to a political party, but due to harassment from officials and attacks towards them and their families, its members stopped their activities.¹¹⁷

¹¹² Interview with I., Ramallah, August 12, 2015.

¹¹³ Interview with M, Jerusalem, July 12, 2015

¹¹⁴ Interview with Q., Jerusalem, July 15, 2015

¹¹⁵ Interview with B., Ramallah, October 13, 2015

¹¹⁶ "Annual report 2014, Palestinian Centre of Human Rights", *Palestinian Centre for Human Rights*, p. 111. Web. 3 Nov. 2015. <http://www.pchrgaza.org/files/2015/annual_pchr_eng_2014.pdf>

¹¹⁷ Interview with Asmaa Aghdoul, July 2015.

Part II: Propaganda and Incitement



Legal Framework

International Law

In the International Covenant on Civil and Political Rights (ICCPR), Article 19, pertaining to the freedoms of expression, open information, and the press, is followed by an article that is similar in nature. Article 20 states the following:

Any propaganda for war shall be prohibited by law.

Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.¹¹⁸

This article though short in length provides a very broad standard of international law relating to incitement and propaganda. The High Commissioner for Human Rights stated in General Comment 11: “In the opinion of the Committee, these required prohibitions are fully compatible with the right to freedom of expression as contained in Article 19, the exercise of which carries with it special duties and responsibilities.”¹¹⁹ In this respect, it is important to consider Article 20 very much connected to the statutes of Article 19, specifically Article 19(3).

The High Commissioner stated, “for Article 20 to become fully effective there ought to be a law making it clear that propaganda and advocacy as described therein are contrary to public policy and providing for an appropriate sanction in case of violation.” This section of the report will focus on the violations of Article 20, specifically of Section (2), by the Palestinian Authority.

Though this Covenant makes it illegal for a government to allow private institutions to violate Article 19, this report will focus on violations committed solely by the Palestinian Authority in an official capacity either through government officials or through government-funded entities. We also consider public comments or statements and incitement of hate speech, made by individuals or groups, with complete impunity.

Related to Articles 19(3) and 20 of the International Covenant for Civil and Political Rights, another International Human Rights Treaty was ratified by the Palestinian Authority in 2014, the International Convention on the Elimination of All Forms of Racial Discrimination. Several articles urge action in accordance with the Treaty.

¹¹⁸ Ibid. International Covenant on Civil and Political Rights 1976.

¹¹⁹ General Comment No. 11. Article 20 (Prohibition of propaganda for war and inciting national, racial or religious hatred), Office of the High Commissioner for Human Rights, Human Rights Committee, Nineteenth Session, 29 July 1983.

Article 2(1):

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
- (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
- (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
- (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and

shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

And finally, Article 7 states:

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

Domestic Law

Not a single article bans hate speech in Palestinian Basic Law. On the contrary, it seems that freedom of expression is unlimited, if Article 19 is interpreted literally. It only establishes at the end of the article “with due consideration to the provisions of the law,” a very open clause, which can be understood in many ways. Therefore, the PA does not comply with the provisions of the ICCPR, articles 19(3) and 20. Moreover, a doubt arises from the reading of Article 22(2) of Palestinian Basic Law, whose wording is as follows:

“Maintaining the welfare of families of martyrs, prisoners of war, the injured and the disabled is a duty that shall be regulated by law. The National Authority shall guarantee these persons education, health and social insurance.”

Thus, the PA protects martyrs and prisoners of war. But who are these martyrs and prisoners? According to the official terminology, martyrs are those who attack Israelis.¹²⁰ This is a sample of legal incitement to hatred, where the law serves as an incentive to attempt attacks against Israelis, taking into account the official legal protection bestowed.¹²¹

Incitement by Media

As one of the informants reported, media in Palestine undermines Israel itself, referring to the cities of Haifa or Beersheva as “settlements”, and Palestinian media also

¹²⁰ “Israel: Palestinian leader inciting violence over false death claim”. Web 20 Oct. 2015. Available at <http://www.cbsnews.com/news/israel-palestinian-president-mahmoud-abbas-inciting-violence-false-death-claim-teenage-boy/> accessed on October 20, 2015

¹²¹ Palestinian Law of Prisoners 2004/19. For more and updated information, see <http://www.palwatch.org/main.aspx?fi=1005> accessed on December 20, 2015

overstates the damages caused by Israel.¹²² Another informant was adamant in claiming that Palestinian media calls Israel the enemy and continuously calls for public opinion to reflect hatred towards Jews and Israelis but for the attitude of the PA to remain passive.¹²³

West Bank

Palestine TV is accused of broadcasting anti-Israeli, anti-Semitic, and anti-Western propaganda and incitement to hatred.¹²⁴ In November 2015, a Palestinian media outlet called a group of Jews who visited the Temple Mount “settlers,” while the Temple Mount is definitively a holy site for Judaism.¹²⁵ Also in November 2015, Palestine TV broadcasted a song that promoted “martyrdom” (euphemism for committing attacks against Israelis).¹²⁶

Gaza

A TV program for Gazan children, aired in Bahrain, encourages children to commit attacks and die as “martyrs,” according to the official terminology. On the video, children sing a song whose lyrics are “when we die as martyrs, we will go to heaven [...]. The martyr is Allah’s favourite.”¹²⁷

On Al-Aqsa TV, the Hamas channel, a character for children called “Nahul the Bee” (an adult in a giant bee costume) teaches children how to fight against Jews and encourages kids to shoot all the Jews.¹²⁸

Incitement by Religious and Government Officials

West Bank

As one of the informants said, the PA is not against incitement. If it appears as though they try to curb incitement, it is because the PA fears that donor countries could cut their aid.¹²⁹ Q. explained that religious leaders strongly encourage hating Israelis, Jews, and even those Arabs who sell portions of land to Jews.¹³⁰

¹²² Interview with O., Jerusalem, June 12, 2015.

¹²³ Interview with Q., Ramallah, July 15, 2015.

¹²⁴ Interview with Q., Ramallah, July 15, 2015.

¹²⁵ “Jewish settlers, rabbis storm Jerusalem’s al-Aqsa Mosque”, Donia Al-Watan, 26 November 2015. Available at <http://english.alwatanvoice.com/news/2015/11/26/820446.html> accessed on December 10, 2015

¹²⁶ “PA encourages Palestinians to die as Martyrs”, 17 November 2015. Available at http://www.palwatch.org/main.aspx?fi=157&doc_id=16270 accessed on December 20, 2015

¹²⁷ “When we die as martyrs- Palestinian Children”, Video posted on 15 June 2010. Available at <https://www.youtube.com/watch?v=illF1vt5g1Q> accessed on December 13, 2015

¹²⁸ “Hamas to kids: Shoot all the Jews”, 2 May 2014. Available at http://www.palwatch.org/site/modules/videos/popup/video.aspx?doc_id=11385 accessed on December 20, 2015

¹²⁹ Interview with Q., Ramallah, July 15, 2015.

¹³⁰ Interview with Q., Ramallah, July 15, 2015.

In December 2015, an official Palestinian Authority TV host explained to children that Israel will disappear, that the land is “theirs,” and that it will return to them.¹³¹ In October 2015, a Palestinian preacher called for restoring the Caliphate and exterminating the Jews in a public speech.¹³²

In an interview on Palestine TV in September 2015, the President of the Palestinian Authority himself called for violence, praising “every drop of blood spilled in Jerusalem. This is pure blood... every shaheed (martyr) will be in Heaven and every wounded will get his reward.” He also stated that the Al-Aqsa mosque and the Church of Holy Sepulchre are theirs and “they [the Jews] have no right to desecrate them with their filthy feet, and we won’t allow them to.”¹³³

In March 2015, a Palestinian Authority TV host and Muslim Imam stated on TV some defaming comments against Jews, affirming that “If a fish in the sea fights with another fish, I am sure the Jews are behind it,” and saying that the Jews are corrupt.¹³⁴

In January 2015, Palestinian ambassador to India and regular commentator on *Al-Hayat Al-Jadida* newspaper expressed his “joy” for the action carried out by Hezbollah against Israeli soldiers and “hoped” that more soldiers were captured.¹³⁵

Gaza

One of the informants explained his opinion about Jews when living in Gaza and how he changed his mind when during imprisonment he discovered that the IDF (Israeli Defence Forces) treat detainees with humanity and respect their rights. His misunderstanding was due to indoctrination in Gaza as a child. He stated he was taught to hate all Jews.¹³⁶ Another informant described the military camps for children ruled by Hamas, where they learn how to carry weapons and use them to attack Jews and Christians.¹³⁷

In October 2015, Hamas cleric and TV anchor Sheikh Iyad Abu Funun made a public speech calling Jews to be “more Nazi than Hitler” and denying the Holocaust with libel

¹³¹ “Official PA TV to kids: Israel will cease to exist”, 16 December 2015. Available at http://www.palwatch.org/main.aspx?fi=157&doc_id=16646 accessed on December 20, 2015

¹³² “Palestinian Preacher at Al-Aqsa Mosque Rally Calls to Restore the Caliphate, Annihilate the Jews”, 24 October 2015. Available at <http://www.memri.org/clip/en/0/0/0/0/0/5129.htm> accessed on December 20, 2015

¹³³ “Chairman PA Abbas incites to violence in Jerusalem”, *Media Reprints*, 28 September 2015.. Available at <http://israelbehindtheneews.com/pa-chairman-abbas-incites-to-violence-in-jerusalem/13707/> accessed on December 10, 2015 Also on: *Abbas: “We welcome every drop of blood spilled in Jerusalem.* <https://www.youtube.com/watch?v=VfZHWJz7M>

¹³⁴ PA TV host and Muslim preacher: “If a fish in the sea fights with another fish... the Jews are behind it”, 22 March 2015. Available at http://palwatch.org/main.aspx?fi=157&doc_id=14346 accessed on December 20, 2015

¹³⁵ “PLO Ambassador expresses joy over Hezbollah bombing”, 30 January 2015. Available at http://palwatch.org/main.aspx?fi=157&doc_id=13836 accessed on December 20, 2015

¹³⁶ Interview with Khalil Sayrgh, 19 April 2015.

¹³⁷ Interview with Khalid, 17 May 2015.

comments. Holocaust denial is also hate speech, trying to silence the murder of more than six million people for the sole reason of being born.¹³⁸

In September 2014, a Hamas leader called Mahmoud al-Zahar, reportedly gave a speech full of anti-Israeli and anti-Semitic references. Among other comments, he justified the Holocaust saying that “German Jews had betrayed their country.” He also referred to Jews as “scum.” It was not the first anti-Semitic speech made by this official, and he even wrote a strongly anti-Semitic book in 2008.¹³⁹

In August 2012, Ahmad Bahr, Hamas deputy speaker of the Parliament in Gaza, requested that God kill the Jews, Americans, and any person who supports them. He said, “Count them one by one, and kill them all, without leaving a single one.”¹⁴⁰ No one condemned his statement and nor was he arrested for incitement.

Incitement on the Internet

During October and November 2015, some Facebook users self-identified as UNRWA workers, publishing different posts where they encouraged others to perform attacks or praised terrorists glorifying them and calling them “martyrs.” One user even called Jews “apes and pigs.”¹⁴¹ Some others also called for violence (for instance, pleading for stabbing “Zionist dogs”) or mocked stabbings.¹⁴²

West Bank

After the terror attacks in Paris in November 2015, a Fatah official account on Facebook posted two cartoons showing that Israel was behind the attacks along with the terrorist

¹³⁸ “Hamas Cleric and TV Host Iyad Abu Funun: The Zionists Are More Nazi than Hitler”, *The Middle East Media Research Institute. Antisemitism Documentation Project*, 29 October 2015. Available at <http://www.memri.org/clip/en/0/0/0/0/0/5152.htm> accessed on December 14, 2015

¹³⁹ “At memorial ceremonies for Gazans killed in Operation Protective Edge, Mahmoud al-Zahar reiterated his vicious anti-Semitic theory, intended to justify attacks on Jews and the destruction of the State of Israel”, *The Meir Amit Intelligence and Terrorism Information Center*, 21 October 2014. Available at <http://www.terrorism-info.org.il/en/article/20720> accessed on December 13, 2015

¹⁴⁰ “Palestine’s Democratic Deficit”, *The New York Times*, 12 February 2013. Available at http://www.nytimes.com/2013/02/12/opinion/palestines-democratic-deficit.html?hp&_r=4& accessed on October 28, 2015

¹⁴¹ “Despite UNRWA Promises, Teachers Again Inciting to Violence Against “Jewish Apes and Pigs”, *UN WATCH*, 30 November 2015. Available at <http://israelbehindtheneews.com/report-despite-unrwa-promises-teachers-again-inciting-to-violence-against-jewish-apes-and-pigs/14091/> accessed on December 9, 2015

¹⁴² “UN Officials Inciting Murder of Jews, Call to “Stab Zionist Dogs”, *Media Reprints*, 22 October 2015. Available at <http://israelbehindtheneews.com/report-un-officials-inciting-murder-of-jews-call-to-stab-zionist-dogs/13889/> accessed on December 9, 2015

group ISIS.¹⁴³ The official Facebook page of Fatah posted in October 2015 an image of a Nazi's book of 1936, whose title is "Do not trust a fox or a Jew."¹⁴⁴

In Autumn 2014 and Spring 2015, there were some attacks with vehicles targeting Israelis. Palestinian Authority and Fatah never condemned the attacks and some members on their Facebook profiles showed pictures encouraging more actions against Israelis, glorifying the attacks and attackers and publishing false information for the attackers' families (for example, saying that attackers were killed without mentioning that they tried to murder civilians).¹⁴⁵

Gaza

Following the wave of attacks carried out against Israelis, both civilians and soldiers, in October 2015, Facebook and Twitter showed posts by some users, purportedly from Gaza, who gave some tips on how to perform more deadly attacks.¹⁴⁶ Authorities did not act in that regard, reneging on their responsibility again.

For the past few years, Hamas has released different video clips in Hebrew and spread on different social networks calling for action against "Zionists and infidels," but especially with the purpose to frighten. There is even a video that simulates a terrorist attack on an El Al plane.¹⁴⁷

General conclusions

Access to freedom of expression and freedom of press in the Palestinian territories is a daily challenge. Journalists and citizens do not feel free to speak out about many topics, and politics and corruption are red line (forbidden) issues. The consequences are arrests, torture and a complete defencelessness for the victims of abuses. Journalists are not protected, therefore they face abuses daily.

Concerning hate speech and incitement, there is a big sample on the Internet from Palestinian individuals and officials. Palestinian public bodies do not act to stop it, and in some ways, institutions even encourage incitement. Internet social networks have

¹⁴³ "Fatah cartoons: Israel behind Paris terror attacks that killed 129", 16 November 2015. Available at http://www.palwatch.org/main.aspx?fi=157&doc_id=16264 accessed on December 20, 2015

¹⁴⁴ "Fatah posts Nazi children's book: Don't trust a fox or a Jew", 29 October 2015. Available at http://www.palwatch.org/main.aspx?fi=157&doc_id=16051 accessed on December 20, 2015

¹⁴⁵ "How the Palestinian Authority and Fatah Respond to Vehicular Attacks", *The Meir Amit Intelligence and Terrorism Information Center*, 4 June 2015. Available at <http://www.terrorism-info.org.il/en/article/20820> accessed on December 13, 2015

¹⁴⁶ *The Middle East Media Research Institute. Antisemitism Documentation Project*, 14 October 2015 and 10 December 2015.. Available at <http://www.memri.org/report/en/0/0/0/0/0/8798.htm> accessed on October 18, 2015 <http://www.memri.org/report/en/0/0/0/0/0/8890.htm>

¹⁴⁷ "New Hamas anthem calls to banish Zionists from Israel", Ynet News, 13 November 2014. Available at <http://www.ynetnews.com/articles/0,7340,L-4591242,00.html> accessed on December 14, 2015, and, "Hamas's new Hebrew hit", Ynet News, 10 July 2015. <http://www.ynetnews.com/articles/0,7340,L-4707797,00.html>

become the main forum to spread anti-Semitic and anti-Israeli ideas. Also some officials, some journalists and some religious preachers promote hate.

Recommendations

Two problems have been found concerning freedom of expression, press and incitement in the West Bank and Gaza Strip. First, the current legal framework is weak and far from the standards set by international human rights law. In effect, the chaotic situation demonstrates that the Palestinian Basic Law does not actually form the basic legal system as it is repealed or contradicted by ordinary laws, decrees or other previously enacted laws, such as the Jordanian Criminal Code of 1960.

The second problem is that the laws are often dead letter; they have not been repealed but are defunct in practice. The solution to this problem is related to the first one. A clear framework could make the Rule of Law possible, with power shared among the three classical powers with none of them over the Law.

Additionally, incitement and hate speech must be prohibited by law, and those who transgress the law have to be punished. Public institutions, lawmakers, and officials have to promote human rights and the Rule of Law. Consequently, they must condemn any form of hatred against Israel, Jews, Christians, or any other person or group. The Palestinian Authority cannot tolerate hate speech by individuals or private groups. The same applies for the Gaza Strip, where it does not matter who is currently in power. Hate speech has to be prosecuted.

Finally, education also plays an important role. In this case, a course in human rights should be taught in schools and the curriculum for security force members and public servants should also contain thorough sections on human rights.



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