

**EVALUATION OF THE PALESTINE INDEPENDENT
COMMISSION FOR HUMAN RIGHTS**

REPORT

**Chris Sidoti
Hassan Jabareen
Rania Jaber**

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LIST OF ABBREVIATIONS

APF	Asia Pacific Forum of National Human Rights Institutions
ICC	International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
ICHR	Independent Commission for Human Rights
NGO	non government organisation
NHRI	national human rights institution
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPT	Occupied Palestinian Territory
PLC	Palestinian Legislative Council
PLO	Palestine Liberation Organisation
PNA	Palestinian National Authority

EXECUTIVE SUMMARY

The Independent Commission on Human Rights (ICHR) is the national human rights institution (NHRI) of Palestine. It was established by decree of President Yasser Arafat on September 1993 to

follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights.

At the end of 2010 ICHR complete its implementation of its Strategic Plan 2008-2010. It commissioned this external evaluation to assist it in assessing its effectiveness in implementing the plan and in developing its new plan for the coming three years.

ICHR has worked as a unique NHRI as Palestine is under foreign military occupation and is not yet recognised as an independent State. Its work is further complicated by the division of administrative authority in between the Palestinian National Authority (PNA) under Fateh, that controls the West Bank, and the Hamas entity that controls Gaza. This internal Palestinian conflict has made the work of ICHR even more difficult.

The evaluation team has concluded that in the extremely difficult context of the Occupied Palestinian Territory ICHR has achieved its objectives to a very high level and has been highly effective in its work of promoting and protecting human rights. It has made good, steady progress that has seen significant gains achieved and consolidated. It faces great challenges but it is well placed to meet and respond to them.

The issues examined in this evaluation include governance, the strategy of decentralisation of service delivery, the nature of activities undertaken centrally and management and administration issues.

ICHR adopted a strategy of decentralisation as a key part of its Strategic Plan 2008-2010. We have found that the re-structure has been very successful in transferring authority and responsibility for implementation to the regional offices and that, undertaking this implementation, the regional offices have been highly effective in being accessible to large proportions of the Palestinian community, in providing good local service delivery and in reaching out to large numbers of people through their awareness raising activities.

We have identified six areas of weakness that should be addressed in the next Strategic Plan to build further the effectiveness of the institution:

- insufficient use of international human rights law and comparative jurisprudence in litigation, reports and advice work
- inadequate access to specialist training support
- insufficient human resource expertise

- too little and too dispersed community and public relations expertise
- fragmented data analysis
- lack of appropriate roles for the four program coordinators.

We have made 47 recommendations to address these issues and to add to ICHR's capacity to operate even more effectively in the immediate future. Those recommendations are practical and cost sensitive and achievable. They cover most areas of ICHR's role and operations, including

- ICHR as the Palestine national human rights institution
- decentralised implementation
- centralised functions
- media and public relations
- management, administration and finance
- staffing structure
- gender mainstreaming.

We were pleased with the cooperation and assistance we received from all those approached to assist us in our work. We especially express our appreciation to the Commissioner General, the Executive Director and the staff of ICHR and to those outside ICHR that we met.

1. INTRODUCTION

1.1 The evaluation

The Independent Commission for Human Rights (ICHR) is the national human rights institution (NHRI) of Palestine. It was established in 1993 by a Presidential Decree issued by President Yasser Arafat, in his capacity as President of the State of Palestine and Chairman of the Palestine Liberation Organisation, on 30 September 1993. The Decree was subsequently published in the Palestinian Gazette in January 1995. In accordance with the Decree, the duties and responsibilities of ICHR were set out as

to follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights.¹

The Decree entrusted ICHR with the drafting of its statutes in a manner that would ensure its independence and effectiveness. It has its headquarters in Ramallah, regional offices in Gaza City, Khan Younis, Nablus, Ramallah and Hebron, and sub-offices in Bethlehem and Tulkarem.

ICHR is nearing the completion of its current strategic plan for the period 2008 to 2010. It decided to undertake an external evaluation of its implementation of that strategic plan as part of its cycle of evaluation and planning, leading to the development and adoption of its next strategic plan. It contracted three consultants, Chris Sidoti (team leader), Hassan Jabareen and Rania Jaber, to undertake the evaluation. This report is the result of that external evaluation.

1.2 The terms of reference

The terms of reference for the evaluation were approved by the ICHR Board of Commissioners after consultation with ICHR's principal donors, the Governments or official development agencies of Denmark, the Netherlands, Norway, Sweden and Switzerland. The donors are naturally interested in the results of the evaluation both to enable them to assess the value of their past contributions to ICHR and as a contribution to their consideration of future support.

The objectives of the evaluation were to

- review ICHR's program activities and inter-institutional coordination
- assess the success of ICHR in achieving its dual role/function, both as an ombudsman and a national human rights commission

¹ Presidential Decree of 30 September 1993, Decision No. 59 of 1994, published in *The Palestinian Gazette* No. 2 January 1995 clause 3.

- assess the success of ICHR in achieving its stated objectives, in terms of relevance, efficiency, effectiveness, impact and institutional capacity
- identify barriers to effective operation and provide recommendations for overcoming these
- draw recommendations for the future development of ICHR, feeding into ICHR's strategic planning process which will take place during August – September 2010.

The full terms of reference are in Appendix 2.

1.3 The evaluation team

ICHR contracted one international consultant and two Palestinian consultants to constitute the evaluation team: Professor Chris Sidoti, Mr Hassan Jabareen and Ms Rania Jaber.² They have expertise in human rights law and practice, national human rights institutions, human rights work in Palestine, and management, administration and finance.

1.4 Methodology

The evaluation team proceeded by way of document review, interviews and inspections, development of conclusions and recommendations, and report preparation.

The team was provided with many key documents in advance of the field visit, including

- the evaluation report of Professor Brian Burdekin, Bill Chapman and Professor Nahla Abdo, June 2007
- the 2008-2010 Strategic Plan
- the 2007 Activity Report
- the 2008 Action Plan
- the 2008 Narrative Report
- the 2009 Plan of Action and Logical Framework
- the 2009 Semi-Annual Progress Report
- the 2009 Narrative Report
- the 2010 Plan of Action
- documents relating to the international accreditation of ICHR as a national human rights institution.

During the field visit, the evaluation team had access to whatever ICHR documents it required, including

- Presidential Decree No. 59
- the Draft Law for the Palestinian Independent Commission for Citizens' Rights 2005

² See Appendix 3. Professor Sidoti was assisted by a researcher, Patrick Deegan.

- annual reports for 2007, 2008 and 2009
- the 2010 Semi-Annual Progress Report
- fact finding reports
- legal reports
- legal memorandums and letters of 2010
- research reports
- the complaints manual
- complaint statistics and analyses, including monthly reports for each month of 2010
- all media releases in 2010
- all media coverage mentioning ICHR in 2010
- *Al-Fasliya*, the quarterly journal of the ICHR.

The team also reviewed the ICHR website.

The team undertook a 12 day field visit to the Occupied Palestinian Territory (OPT) from 11 to 22 July 2010. During that period team members met with the Board of Commissioners on three occasions, ICHR donors twice, the ICHR Executive Team, the Technical Teams of the West Bank Program and the Gaza Program (by videoconference), all other units within ICHR and a large number of staff members individually, heads of Palestinian National Authority (PNA) instrumentalities, including the Prime Minister of Palestine, the Minister of Justice, the Minister of the Interior and the Deputy Minister of Justice, civil and military justice authorities, non government organisations and international agencies. The program of the visit, including all meetings, is at appendix 4.

The evaluation team was pleased with the cooperation and assistance we received from all those approached to assist us in our work. We especially express our appreciation to the Commissioner General, the Executive Director and the staff of ICHR and to those outside ICHR that we met.

2. THE CONTEXT OF THE WORK OF THE INDEPENDENT COMMISSION FOR HUMAN RIGHTS

Throughout its life ICHR has worked in a conflict zone. Although it was established at a time of hope for peace, the reality it has faced has been conflict and, at times, war. In recent years the external conflict between Israel and Palestine has been supplemented by the internal Palestinian conflict between Fateh and Hamas.

ICHR has remained conscious of the need to analyse and understand the context of its work as a necessary part of its strategic planning and program implementation. It does this annually in two significant documents. First, the results of its analysis are published in its annual report on the status of human rights in the OPT. These reports have been published for each of the last 15 years. Second, a more strategic analysis is contained in

its annual narrative report of its activities, provided to its donors and a little more widely.³

In view of the regular expert context analysis undertaken by ICHR, the evaluation team considered that it was unnecessary for us to embark on our own analysis. Rather we have informed ourselves through ICHR's work. We make a few contextual comments on that basis.

2.1 The Israeli Occupation

ICHR has had to promote and protect human rights within the context of Israeli military occupation of the OPT. Its mandate, however, is restricted to human rights violations for which the Palestinian authorities are directly or indirectly responsible. This very specific and quite restricted mandate can cause difficulty to ICHR when the predominant sources of violations are Israeli authorities, not Palestinian. It leaves ICHR open to criticism that it is not doing enough about the Occupation. Nonetheless, ICHR's mandate is appropriate for a national human rights institution. The specific focus of an NHRI is its own government and governmental authorities, not those of other States. ICHR has recognised that it can consider Israeli actions that impede the capacity of the Palestinian authorities to promote and protect human rights and it has analysed and otherwise commented on these in annual reports and elsewhere. It has rightly kept its focus, however, on the Palestinian authorities as its particular responsibility as an NHRI. It operates in the unique situation as an NHRI for which there is no State.

2.2 The internal Palestinian conflict

Since 2007 the context of ICHR's work has been further complicated by the internal Palestinian conflict, between Fateh and Hamas. This has been a source of deep debates within ICHR on whether and, if so, how it should relate to the Hamas entity in Gaza, with sharp differences of opinion among members of the Board of Commissioners itself. In a small way, the difficulty is seen in the various expressions used to refer to that entity: "the deposed Government", "the de facto Government", "the Gaza regime" and so on.

The evaluation team cannot evaluate ICHR on how it has related to the Gaza entity and we cannot advise it on how it should relate. These are fundamentally political questions with legal dimensions and are beyond the scope of our terms of reference. Certainly ICHR is operating in a difficult context in which there are two entities performing governmental functions, each purporting to be legitimate while denying the legitimacy of the other. It has succeeded in working with integrity within a highly polarised environment while avoiding support for or opposition to either political faction. Our only suggestion is that the Board of Commissioners determine the terminology to be used in ICHR statements and reports that refer to the Gaza entity so that there is both clarity for staff and consistency in its reports and statements.

³ The most recent context analysis is contained in the Narrative Report for 2009, an extract from which is included as Appendix 5 of this evaluation report.

2.3 The donors

ICHR's donors are part of the context in which it works. A small group of European Governmental donors has provided consistent support for ICHR since its earliest years.⁴ ICHR has been fortunate in this because it has been able to plan and work with a reliable base of financial and political support. It could not have been as successful and effective as it has been without this strong, consistent, collaborative support base.

3. THE INDEPENDENT COMMISSION FOR HUMAN RIGHTS AS THE PALESTINE NATIONAL HUMAN RIGHTS INSTITUTION

3.1 The status of ICHR

ICHR is the NHRI of Palestine. It was established in September 1993 by Palestinian President Yasser Arafat who issued Presidential Decree No. 59.⁵ The Presidential Decree calls the institution the "Palestinian National Supreme Commission on Human Rights" but it was then called the Palestinian Independent Commission for Citizens' Rights. It changed its name to the Independent Commission for Human Rights in 2008.

Pursuant to the Presidential Decree ICHR is to "follow up and ensure that all requirements to safeguard human rights are provided for in the various Palestinian laws, by-laws and regulations, and in the work of the various departments, agencies and institutions of the State of Palestine and the PLO".⁶ The Decree also requires ICHR to "lay down its constitution, laws, and basic regulations which govern its work in a way which would ensure its independence and effectiveness, and at the earliest possible time".⁷ This effectively leaves it to ICHR to determine its organic law, though there is an implication that the draft law would be submitted to the legislature for approval and enactment. Accordingly ICHR's Board of Commissioners adopted Internal By-Laws to fill this gap. They deal with membership of the Board of Commissioners, ICHR's responsibilities and duties, its mandate and its structure.

ICHR acquired quasi-constitutional status in 2003. The Palestinian Amended Basic Law, promulgated on 18 March 2003, gives special recognition to ICHR and affirms its status. Article 31 provides

⁴ The five principal donors in the 2008-2010 triennium have been the governments or official development agencies of Denmark, the Netherlands, Norway, Sweden and Switzerland. The Netherlands Representative Office has taken the role of donor coordinator.

⁵ Presidential Decree of 30 September 1993, Decision No. 59 of 1994, published in *The Palestinian Gazette* No. 2 January 1995.

⁶ Clause 3.

⁷ Clause 2.

An independent commission for human rights shall be established pursuant to a law that will specify its formation, duties and jurisdiction. The commission shall submit its reports to the President of the National Authority and to the Palestinian Legislative Council.

ICHR submitted its draft law to the Palestinian Legislative Council in May 2005, taking into consideration the Presidential Decree and Article 31 of the Amended Basic Law. The draft law sought to define a dual personality for ICHR as being the national human rights commission with an ombudsman function. The law passed its First Reading in the PLC but had not been enacted when the PLC collapsed in 2007.

In 2009 ICHR obtained full accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and full membership of the Asia Pacific Forum of National Human Rights Institutions (APF). Full accreditation recognises that ICHR complies fully with the international standards for NHRIs, the Paris Principles.⁸ ICHR received full accreditation in spite of the facts that Palestine is not yet recognised by the United Nations as a State and that ICHR is not yet “established pursuant to a law” as required by the Amended Basic Law.

The first strategic objective laid down in ICHR’s 2008-2010 strategic plan is

To establish and enhance PICCCR (sic) role as a national human rights commission that also operates as Ombudsman for human rights violations.⁹

The evaluation team has concluded that ICHR has been very successful in establishing its status as the Palestinian national human rights institution and over the life of the strategic plan has achieved a very high level of national and international recognition of that status. Its full accreditation by the ICC and its admission to full membership of APF demonstrate its international recognition and acceptance. Its recognition and acceptance at the national level were articulated clearly and strongly to the evaluation team in numerous meetings with senior officials of the PNA, including the Prime Minister, the Minister for the Interior and the Minister for Justice, with members of the two largest blocs in the Palestinian Legislative Council, the Fateh bloc and the Change and Reform Group, and with representatives of NGOs centrally and in the regions.

The evaluation team tested ICHR’s recognition as an NHRI by asking how it was differentiated from other organisations working for human rights in the OPT. Respondents almost always spoke in terms of factors that marked ICHR as an NHRI, with the responsibilities and advantages that NHRIs have compared with NGOs. One NGO representative put it most clearly in listing seven characteristics of ICHR not shared with NGOs.

⁸ *Principles relating to the status and functioning of national institutions for protection and promotion of human rights*, endorsed by the Commission on Human Rights in March 1992 in its resolution 1992/54 and by the General Assembly in its resolution A/RES/48/134 of 20 December 1993.

⁹ *Strategic Document 2008-2010* April 2008 p 18.

- ICHR was established by a presidential decree, which enables it to develop direct mutual relationships with the Palestinian Authority and its agencies, so that the police, the security services and officials from ministries from bottom to top feel the monitoring eye of ICHR.
- ICHR specialises in human rights responsibilities of the Palestinian system, not Israeli responsibilities.
- ICHR has authority to investigate individual complaints and pursue them with governmental and judicial authorities.
- No other human rights organisation is able to work within the system.
- No other Palestinian human rights organisation is able to inspect all places of detention, whenever it wants, including the security services' detention centres.
- ICHR's presence encourages judges and officials to protect human rights.
- ICHR plays an important role in building a culture of human rights in Palestine.¹⁰

This same representative went on to describe ICHR's effectiveness in improving conditions in places of detention, reducing the incidence of torture, pressuring for a higher standard of performance by the security services and Palestinian officials generally, and contributing to reducing human rights violations generally. These comments are typical of the comments made by NGO representatives at meetings with the evaluation team in Bethlehem, Nablus and Ramallah. They are also consistent with the comments made by very senior PNA officials, including ministers and agency heads.

The evaluation team has concluded that ICHR is well known and highly regarded for its legal status, its independence, its expertise and its effectiveness. With these characteristics it has achieved wide recognition as the Palestinian NHRI.

However, ICHR still does not have the benefit of its own organic law anticipated and required by the Amended Basic Law. This lack undermines its effectiveness. Whatever the reasons were at the time, in retrospective ICHR's leadership should have pressed for the enactment of a law as soon as the PLC was established or immediately after the passage of the Amended Basic Law, rather than waiting until 2005.

The current state of the PLC is beyond ICHR's control and there is nothing it can do at this stage to obtain passage of an organic law. It should prepare now, however, for the revival of the PLC so that a good draft law is ready for presentation as soon as legislation becomes possible. The 2005 draft has many deficiencies. Most significantly, it fails to give ICHR the broad human rights mandate it requires as an NHRI.¹¹ Other amendments were recommended by the ICC Subcommittee on Accreditation in 2009.

¹⁰ Comments made at evaluation team meeting with NGOs in Bethlehem, 14 July 2010.

¹¹ In draft Article 16, for example, ICHR can act on complaints relating to a limited number of specified rights but it is not given a general jurisdiction to handle complaints of any human rights violation.

Recommendation 1

ICHR should revise the draft law considered by the Palestine Legislative Council in 2006 with a view to presenting a draft for the consideration of the PLC at the first opportunity after it resumes operations. The revision should be directed towards ensuring that the law meets the requirements of the Paris Principles and the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In particular the revision should ensure that ICHR has a broad mandate in relation to international human rights law and that its powers and functions are directed towards the promotion and protection of human rights recognised in international human rights law.

In the absence of a law, ICHR has been operating under its Internal By-Laws. They are very limited in their scope and so quite inadequate to the needs of the institution at this stage of its development. They were obviously adopted in anticipation of the imminent passage of the law and so have a temporary, short term perspective. For example, they name certain specified persons as members of the Board of Commissioners but do not provide any term of office or means for replacement.¹² On the contrary the By-Laws provide that all Board membership “expires immediately upon the appointment of the permanent Board by the elected Legislative Council”.¹³ That may still be some years off.

Recommendation 2

Pending passage of an organic law, ICHR should revise its Internal By-laws to ensure so far as possible their consistency with the requirements of the Paris Principles and the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In particular, the revision should address issues relating to the membership of the Board of Commissioners, including criteria for membership, the procedure for the appointment of new members, terms of office for members and rotation of members. It should also ensure that ICHR has a broad mandate in relation to international human rights law and that its powers and functions are directed towards the promotion and protection of human rights recognised in international human rights law.

3.2 NHRI and Ombudsman

Both the Presidential Decree and the Amended Basic Law refer to an independent institution with a human rights mandate. Neither refers to the institution being an ombudsman or having an ombudsman role. Yet the concept of ombudsman is ingrained in ICHR and other of its basic documents. The Internal By-Laws refer to ICHR as being set up “for the purpose of acting as ‘ombudsman’ or *Diwan Mathalem*”.¹⁴ The 2008-2010

¹² Internal By-Laws paragraph 5.

¹³ Internal By-Laws paragraph 4.

¹⁴ Internal By-Laws paragraph 1.

strategic plan also refers to ICHR's role as national human rights institution and Ombudsman for human rights.¹⁵

These references to an ombudsman role seem to have arisen from a fundamental misunderstanding of the roles and functions of NHRIs at some point in ICHR's early days. It seems to have been thought that NHRIs handle policy and law but not complaints and investigations, that complaints and investigations are the work of ombudsmen and so the institution being established should be both NHRI and ombudsman. In fact, NHRIs have many, diverse functions that include legal and policy work, advocacy, human rights education and training, and complaints and investigations.¹⁶

The continuing references in ICHR documents to the NHRI role and the ombudsman role as distinct roles make ICHR look like a hybrid organisation, which it is not, and take away from an understanding of the institution as an integrated, independent NHRI with a comprehensive mandate based on international human rights law. The present situation is divisive for staff and confusing both internally and externally.

Recommendation 3

ICHR should see and present itself as a national human rights institution rather than as a hybrid organisation that is part NHRI and part ombudsman. It and its staff should see and present its work as an integrated program consistent with the full range of functions of NHRIs as contained in the Paris Principles, including complaint handling. The use of the word 'ombudsman' in connection with its complaint handling work and investigations should be discontinued.

3.3 Governance

There is no single model for an NHRI. ICHR has a relatively large membership, currently one part time Commissioner and 16 voluntary Commissioners. Members are drawn from among prominent, distinguished members of the Palestinian community, both those resident within the OPT and those resident outside it. ICHR's effectiveness is due in part to the prominence of the members of its Board of Commissioners. All have played and continue to play roles within the broader Palestinian society, although not all have a strong human rights background. They are widely known and highly respected. Their prominence and distinction have enabled ICHR to establish itself as a strong and independent institution in spite of having no organic law. They have also been able to protect and defend the institution when it has come under pressure from parts of the Government and from forces outside the Government.

¹⁵ See for example Strategic Objective 1 "To establish and enhance PICCCR (sic) role as a national human rights commission that also operates as Ombudsman for human rights violations": *Strategic Document 2008-2010* April 2008 p 18.

¹⁶ See Paris Principles section 1 paragraph 3, section 3 and especially section 4.

Recommendation 4

For the immediate future, members of the Board of Commissioners should continue to be selected on the basis of their prominence and position within Palestinian society and ICHR's human rights expertise should continue to lie within the professional staff. This division of roles, responsibilities and expertise has served ICHR well to date and will continue to do so under the current political circumstances of the OPT.

All members constitute the Board of Commissioners and a smaller number constitute the Executive Committee. The full Board of Commissioners meets annually and the Executive Committee meets more often as required. Executive Committee meetings are usually open to all Commissioners able to attend.

The meeting pattern of NHRIs in the Asia Pacific region varies greatly according to the model of the institution. Institutions with a small number of full time members tend to meet monthly or even weekly, as do some with large memberships. A monthly meeting of ICHR is not possible when some members are resident outside the OPT. The current balance between frequent executive meetings and an annual plenary session seems to the evaluation team to be about right under the circumstances.

There is no standard title for the collective body of members of an NHRI but the title "Board of Commissioners" is not used elsewhere in the Asia Pacific region. Generally members are called Commissioners and collectively they constitute the Commission.

Recommendation 5

ICHR's Commissioners should continue to meet in full session on an annual basis. They should be seen collectively as the Commission, rather than as the Board of Commissioners, and in their full meeting they should constitute ICHR's highest policy making and strategic organ. Between annual meetings the business of the Commission should be conducted by an executive board of five Commissioners elected annually by the Commission at its annual meeting.

The inclusion of members from outside the OPT is seen as strategically important for ICHR's effectiveness and credibility. It provides ICHR with a base among Palestinians who have been scattered throughout the world. It also provides ICHR with significant international support, which can be important when within the OPT the institution is under pressure.

The evaluation team considers it important, however, to ensure that ICHR's membership also reflects more appropriately the distribution of people within the OPT, that is, Gaza and the West Bank.

Recommendation 6

ICHR should continue to include among its Commissioners persons drawn from outside the Occupied Palestinian Territory. A larger and more proportionate number of Commissioners should be residents of Gaza.

The Internal By-Laws provide that there should be a full time Commissioner General, elected from among members of the Board of Commissioners, who will be ICHR's chief executive and its principal official representative. The Board of Commissioners has attempted and failed repeatedly to identify one of its members willing and able to take on this role. The present Commissioner General undertakes the role on a part time basis. He is in his second term, which expires in September 2011, and has indicated that he will not be available to undertake the responsibilities beyond then.

In addition to the Commissioner General ICHR has an Executive Director who is full time chief of staff and principal adviser to the Board of Commissioners. In the absence of a full time Commissioner General, day to day strategic and operational responsibility within ICHR seems to have vested in this position. Indeed should a full time Commissioner General be appointed from among members of the Board of Commissioners, the nature and functions of this position, indeed its very continuance, would have to be re-considered.

Recommendation 7

Because of its experience ICHR's top management structure should be reviewed and the report of the review should be considered at the next annual meeting of the Board of Commissioners. The review should consider whether it is realistic to expect that a full time Commissioner General can be identified, whether it is even desirable to do so, and whether a different management structure should be adopted. It should consider

- **the role of the Commissioner General as chairperson of ICHR, its principal representative at the highest levels of Government and its principal spokesperson**
- **the role of other members of the Commission, including whether they should take on individual responsibilities for specific issues or areas, and**
- **the role of the Executive Director as principal adviser to the Commission and head of ICHR's professional staff, with broad responsibility for ICHR's advocacy, the implementation of its strategic and action plans, and its management.**

The appropriate titles of senior positions, in Arabic and in English, could also be reviewed.

The 2007 evaluation recommended that a number of full time Commissioners be appointed. Our evaluation team, however, has accepted the importance of maintaining the

distinction between a high profile prominent membership of the Board of Commissioners and the professional staff. On that basis we do not support the appointment of full time Commissioners but prefer a re-arrangement of responsibilities. Full time commissioners might create a conflicting leadership structure within the institution and uncertainty in decision making and accountability structures.

4. DECENTRALISED IMPLEMENTATION

4.1 Regional offices

The ICHR's regional offices are its basic service deliverers. They perform four core functions:

- complaint handling
- visits to places of detention (prisons, detention centres and social welfare institutions)
- public awareness raising and
- training.

Under the structure introduced in 2008 ICHR has two programs, the West Bank Program and the Gaza Program. Each program is headed by a director and has two coordinators, one for investigations and complaints and the other for public awareness and training. The program director and the coordinators are located centrally, in Ramallah for the West Bank Program and in Gaza City for the Gaza Program. Each program has a technical team consisting of the program director, the two coordinators and the regional office managers. The technical team meets every two weeks and develops the annual activity plan for the program and then supervises the plan's implementation by the regional offices.

The West Bank Program has three regional offices: Northern West Bank Regional Office (Nablus with a field researcher with an office in Tulkarem and another without an office in Jenin), the Central West Bank Regional Office (Ramallah) and Southern West Bank Regional Office (Hebron with a subsidiary office in Bethlehem). The Gaza Program has two regional offices, the Gaza and North Regional Office (Gaza City) and the South Gaza Regional Office (Khan Younis). Each regional office has a regional manager, field researchers and administrative staff.

One member of the evaluation team visited all three regional offices in the West Bank and the Bethlehem sub-office.¹⁷ All staff in these offices participated in discussions about the work of the offices. Attempts were made to gain permission for the evaluation team to visit Gaza but this was not obtained. Accordingly the Gaza staff were able to contribute to the evaluation only through a video conference with the evaluation team. The Gaza Program Director joined by video conference in the evaluation team's meeting with the

¹⁷ Chris Sidoti.

ICHR Executive Team and all the Gaza office staff participated in later video conferences to discuss issues particular to the Gaza Program Technical Team and the Gaza Program regional offices and to their situation and work.

The 2007 evaluation of ICHR recommended the development and consolidation of the regional offices. The 2007 evaluation team saw great value in the work of the regional offices and their staff, referring to “the excellent work on the ground in the regions to assist ordinary people with a range of problems relating to their rights”.¹⁸ The present evaluation team has come to the same conclusion and endorses that assessment. ICHR’s plans in 2007 provided for up to ten regional offices. The 2007 evaluation team considered that this number was excessive and too ambitious to be sustainable. It recommended a smaller number of offices with greater authority and clearer lines of supervision and accountability. These recommendations were taken up by ICHR in its 2008-2010 strategic plan, under the strategy of “centralized planning and decentralized implementation”.¹⁹

The present evaluation team has concluded that the re-structure has been very successful in transferring authority and responsibility for implementation to the regional offices and that, undertaking this implementation, the regional offices have been highly effective in being accessible to large proportions of the Palestinian community, in providing good local service delivery and in reaching out to large numbers of people through their awareness raising activities.

Recommendation 8

ICHR should maintain its commitment to decentralised implementation through strong, adequately resourced and appropriately empowered regional offices.

4.2 Complaint handling

The regional offices receive complaints in several ways:

- from persons who come into an office or otherwise initiate contact with an office or with an individual staff member
- from persons during public awareness sessions in towns and villages and at community and NGO functions
- from detained persons during visits to prisons and detention centres.

The responsibility for formally accepting a complaint lies with the Executive Director. The regional office staff prepare advice and draft correspondence and the program coordinator and the program director review and, if considered necessary, revise the advice and the drafts before submission to the Executive Director. The regional office takes responsibility for follow up on complaints accepted by the Executive Director,

¹⁸ *Strategic Document 2008-2010* April 2008 p 22.

¹⁹ *Strategic Document 2008-2010* April 2008 p 6.

unless the subject matter of the complaint raises policy or legal issues that can only be pursued at the central level. However, the Executive Director signs all correspondence relating to the complaint, whether the person to whom it is addressed is a local official or a central official.

ICHR’s complaint load has increased very significantly over the period of the current Strategic Plan and it continues to increase significantly (see table 1). It increased by 50 per cent from 2008 to 2009 and in 2010 it is currently running at more than 11 per cent higher than 2009. Complaint numbers are ambiguous indicators in any NHRI and so care must be taken in interpreting and drawing conclusions from either increases or decreases. Nonetheless, it is possible to say that many more people are coming to ICHR with their grievances than three years ago and that it seems likely that this is the result of ICHR being far better known and more credible in the eyes of Palestinians.

The greatly increased and increasing complaint load presents a risk to the effectiveness of the institution. While complaint handling is a core activity for an NHRI, it can overwhelm the institution unless efficiently handled and it can distort the institution’s priorities and strategies unless the demands on the institution are contained and the institution has some control over what complaints it accepts and pursues. An institution can become complaint driven, and so merely reactive to whatever external pressures are placing demands on it, rather than being strategic and controlling its own agenda. ICHR is not yet at that point but it is in danger of becoming so if the complaint load continues to increase at the rate of the recent past.

Table 1: Complaints received 2006-2010²⁰

	2006	2007	2008	2009	Jan-Jun 2010 ²¹
<i>West Bank North</i>			416	641	369
<i>West Bank Central</i>			509	754	421
<i>West Bank South</i>			808	1054	700
West Bank Sub-total			1733	2449	1490
Gaza			576	993	427
Total	975	2007	2309	3442	1917

Recommendation 9

ICHR should pursue and strengthen its strategies that

- **filter out less significant complaints, through an immediate assessment of**

²⁰ Statistics from annual narrative reports for each year from 2007 to 2009 and semi-annual report for January to June 2010.

²¹ Note that these statistics relate to a period of six months only.

- whether the complaint is within jurisdiction, in that it concerns an issue of human rights and not merely unfairness or some other maladministration, and
- the significance of the complaint, that is, whether it is frivolous, and then the dismissal of any complaint that is not within jurisdiction or that raises an issue that is insignificant
- use fast, informal procedures to seek to resolve complaints before they become entrenched and bureaucratized, for example, by acting quickly to make telephone contact with the respondent and arranging a preliminary conference at the local level to attempt to settle the matter by conciliation
- streamline complaints procedures so that as much as possible is handled at the regional level, for example, by requiring the executive director to sign only the initiating and closing letters relating to a complaint and leaving all intermediate contact and correspondence to be undertaken by the appropriate ICHR officer and the officer nominated by the respondent to act on behalf of the respondent.

There are no doubt other strategies too that ICHR could adopt to address this risk of becoming complaint driven. These should be explored with complaints staff at central and regional levels.

These strategies and revised procedures should be incorporated into a revised and formally endorsed complaint handling manual. The 2007 evaluation team made a similar recommendation and a manual was prepared but the manual reflects the law that was never passed by the PLC. It sets out complaint handling procedure on the basis of powers that ICHR does not yet have and may not acquire for some time to come. It is therefore difficult for the staff to use. It will become further out of date if ICHR adopts and implements this report's recommendations relating to changes to complaint handling procedures.

Recommendation 10

The ICHR complaints manual should be revised to reflect the current state of the law governing ICHR and its operations and the strategic approach and specific strategies recommended in this report. The revision should be undertaken in a consultative manner, permitting all complaints handling staff to contribute, and the revised manual should be submitted promptly to the Board of Commissioners for formal approval.

ICHR staff analyse complaints at the program level. Each of the Gaza Program and the West Bank Program has a coordinator for investigations and complaints, part of whose responsibilities is complaint analysis. They produce monthly analytical reports of very good quality and an excellent annual report.²² The analysis is important as a means of identifying and understanding the patterns of human rights violations in the OPT and

²² The last published annual report is *Follow up on Complaints and Oversight of Detention Centers in the Palestinian-controlled Territory throughout 2008*. The report for 2009 is in preparation.

variations in those patterns over time. The monthly reports are of value to ICHR staff and to outside agencies with an interest in monitoring developments as they are occurring.²³ The annual reports provide a deeper and broader analysis over a longer timeframe. These reports should influence ICHR's other investigations work and feed into its legal, policy and research work. They should also inform its triennial strategic planning and the development of its annual action plans.

Recommendation 11

ICHR should continue to analyse complaints received to identify patterns of human rights violations. On that basis it should prepare analytical reports on the policies and practices raised by the complaints, analysing those policies and practices according to national and international human rights standards and making recommendations for better human rights compliance.

4.3 Visits to places of detention

Regional office staff visit places of detention regularly in both scheduled and “surprise” visits. Places of detention visited include prisons, Preventive Security detention centres, General Intelligence (*mukhabarat*) detention centres, juvenile justice centres and social welfare institutions. Under the program of scheduled visits, each place of detention under Palestinian control in the OPT should be visited at least once a month. In addition an unscheduled or “surprise” visit should be made when an ICHR officer responds to a specific complaint or to a request for a visit or when the officer has reason to believe that a human right may be being violated or may be at risk of violation in a centre. This program of scheduled and unscheduled visits is followed in all places of detention on the West Bank. However, in Gaza ICHR staff are denied access to any places of detention controlled by the security services. Their program of scheduled and unscheduled visits is only possible in relation to police controlled places of detention.

The number of visits undertaken by ICHR staff is very large, reflecting the high priority allocated to this function (see table 2).

Table 2: Visits to places of detention 2006-2010

	2006	2007	2008	2009	Jan-Jun 2010 ²⁴
West Bank			532	889	282
Gaza			155	96	113
Total	360	439	687	985	395

²³ The Human Rights Expert of the European Union Police Coordinating Office for Palestinian Police Support told the evaluation team of the value of the monthly analytical reports in her work.

²⁴ Note that these statistics relate to a period of six months only.

One member of the evaluation team and his research assistant, as part of the visit to regional offices, visited places of detention in Hebron, Nablus and Ramallah. The facts that ICHR was able to arrange these visits on short notice and that those making the visit were foreigners demonstrated the effective working relationship between ICHR staff and detention authorities and officials. ICHR engagement with these officials is obviously a regular and ordinary event and it is now well accepted that representatives of ICHR, including external consultants, can and will visit these places frequently.

The visits to the places of detention enabled the team member to see the environment in which the ICHR staff were working and, because two members of the ICHR regional office staff accompanied him on each visit, to observe the interaction between ICHR staff and the detention officials. He was also able to speak confidentially for a short period to a few detainees in each centre. It seemed that ICHR staff had access to whatever parts of the centre they wished to visit. Certainly no restriction was placed on the evaluation team member's visit and he was able to see what he wanted to see and do what he wanted to do. The interaction between ICHR staff and the centre officials was both familiar and proper, with no evidence that ICHR staff had been "captured" by the detention centre officials. The familiarity indicated the regularity of the contact. There were several exchanges of views between ICHR staff and centre officials that indicated that the issues raised were regularly and well debated between the two and that the centre officials were well aware of ICHR's views which were often very critical of the operation of the centre.

The evaluation team was told and accepted that ICHR intervention, both in relation to specific persons and generally in the course of the centre visits, has resulted in quite fundamental improvements in conditions and treatment in places of detention. For example, there was broad agreement, among many persons and organisations with whom the team member spoke, including NGOs, that torture and cruel, inhuman and degrading treatment had declined greatly over the previous 18 months and that actual conditions in many of the centres (including food quality and quantity, time outside cells, and access to independent legal advice and to medical treatment) had improved.

The main complaint by detainees now concerned the legality of their detention and the uncertainty as to when they might be released. This issue demonstrates the need for ICHR to integrate its complaint handling and its advocacy. Local directors of places of detention rarely have any authority to release a detainee. Often they are more than willing to provide all the information about the reasons for a person's detention and perhaps even express an opinion as to whether the person requires detention. They have no authority, however, to order the release of a detainee, even where there is a court order for release. ICHR has been involved with these kinds of cases both locally, through the regional office staff making visits and discussing the case with centre managers, and centrally, through direct representations to and advocacy with PNA ministers and officials responsible for the management and conduct of places of detention. Some of these complaints are resolved on an individual basis, as a result of ICHR raising an individual case with senior PNA officials. Other cases, however, need to be handled as a group around a common issue, such as the failure to implement court orders for release of detainees.

Recommendation 12

- **ICHR should continue its program of scheduled and unscheduled visits to all places of detention in Palestine.**
- **Regional offices should continue to attempt to resolve issues raised during visits locally through informal approaches to centre directors and officials.**
- **Regional offices should report monthly to central office on the visits to places of detention, highlighting the principal issues raised during the visits and drawing attention to those issues that need to be addressed centrally rather than locally.**
- **The appropriate central office unit should prepare for the Commissioners a monthly analysis of prisons visits, including issues that should be the subject of advocacy with the PNA or the Gaza entity.**

Detainees with whom the evaluation team member spoke were asked whether they knew of ICHR and whether they had had contact with ICHR staff. Those who had been in detention for more than two or three weeks said that they had spoken to ICHR staff and some said that they had made a complaint to them. Those more recently detained, however, said that they had no knowledge of ICHR. It seems that first contact is often made during a scheduled visit and then can be taken further, including by a complaint that leads to a “surprise” visit. The problem is that newer detainees may be mistreated but may not know about ICHR until the next scheduled visit. The period immediately after detention is the period of greatest risk of torture and mistreatment and so it is important that detainees be advised as soon as they are admitted to a detention centre of ICHR’s availability to receive and investigate complaints of human rights violation and of the procedure for making urgent contact with an ICHR officer.

Recommendation 13

ICHR should produce a simple information leaflet or brochure to advise detainees of its mandate and procedures, its program of visits to places of detention, how to arrange a meeting with ICHR staff during a visit, how to lodge complaints of human rights violation and how to contact ICHR staff where a human rights violation is occurring or at risk of occurring. ICHR should seek the agreement of agencies responsible for places of detention for the provision of this leaflet or brochure to all detainees on intake as part of the standard intake process.

ICHR has a particular responsibility towards children in detention. International human rights law makes special provision for their wellbeing and safety. They are required to be separated from adults in detention. ICHR staff visit places of detention of juveniles as well as places of detention of adults. When visiting a place of detention for adults, they should take specific steps to inquire whether there are any juvenile detainees in the place and, if so, to speak with the juveniles on each scheduled visit and take necessary action to protect their human rights.

Recommendation 14

In making visits to places of detention ICHR staff should give priority to monitoring the wellbeing and safety of juveniles. In particular they should determine on every visit whether there are any juveniles in any place of detention of adults and, if there are, they should interview those juveniles on each visit to assess their wellbeing and safety and do everything necessary to ensure that the juveniles are detained separately from adults in conditions that conform to international human rights standards for the detention of juveniles.

4.4 Public awareness raising

Regional office staff undertake a very large number of public awareness raising activities in accordance with an annual plan approved by the program technical team. These activities include events organised by the staff themselves and events organised by others to which the staff are invited to contribute. The plan tends to set out numbers of activities to be undertaken rather than the types of activities that are most useful.

The kind of public awareness raising undertaken by regional office staff is primarily information provision, particularly information about ICHR and its functions and responsibilities. The staff need basic resource materials to use as the basis of their public awareness activities and to provide to participants. ICHR has an excellent collection of brochures with quite basic information in a form that is easy to read and understand. It is essential that all staff doing public awareness raising are familiar with these resources and, more broadly, with all aspects of ICHR's mission, mandate, functions and procedures and its policies and views on matters likely to arise in a public awareness activity.

Recommendation 15

ICHR should ensure that regional office staff have available to them basic resource materials for public awareness raising activities and that they are familiar with the materials and able to speak accurately about ICHR and its mission, mandate, functions and procedures and in particular the nature of its complaint jurisdiction and how to lodge a complaint. Regional office staff need to be trained in methods and techniques of public awareness raising as part of ICHR's staff development and training program.

Public awareness activities have clear benefits. For example, they provide people with information about ICHR and its functions and activities, particularly its complaint handling jurisdiction. They clearly result in more victims of human rights violation lodging complaints because they learn that ICHR may be able to assist them. However, there is no evaluation of the effectiveness of these kinds of events and so it is difficult to assess whether the benefits are proportionate to the costs. Participation in public awareness events is time consuming and can be a very significant demand on staff

resources. There are no criteria to guide regional office staff in deciding whether and when to undertake or participate in a public awareness activity.

Recommendation 16

ICHR should develop criteria for all regional offices to guide staff in determining whether and when to undertake or participate in a public awareness activity.

4.5 Training

ICHR conducts training courses for various groups within the regions, including police, prisons staff and security service personnel. These courses are undertaken in accordance with the annual plan approved by the program technical team.

Training is quite different from public awareness raising. Its focus is the transfer not only of information but of skills for the application of the information in the trainee's work environment. The development of a training program and training materials requires expertise and experience in conducting training. The effective presentation of a training course requires not only thorough knowledge of the subject matter but also very high levels of skills in training, particularly interactive adult learning techniques.

Many ICHR staff came to the organisation with extensive expertise and experience in training. Many had undertaken formal courses in training of one kind or another. ICHR also provides its staff with some opportunities to undertake training as trainers but these opportunities tend to be short "training of trainers" courses, not formal courses that result in training qualifications.

In the West Bank Program the training courses themselves are predominantly conducted by regional office staff. The West Bank Program Training Coordinator is located in central office and provides some training materials for the regional offices. However, she does not provide any training programs or modules, training manuals or resource materials that are standard across all ICHR's offices.

ICHR staff use a standard training evaluation form that is completed by all participants at the conclusion of each training course. The forms for the West Bank Program courses are sent to central office for the responses to be collated and analysed. Although forms were completed for all training courses in 2009 and 2010, they have not been collated and analysed. Regional office staff are seeking feedback on their performance at training courses but are unable to get it. And ICHR itself has no knowledge of the effectiveness of these courses.

The Gaza Program Training Coordinator is located in the Gaza City office. He personally conducts almost all the training in the Gaza Program, sometimes with a little assistance from regional office staff. He undertakes quite extensive evaluation of courses, collating and analysing the evaluation forms completed by participants. Because he is conducting

the courses personally, he has not produced standardised training manuals and resources for the use of regional office staff.

Recommendation 17

To ensure that ICHR's training work is far more professionally prepared, conducted and evaluated, ICHR should establish a staff position of training specialist to

- **take primary responsibility for ensuring the quality of the training programs**
- **prepare standard training courses, with training programs, training manuals and resource materials, that can be conducted by staff in all regions**
- **conduct an internal audit of the staff's present training qualifications, attained through both formal courses and short courses, and maintain a register of each staff member's training qualifications and experience**
- **prepare a standard course evaluation form for each participant to complete at the end of each course**
- **analyse the forms to assess the participants' evaluation of each element of each course**
- **provide an analytical evaluation of the course to central office directors, regional office managers and all staff in the region where the course was conducted.**

All ICHR staff that do or could do training should have opportunities to undertake formal and informal training as trainers

Because of the importance of training in ICHR's work and uncertainties about its effectiveness, the evaluation team considers that the training program as a whole ends to be evaluated and reviewed on a professional basis.

Recommendation 18

The ICHR training program should be evaluated and reviewed by an external training specialist to determine its past effectiveness and to make recommendations for its future development.

4.6 Support and administration

During the course of the evaluation team's visits to regional offices, the regional office staff raised many issues of concern to them in their work. The visits to these offices were short and so the team was not in a position to undertake a detailed analysis of the situation in each office or to assess the staff concerns. However, we consider it important to draw the concerns to the attention of the Board of Commissioners and the Executive Director, with a recommendation that ICHR consider the staff views and assess the legitimacy of the concerns.

All regional office staff raised issues about the level of support provided to them individually and collectively. There were differences in emphasis and priority from office to office but they shared a common sense that they were near to being overwhelmed by the volume and nature of the demands on them and they were not being adequately supported in their work. They spoke of working long hours far in excess of standard working hours and of having to be available to people at all times – 24 hours a day, seven days a week. They pointed to valuable time wasted because of transport difficulties, due not only to the uncertainties of travel in the OPT but also due to the slowness and unreliability of public transport services. They said that they had been at physical risk and that some staff had received threats. Field researchers in particular described the effects on themselves, and by extension their families, of witnessing violence and the effects of violence. Although some considered themselves underpaid, most of the comment on financial aspects of their jobs was that they were required to meet necessary expenses directly related to their work without reimbursement – for example, mobile phone charges well above the ‘free call’ service provided by ICHR and transport costs related to the use of private vehicles because public transport was slow or difficult to use in a time effective manner.

The evaluation team was impressed with the commitment and competence of the regional office staff. The staff were not complaining about the long hours they work or the demands and pressures on them. Rather their concern was the perceived inadequate recognition for their situation and the need for initiatives to address some of the pressures.

In all regional offices staff expressed concern at the workload and the need for additional personnel. In the context of the significant increases in complaint numbers, already described, this is hardly surprising. There were some variations in the specifics and also in other issues raised that they considered needed attention:

- the Southern and the Central West Bank Regional Offices each identified a need for an additional field researcher
- the Northern West Bank Regional Office said there was need for additional administrative assistance in the Nablus office and an office assistant in the Tulkarem office as that office is unattended when the field researcher is not present
- neither the Southern nor the Central West Bank Regional Offices had an office vehicle and both said that one was necessary
- the Northern West Bank Regional Office saw the need for an office to be provided for its Jenin field researcher who basically worked from home or from his private motor vehicle
- all regional offices referred to the cost of mobile phone calls in excess of the free call allowance provided by ICHR.

Again the evaluation team is not in a position to determine whether any of the regional offices require additional staff and, if so, which offices and what kinds of staff but we recommend that ICHR undertake such a review.

Recommendation 19

The operations of the regional offices should be reviewed, annually or at least every second year, to determine their staffing and support needs, including

- **a review of workloads and staffing levels in each regional offices to determine whether, and if so what, additional staff are necessary and able to be provided**
- **an assessment of the financial costs that regional office staff are incurring personally without reimbursement and of ways to alleviate that drain on their personal finances**
- **ensuring access to counselling and other psychological support for regional office staff when necessary due to stress and trauma associated with their work.**

One particular logistical concern expressed to the evaluation team was the lack of a motor vehicle in some regional offices. The Northern West Bank Regional Office has recently been provided with a motor vehicle but other regional offices do not have one. The regions are relatively large areas with limited affordable public transport, most of which is very slow. As a result regional office staff must spend considerable time using public transport to travel around the region. This is not an efficient use of limited personnel resources and reduces ICHR's effectiveness. It undermines outreach activities, restricting the ability of staff to make ICHR and its work as widely known as possible. There is general recognition of the problem but concern whether ICHR can afford to purchase a vehicle for each office. In the recent past ICHR's donors have assisted ICHR to obtain a tax exemption on the purchase of a motor vehicle for central office. This procedure should be explored again to enable the purchase of vehicles for regional offices at affordable costs.

Recommendation 20

Each regional office should have an office car for official use. ICHR should seek the assistance of donors in obtaining tax exemption for the purchase of these vehicles.

5. CENTRALISED FUNCTIONS

5.1 Introduction

ICHR has a Monitoring Legislation and Policy Department, based in its headquarters in Ramallah, with six staff members, the majority of whom have legal qualifications.²⁵ This section collects and analyses information and prepares the annual report on the status of human rights violations in the Occupied Palestinian Territory, in conjunction with other

²⁵ There is also a legal officer attached to the Gaza Program and based in the Gaza City office. This officer reports to the Gaza Program Director, not to the Director of the Monitoring Policy and Legislation Department, and works on legal research, monitoring and reporting quite separately from the central office section.

units. It prepares legal reports, such as reports on torture and the death penalty, and special reports on specific incidents or special topics. It also prepares legal correspondence, memorandums and advice on executive decisions and policies and on legislation.

Table 3: Legal and other reports and activities

	2008	2009	Jan-Jun 2010²⁶
Letters and legal memorandums	13	10	3
Special reports	5	8	3
Legal reports		2	6
Total	18	18	12

The Department's work is directed towards promoting and protecting human rights through policy change, revision of draft laws, and advising officials. Its legal reports and special reports address very relevant human rights issues for the Palestinian people, including torture, the death penalty and health rights. The quality of research, writing and analysis in the reports is good. The reports include data and other facts about the specific issue and relevant recommendations. It appears that serious efforts are made to collect materials from a wide range of sources and to produce a reader-friendly publication. All reports are produced in Arabic and some in English.

The weakness in the Department's work is that there appears to be little or no follow-up mechanism for its advice and recommendations. As such serious work is put into the reports, it is crucial that ICHR follow-up on the recommendations. ICHR's status makes its recommendations different from those of any NGO. However, if the legal and special reports merely document human rights violations as any NGO does, then there is no added value from ICHR's work in this area. Its distinctive contribution can be its advocacy for its authoritative analysis and recommendations.

Recommendation 21

ICHR should build into its legal analyses and reports follow up mechanisms to provide advocacy for its recommendations and to monitor governmental responses.

ICHR has no consistent policy on the release, dissemination and promotion of its reports. It does not usually conduct workshops or meetings with officials to introduce and discuss a report and its recommendations. The evaluation team does not know the extent to which the reports open serious communication channels with the officials or the extent to which they are seriously considered in relevant government agencies. The effectiveness of reports would seem to lie in the authorities' acceptance of the recommendations but we do not have indicators of success to assess their influence.

²⁶ Note that these statistics relate to a period of six months only.

The use of international human rights law and comparative law analysis in the reports and legal memorandums varies. Legal report number 69 on torture, as one example, provides a strong analysis of the issue as it extensively references international law and practice. However, some reports do not. Without this base, ICHR's position is less authoritative and so is less influential.

The evaluation team has concluded that ICHR produces legal reports of good quality, though the general standard could be improved. It considers that legal expertise, particularly in international and comparative human rights law, needs to be increased. This could be accomplished through the expansion of the existing Monitoring Legislation and Policies Department into a fully fledged legal department with responsibilities for monitoring, research and analysis and for litigation. This section should include among its staff all ICHR officers undertaking this kind of work, whether located in the central office or elsewhere in the OPT.

5.2 Monitoring, research and analysis

One of the two main functions of a legal department would be monitoring and reviewing decisions of the PNA executive (Presidential decrees, decisions of ministries and agencies such as the security services, and policies and programs), actions of the legislature (new laws) and the functioning of the judiciary (court procedures and decisions). When the PLC was an active parliament, ICHR monitored and reviewed legislation to provide analysis, comments and recommendations. The PLC has not been operating for three years so there is no new legislation to monitor or review. However, ICHR can use the Palestinian Basic Law to continue to monitor the decisions and practices of the executive and the judiciary, issuing position papers, reports and recommendations.

Recommendation 22

Subject to the availability of resources, ICHR should issue “position papers” on laws or proposed laws, including legislative bills, executive regulations and decrees, or on other Government policies that adversely affect human rights. These position papers should

- **describe the law or proposed law or policy**
- **set out the problems ICHR sees with the law or proposed law or policy**
- **analyse the law or proposed law or policy from the perspective of international human rights law**
- **analyse the law or proposed law or policy on the basis of relevant comparative law and**
- **make recommendations.**

Recommendation 23

ICHR should continue to produce legal analysis reports to promote better knowledge and understanding and thus better policy in specific areas of human rights. These reports should be based on rigorous analysis in accordance with national and international human rights law and relevant comparative law. They should provide well argued cases for alternative laws, policies and practices that are consistent with human rights.

Monitoring the judiciary is especially important as there can be no rule of law and no effective protection of human rights without an independent, fully functional judiciary. During a meeting with the High Judicial Council, the evaluation team was told that the judiciary expected and wanted ICHR monitoring, especially in relation to its procedures and practices, to ensure fair trials and due process. ICHR has not done much of this to date. It could make a useful contribution here.

Recommendation 24

ICHR should monitor the proceedings and decisions of civil and military courts both to ensure that human rights are observed in the judicial systems and to provide legal commentary on the consistency of decisions with applicable international human rights law.

Recommendation 25

Subject to the availability of resources, ICHR should issue “case reviews” of decisions of civil and military courts, to provide legal commentary on the consistency of decisions with applicable international human rights law.

Monitoring and analysing the trends and patterns in complaints received by ICHR from citizens is also important as a means to learn from ICHR’s own experience and as a means of identifying what is occurring on the ground in the OPT and what needs to be done to address deficiencies in performance. The analysis needs to go beyond the documentation of the violations. ICHR must always attempt to explain what is happening, to look beyond the bare facts of individual cases to trends and patterns. With this understanding of trends and patterns, ICHR can select the policies and practices that require focus for analysis, critique and recommendation.

Effective and authoritative human rights monitoring and analysis require a sound basis in international human rights law and the experiences of other jurisdictions. International human rights law includes treaty law and customary law and requires expertise in and use of the decisions of international courts and tribunals, and the jurisprudence, general comments, and concluding observations of treaty monitoring bodies. It also requires knowledge of the analyses of the law by internationally recognised experts. However, relying solely on international human rights law might not give ICHR’s analysis sufficient weight as it does not shed light on specific practice and experience on the

ground. Comparative law provides additional persuasive authority in that it shows the actual practices and experiences of other States and courts.

The experiences of other regions and States are also important and specific decisions and approaches can be relevant to specific issues being addressed by ICHR. The comparative starting point for an NHRI is the experiences and work of other NHRIs. In addition comparative jurisprudence and experience might include laws and case law from national constitutional or supreme courts of other State and from regional courts such as the European Court of Human Rights, the Inter-American Court and Commission of Human Rights, and the African Court and Commission of Human and Peoples' Rights. Comparative law is very important in the Palestinian case because the Palestinians are in the process of "state-building" and do not have sufficient legal history and tradition of their own. Studying the experiences of others is very important at any time but especially at this stage of national development.

ICHR can be assisted in its comparative law research by any number of expert organisations, including Interights and the British Bar in London, the Open Society Justice Initiative in New York and the FIDH in Paris. ICHR could also seek international lawyers and legal interns to work in-house on comparative law projects. Many law students receive scholarships from their law schools to do internships abroad, and many legal academics can work during their sabbaticals in the ICHR offices without significant cost to ICHR.

Recommendation 26

To strengthen its legal analysis and reporting, ICHR should increase its in-house expertise in international and comparative human rights law and practice

5.3 Litigation

NHRIs around the world use their domestic legal systems in fulfilling their mandate to promote and protect human rights. They may bring cases on behalf of victims, initiate cases in the public interest and submit expert opinions to courts (also known as *amicus curiae*). These legal processes have succeeded in strengthening the rule of law and the status of the judiciary. In addition, they have served as a means of human rights education for legal professionals, including judges, prosecutors and lawyers, and indeed for the broader community. Most importantly, litigation encourages a culture of cause-lawyering or public interest lawyering on human rights issues. Many law schools today run legal clinics to promote the practice of public interest law and to help community members to obtain their rights.

Amnesty International has proposed three main categories of litigation through which an NHRI can contribute to the effective protection and promotion of human rights:

- cases on behalf of those who may be unable to bring cases themselves to protect their rights, for example, children, the mentally ill, and prisoners

- cases to challenge the legality of executive action and to obtain judicial orders to remedy the situation, particularly where the executive has ignored the NHRI's recommendations on the subject
- advice to the courts, such as *amicus curiae* briefs or third party interventions, on legal issues within the NHRI's field of expertise in an independent capacity, without being a party to the case.²⁷

The second category is most important where the NHRI takes action to defend its own powers and immunities against executive non-cooperation or even obstruction. The third category, advisory interventions, helps to ensure that the courts are informed about specialised human rights law concerns and that human rights standards are identified and actively implemented in court decisions. Many legal professionals, including judges, are ignorant of international human rights law and need advice if they are to take it into account in their decision making.

ICHR has not engaged systematically in strategic legal interventions as part of its ordinary work. The only cases that the ICHR has litigated concerned the dismissals of teachers on political grounds. ICHR received over 400 complaints of teacher dismissal and, after attempting and failing to resolve those complaints by conciliation, it selected 56 cases in relation to which it commenced court action. Bringing these cases was important. However, they were undertaken not as part of a litigation strategy but as an initiative to test the power of ICHR to commence court proceedings to vindicate human rights.

ICHR has an important opportunity to become more active in human rights cases in the courts, especially because the Palestinian people in the West Bank and Gaza are at the beginning of a state-building process. In addition, because the PLC is currently not functioning and is unable to legislate, the role of the judiciary is critical in guaranteeing human rights and in giving wide interpretations of the human rights provisions in the Palestinian Basic Law. In this political, legal and social context, ICHR can play a major role in influencing and shaping the foundational cases and jurisprudence of the Palestinian Supreme Court and other courts in human rights cases.

The evaluation team was told that there was doubt whether the procedures of the Palestinian legal system permitted *amicus* interventions and whether ICHR had power to make such interventions in any case. ICHR's practice for many years has been to follow the mandate set forth in Presidential Decree No. 59, "follow up and ensure that all requirements to safeguard human rights are provided for in the various Palestinian laws, by-laws and regulations, and in the work of the various departments, agencies and

²⁷ AI INDEX: IOR 40/007/2001: NATIONAL HUMAN RIGHTS INSTITUTIONS Amnesty International's recommendations for effective protection and promotion of human rights, 1 October 2001, paragraph 3.6, available at: <http://www.nhri.net/pdf/IOR4000701.pdf>

institutions of the State of Palestine and the PLO”.²⁸ Read in conjunction with the Amended Basic Law, that gives quasi-constitutional status to ICHR, this seems sufficient for ICHR to claim a formal legal mandate to intervene to advise the Court in any cases that raise human rights issues.

Using the Amnesty categories, in the first category *ICHR could initiate cases on behalf of those who may be unable themselves to bring cases to protect their rights*, for example, children, the mentally ill, and prisoners. It cannot take every case of possible human rights violation that comes to its attention. It must be able to use its limited resources as strategically as possible. It will need to establish clear criteria by which it assesses the significance of a case, either on an individual or collective basis, and then determines the needs and makes a decision. While most court cases in the field of human rights can provide a remedy for one individual, strategic litigation aims to have a broader impact. Two examples of the kinds of litigation that can fall appropriately under this category of cases are:

Detainees’ and prisoners’ rights litigation ICHR has unique authority to visit all prisons and other places of detention, on both a scheduled and “surprise” basis, unlike NGOs and private lawyers. It also has authority to inspect the facilities and the conditions of confinement, meet with prisoners and detainees, and collect affidavits and complaints. It is uniquely placed to identify, and if need bring, landmark cases before the courts to protect the rights of prisoners.

Disability rights litigation Article 33 of the Convention on the Rights of Persons with Disabilities provides that states parties establish an independent mechanism to promote, protect and monitor implementation. NHRIs are being called upon to take an active role in monitoring and promoting disability rights. One international organisation, Disability Rights Promotion International, has initiated cooperation with *Interights* to develop a strategic approach to advancing the rights of people with disabilities in court, to prepare the background for test cases on disability discrimination, and to identify a number of priority issues for legal action.²⁹ ICHR can cooperate with strategic litigation centres and disability rights organisations to build upon its existing expertise in disability rights monitoring and litigation in establishing its program.

Under the second Amnesty category, *ICHR could initiate cases with the potential to establish new jurisprudence* to protect human rights and due process based on the interpretation of the Amended Basic Law and international human rights standards. It would be seeking to build a body of law on administrative rights, to protect the basic human rights of every person. Three examples follow.

ICHR could take action to require the authorities to cooperate fully with ICHR complaints investigations and to respond to ICHR recommendations. Some 30%

²⁸ Clause 3.

²⁹ See Disability Rights Promotion International: <http://www.yorku.ca/drpi/progRepCh2.html>.

of ICHR complaints, especially those concerning the security services, do not receive any response. ICHR could initiate action for a court order that requires all authorities to respond in a timely manner to the legal complaints submitted by ICHR.

ICHR could initiate a case on the fundamental due process issue of the right to be heard. For example, ICHR would seek to enforce due process whereby any person adversely affected by an administrative action has the right to be heard before any action is taken. The person should have access to the reasons behind the administrative decision and the opportunity to respond to contrary evidence.

ICHR could initiate a case to enforce the human rights provisions in the Amended Basic Law, such as the provision in Article 32 that every person is entitled for compensation when his or her rights for liberty and/or privacy have been violated illegally. By taking cases to establish the precedent that individuals must be compensated when this article is violated, ICHR will encourage many individuals to file tort lawsuits when Palestinian authorities violate their rights.

In many States, cases under the third Amnesty category, *the amicus curiae (friend of the court) process*, have become a main tool to improve Governments' human rights performance. A prominent example in the US is the Guantanamo Bay detainees' cases in which dozens of human rights organisations, law school clinics, committees of the American Bar Association, and prominent private lawyers and law firms filed *amicus* briefs to the US Supreme Court on the basis of the applicability of Fourth Geneva Convention and US constitutional protections to the detainees. A case in the Israeli courts in which Adalah was involved concerned the revocation of residency rights of Palestinian parliamentarians and a former minister elected on the Change and Reform bloc list from Jerusalem. Here Adalah sought the approval of the Israeli Supreme Court to make an *amicus* intervention because the case concerned a novel issue of significance to the residency rights of Palestinians in Jerusalem.

One advantage of the *amicus* approach is that it will not create confrontation or alienation between ICHR and the authorities because the ICHR is not a direct party to the lawsuit but is a neutral and authoritative intervener. Participation on this basis provides added value to the legal proceedings, not merely a repetition of what one of the other parties says. ICHR would need to prove to the court that it has a unique and special contribution to make to the case.

An example of a possible *amicus* intervention concerns the right to freedom of association. ICHR's 2009 *Report on Freedom of Association in the Palestinian-Controlled Territory* indicates that some associations have brought cases individually to the court to ask for protection for their right to association. ICHR could select one or more of the cases as precedents and intervene as *amicus* to advise the court on standards for protecting the right of association, on the circumstances in which the right could be limited and on the nature and extent of any legitimate limitations. In this case, ICHR

could use its existing report and emphasise its recommendations and build broader legal standards.

To be a reliable and authoritative *amicus* ICHR needs in-house expertise in international human rights law and comparative law.

Recommendation 27

ICHR should undertake legal action or intervention of three types:

- **initiating cases on behalf of those who may be unable themselves to bring cases to protect their rights, for example, children, the mentally ill, and prisoners**
- **initiating cases to challenge the legality of executive action and to obtain judicial orders to remedy the situation, particularly where the executive has ignored the NHRI's recommendations on the subject**
- **intervening in cases to provide advice to the courts, such as *amicus curiae* briefs or third party interventions, without being a party to the case.**

Recommendation 28

ICHR should develop and adopt a policy that establishes the criteria for involvement in litigation for each of these three situations and the procedure by which a proposal to become involved is assessed and determined.

Recommendation 29

To strengthen its role in undertaking cases, including as an *amicus curiae*, ICHR should increase its in-house legal expertise in case analysis using international human rights law and comparative law.

6. MEDIA AND PUBLIC RELATIONS

Media and public relations are critical tools for an NHRI in promoting and protecting human rights. The Paris Principles afford strong weight to “publiciz[ing] human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education, and by making use of all press organs”.³⁰ The Paris Principles also provide that an NHRI shall “address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations”.³¹

The role of media and public relations is to raise awareness of human rights violations, to educate about human rights values and law, to influence public opinion and to place

³⁰ Paris Principles “Competence and Responsibilities” paragraph 3(iv)(g).

³¹ Paris Principles “Methods of Operation” paragraph (c).

pressure on decision makers to respect the human rights of all persons within the jurisdiction. Media work includes working with the print media and TV, radio and all other electronic media. Websites have become a major source of information and a key means to disseminate information to an extremely wide multi-lingual audience locally and internationally. Electronic media advocacy is a crucial tool that must be developed by all NHRIs.

The role of NHRIs in the media is somewhat different from that of NGOs. An NHRI has greater responsibilities than an NGO. It must act only in accordance with its mandate. It must demonstrate its independence, separate from other state institutions, such as the Government and its various executive agencies, the legislature and the judiciary. It should also do more than criticise but also strive to maintain good working relations with the other state institutions. This special role requires the NHRI to use the media carefully and strategically. In addition to revealing human rights violations by the Government, it should also show positive steps already taken to protect human rights and propose constructively other steps that could be taken.

In the ICHR organisational structure, media and public relations are the responsibility of an office under the Executive Director. The office's functions are media outreach, public relations, including contacts with external groups for speaking engagements or meetings, and publication of ICHR's quarterly, *Al-Fasliya*. The office is separate from the public awareness and training units, which are located in the West Bank and Gaza Programs. There is also a media officer attached to the Gaza Program and based in Gaza City who is quite separate from the central office media officer.

The media outreach work includes media releases, media conferences and coordinating media and public relations campaigns.

Media releases can be in the form of statements and positions or news updates. The Commissioner General and the Executive Director initiate and approve statements and positions on human rights violations. Usually they address the local community but sometimes they address the international community, such as in ICHR's statements on the Gaza Flotilla events or the Goldstone Report. These media releases are drafted by the media officer in Arabic, reviewed by relevant legal staff members, and approved by the Commissioner General and the Executive Director. This coordination contributes to a clear policy and position of the ICHR. They are translated into English by external translators out of the media office. Subsequently, these statements are sent to the media, the ICHR mailing list and to the webmaster to post on the website.

The most recent statements and positions have been

- 7 July 2010 ICHR considers the execution of the death penalty ruling by the Magistrate Court in Dir al-Balah [Gaza] as a very dangerous step (in Arabic; not posted on English website)
- 14 June 2010 [ICHR concerned about the Palestinian Cabinet's Decision to Postpone the Local Elections in the West Bank Indefinitely](#)

- 31 May 2010 [ICHR Condemns the Israeli Attack on the "Al Hurriah" Flotilla carrying supplies of Humanitarian Aid and International Human Rights Activists](#)
- 30 May 2010 [ICHR condemns the obstruction of its staff while on duty](#)
- 24 May 2010 [ICHR Denounces the Banning of its Workshop in Gaza City](#)
- 23 May 2010 [ICHR Calls Upon the Deposed Government to Investigate Attack on UNRWA Summer Camps.](#)

There has been a very significant increase in the number of media releases issued during the period of the present Strategic Plan, reflecting the greater activity of ICHR and its commitment to public advocacy..

Table 4: Media releases

	2008	2009	Jan-Jun 2010 ³²
Statements and positions	15	26	15

The media officer and other ICHR staff decide on the material for news updates. The news updates include day-to-day news of ICHR activities, such as workshops, training, meetings with officials, field work visits, participation in international conferences and important addresses. About 15% to 20% of the news updates are translated into English, based on their importance as decided by the Executive Director. The media officer also sends to the media ICHR’s monthly report of human rights violations. From January to June 2010, 100 to 150 very short news updates were issued.

The media statements use professional, legal and human rights terminology and in this way are effective in educating on human rights. The statements are also carefully and strategically worded not to create alienation between ICHR and the authorities. The statements do not contain slogans, aggressive language, personal attacks or generalisations. They cover a range of highly sensitive human rights issues, as well as defending ICHR’s existence and work.

ICHR held four media conferences from January 2009 to June 2010:

- on its yearly report on the “Status of Human Rights Violations in Palestine”, which is considered its major media activity each year
- on the expert opinion of Mr. Shantawi, a Jordanian legal expert, on the Supreme Court’s 3 to 2 decision not to support ICHR’s challenge to the firing of over 400 school teachers on security grounds
- on the Hamas attempt to close the ICHR office in Gaza and
- on the Goldstone Report on the Gaza War.

ICHR enjoys widespread, extensive and positive coverage of its work in the main, local Arabic newspapers and in the international Arabic media and significant coverage in the

³² Note that these statistics relate to a period of six months only.

international English speaking media. The media conference about the annual report on the status of human rights in Palestine, for example, attracted coverage in almost all of the local and international Arabic media, including Al Jazeera, Al Hura, Abu Dubai, Al Manar, Jordanian and Saudi Arabian TV, BBC Arabic, Al Hayat (London), Shawq al-Awsat and Al Haleej, English language coverage on BBC and Hebrew coverage in some Israeli media outlets. Coverage was also obtained on many websites.

Journalists informed the evaluation team that they see the media statements and information from the ICHR media officer as accurate, credible, and reliable.

In the last three years ICHR initiated only one media campaign. It was a two-year campaign, from November 2009, against the death penalty. It is being undertaken in support of a broader campaign in conjunction with a large number of Palestinian NGOs. It has a small budget. The campaign includes issuing one edition of *Al-Fasilya* about the death penalty, street banners, TV and radio shows, brochures, stickers, desk calendar and annual calendar, and logo.

The media officer is also responsible for the journal *Al-Fasilya*, including obtaining final copies of articles, editing, layout and distribution. *Al-Fasilya* is a journal of articles, written in Arabic, of about 60 pages a volume. Since the establishment of the ICHR, 40 volumes of the journal have been published. *Al-Fasilya* is published as a quarterly.³³ The authors are ICHR commissioners and staff, academics, activists and sometimes international figures. Around 3,000 copies of each volume are produced and it is distributed in hard copy, by post, to other state institutions, civil society groups, journalists, activists and academics.

Each edition of *Al-Fasilya* focuses on one theme and also discusses ICHR's activities. The themes from 2008 to April 2010 have been 60 years for the Universal Declaration of Human Rights and 15 Years for the ICHR, the War on Gaza, the Goldstone Report, the death penalty and International Women's Day.

In addition to this media work, the media officer undertakes certain external public relations work, including contacts with external groups to organise meetings and speaking events for ICHR staff. However, ICHR has no external relations strategy. External relations are ad hoc and related to some specific activity.

The evaluation team has concluded that ICHR's media work has contributed effectively to ICHR's strong public profile and to public recognition of its status as an independent NHRI. It is certainly cost effective, due to the hard work and commitment of the one media officer. The media campaign against the death penalty has targeted an important human rights issue of high priority, using multiple means to convey the anti-death penalty message. The campaign has succeeded in creating an anti-death penalty discourse among civil society NGOs, and in the community at large, though its success in contributing to the abolition of the death penalty is still to be determined.

³³ However it was only published three times in 2009.

In spite of its effectiveness, there are deficiencies in ICHR's media activities and arrangements that should be addressed.

- There is no real media and public relations unit, merely one officer with primary responsibility working principally with the Executive Director and other officers in other units with responsibility for the website, the media archives and even media work in Gaza.
- There is no comprehensive media or communications strategy, with decisions being made primarily on an ad hoc basis with more attention on ICHR's activities than on its views and policies or on human rights violations.
- There is no international media strategy being actively pursued by the ICHR. International actors certainly influence human rights policies in the OPT and pressure the Palestinian Authority to abide by human rights standards. They are not being used strategically by ICHR.
- There appears to be too little media work on actual complaints documented by the ICHR and responses received from the authorities. Many of these complaints could be presented as human interest stories that would be very attractive for the media. In this way, ICHR could use its complaint handling work for educational and awareness-raising results.
- There is no website editor following the officer's recent resignation. The position is considered to be a technical or administrative position rather than a specialist position to develop and implement a website strategy. The website looks good and is updated regularly but there is no policy or forward-thinking about what to do with the website or how to set priorities for its use or how to use it to influence decision makers. Importantly, there is no multi-media component of the website or a plan for these activities or for other new media, such as photo galleries, audio slide shows, video advocacy, audio podcasts, Facebook, YouTube and so on. There are no statistics about visitors to the website.
- There is no archive in the media department to keep records of what was published about the ICHR.

ICHR's international relations work is undertaken separately from the media and external relations office, by the Executive Director and her assistant. It includes networking with international and regional bodies such as the UN, other NHRIs and their international and regional associations, regional ombudsmen, Arab NGOs and institutions, and donors. ICHR is especially active in APF and usually participates in meetings of ICC. Again the Executive Director takes responsibility for these relationships. ICHR has a significant number of international visitors and relates frequently to the international media.

Recommendation 30

The ICHR should strengthen its role in media and external relations by

- **reaching out more extensively to the media, including print, TV, radio, website, electronic mail, video and archives**

- **undertaking a more extensive program of external relations with local actors, including through the production of *Al-Fasilya*, which should continue to focus on the ICHR's activities**
- **maintaining and extending its international relations with a variety of international actors, including other national human rights institutions and their international and regional associations, United Nations agencies, principal non government organisations and the international media.**

Recommendation 31

ICHR should develop a media and external relations strategy that includes

- **a component on communications policies and strategies, including media relations, use of contemporary information and communications technology, methods of work with the media and procedures for making public statements**
- **a component on public awareness raising, including strategies and priorities for public awareness activities and key partners in public awareness raising**
- **a component on external relations strategies, including relations with Palestinian governmental authorities and agencies, Palestinian NGOs and ICHR's donors**
- **a component on international relations strategies, including relations with other NHRIs and their international and regional associations, United Nations agencies, international NGOs, ICHR's donors and other local representative offices of other States**

If necessary, a specialist public relations or media consultant should be engaged to work with ICHR on developing this strategy.

Recommendation 32

ICHR should ensure wide access to the media to publicise its role as an independent national human rights institution, the services that it offers to Palestinian citizens and other persons in the OPT, and its successes, to encourage people to see ICHR as the place to which they can bring their human rights concerns, lodge their complaints of human rights violations and express their views on human rights issues.

ICHR's donors are among its most important external collaborators. ICHR and its donors are in frequent contact and the donors advise and assist ICHR to meet its accountability requirements under the funding agreements. However, this excellent technical cooperation and exchange is not matched sufficiently by high level policy dialogue and exchange. There is need for a schedule of regular, if infrequent, meetings between the most senior representatives of the donors, that is, the heads or deputy heads of the various representative offices, and the most senior decision makers of ICHR, that is, its Commissioner General, other Commissioners and the Executive Director. These meetings should not focus on the technical aspects of funding agreements but an

exchange of analyses and views on the human rights situation in the OPT and on initiatives that could improve the promotion and protection of human rights.

Recommendation 33

ICHR should organise a high level dialogue once or twice a year between its most senior decision makers – the Commissioner General, other Commissioners and the Executive Director – and its principal donors, and possibly with other interested representative offices, at head or deputy head of mission level, to exchange analyses and views on the human rights situation in the Occupied Palestinian Territory generally and on the work, policies and views of ICHR in particular.

7. MANAGEMENT, ADMINISTRATION AND FINANCE

7.1 Management

ICHR's management structure is clear in theory, The top level management is the Executive Director and the Executive Team, which comprises, with the Executive Director,

- the Administration and Finance Director
- the West Bank Program Director
- the Gaza Program Director
- the Director of the Monitoring Policy and Legislation Department and
- the Public Relations and Media Officer.

This team is to provide executive leadership and a strategic vision, in addition to managing the strategic planning process. The middle level management comprises the technical teams in the West Bank Program and the Gaza Program. Each technical team consists of the relevant Program Director, the two coordinators, one of investigations and complaints and the other of public awareness raising and training, and the regional office managers in the Program area. At the next level, regional office managers supervise staff in the regional office areas and in turn they themselves report to the regional program director.

Although clear in theory, the management structure has faced some discrepancies and confusions upon implementation. The Executive Team does not seem to be providing leadership as a team or strategic vision to ICHR, and is not providing adequate and timely feedback to the middle management level. The technical teams seem mainly to supervise the implementation of activities by the regional offices, and both Executive and Technical Teams are not sufficiently providing proper coordination between top and lower levels of the organisation to ensure good communication flows from top to bottom and bottom to top.

The confusion is greatest at the middle management level in relation to the position of coordinators in the regional programs. Their roles and responsibilities may be the same or similar but their actual functions and activities are not consistent in practice. There is a mismatch of titles and functions, sometimes without clear authority, with some directors acting as coordinators and some coordinators acting as implementers. For example, the training coordinator in the Gaza regional program conducts almost all the training himself, with the field researchers doing little or none, while the training coordinator in the West Bank program does almost no training, leaving it to the field researchers to conduct. The coordinators say that they have no staff to manage to implement the regional programs and so are seeking to have responsibility for regional office staff transferred from the regional office managers to the coordinators. However, this would effectively replace the strategy of decentralised implementation with one in which local activities were controlled from the two regional centres by the coordinators, not at the level of the local offices under their office managers.

The relationships between the program director and the regional office managers and between the program coordinators and the regional office managers are confused. The regional offices report directly to the appropriate Program Director and have meetings every two weeks with the head of the program. But in fact the regional office managers (especially in the West Bank Program) seem to receive minimum supervision. The work done in these offices is impressive, because the regional managers are fulfilling their duties and responsibilities.

The regional office staff (the field researchers) report directly to the regional office managers. The accountability lines are clear in theory but at times the regional office staff must feel as though they have two accountability lines, one to the regional office manager and the other to one or other of the regional program coordinators. The coordinators are seeking to manage them in some activities, displacing the regional office managers in those areas (especially in the West Bank Program). It is as though there is a matrix structure operating, without the need for such a complex structure. To enable them to work most effectively, both program staff and field office staff should understand the accountability lines clearly: the field researchers report to the regional office manager alone, not to the program coordinators. The skills and capacities of field office staff, especially in training, should be enhanced. Their training work should be supported through access to manuals and appropriate evaluation tools and indicators, to measure the quality and effectiveness of their work, and to reduce their current responsibilities by supporting them centrally and enhancing their work.

The evaluation team has concluded that the management structure is experiencing lack of clarity in the roles of senior and middle managers, in lines of supervision and accountability and in the responsibilities of the program coordinators. We have also noted the lack of a designated deputy to the Executive Director, who can act on behalf of the Executive Director in her absence. We address these issues further in section 8 of this report, when considering ICHR's structure.

Staff at the regional program and regional office levels do not seem to be adequately informed by the Executive Team members on many important matters of ICHR policy and activity. The lines of communication from the Board of Commissioners to the regional offices are not working smoothly. There is need for more regular staff meetings in which all staff are informed of ICHR developments and activities. Minutes of these meetings should be taken and kept for follow-up and for the record.

Recommendation 34

ICHR should ensure that all staff members are adequately informed of its policies, strategies and activities, including through regular (perhaps monthly or bi-monthly) meetings of staff at all levels and through internal newsletters and memorandums.

7.2 Human resource management

In any organisation the staff are the most important resource. ICHR currently has around 60 employees with different specialisations in human rights, law, social sciences, media, administration and finance. However, it lacks a human resource department or unit or even a senior position in human resources. An institution with 60 employees is better managed with a proper specialist human resources system responsible for the recruitment process, staff training and development, performance appraisal, and compensation of employees. The main thing here is that employees need to be inspired, motivated and encouraged.

Staff members in general are satisfied with their work, although of course there are some frustrations on some issues, such as the salary scale and the performance appraisal process.

The evaluation team has concluded that human resource management in ICHR needs to be strengthened. Good people make organisations and bad people break them. ICHR needs to do more to fulfil its duties in this area.

Recommendation 35

ICHR should strengthen its human resources management, through the engagement of a specialist to ensure clear personnel policies, practices and procedures, including accurate and appropriate job descriptions for all positions, staff conditions, salary scales, recruitment processes, performance appraisal, and staff training and development.

ICHR's recruitment process seems to be working very well. It is transparent and active. Vacancies are generally advertised internally and often externally. A selection committee is appointed to conduct interviews of short listed applicants. The committee usually comprises senior officers, including the Executive Director, the Administration and Finance Director, and the head of the unit or the program with the vacancy. However, ICHR needs a staff recruitment policy that provides guidelines for internal recruitment to

encourage staff by enabling and encouraging them to compete for any position. The policy must provide a framework in which recruitment is handled on the basis of standards and procedures to ensure objectivity and selection only on the basis of merit measured against clear selection criteria.

Recommendation 36

ICHR should develop a staff recruitment policy that includes guidelines for internal recruitment, with a requirement for clear selection criteria and procedures for the selection of staff for every position advertised.

ICHR staff identified training needs in many areas, including communications, report writing, management, strategic planning and activity planning, and English language, both written and spoken. There is no designated unit responsible for training and development of ICHR's own staff. This should be within the responsibility of the Human Resource specialist and not within the general ICHR public awareness and training units. Coordinators of training units should focus on external training designed for and directed to people outside ICHR, such as police officers, investigators, and other civil servants. Staff training is not the responsibility of these officers.

Some staff members told the evaluation team that they felt left out of certain training and that only certain staff members received some opportunities. Many of these staff members in fact attended many training programs and conferences, which is clearly shown in their records. ICHR has clear written procedures for training and for attending conferences and workshops. These procedures were adopted after much consultation by the Executive Team. The Executive Team needs to disseminate this information to units and staff members and then ensure that the procedures are followed, transparently and systematically.

Recommendation 37

ICHR should ensure that it has an institution wide training and development plan and that each staff member has a personal training and development plan within the responsibility of the Human Resource specialist in consultation with the Executive Director.

After the current strategic plan was adopted in 2008, ICHR began an evaluation or appraisal process for its staff in 2009. Forms were prepared by IDARA, the external consultants who had been involved in the planning and re-structuring processes, based on the actual job descriptions. For the first time in ICHR, an institutionalised staff evaluation system was developed and its implementation commenced. The process however, was begun but it was not completed successfully, for many reasons, including the personal fears of many employees, and the inability of many senior staff to evaluate their subordinates properly. Feedback was not provided to all staff members, only to some. It was not timely or adequate. There were no recommendations regarding training needs. Many staff members who received positive evaluations were awarded distinctions within

the organisation and some were given financial rewards. They became more highly motivated. Others received no feedback at all and complain that they do not know the result of their evaluation or the basis on which some employees were awarded a distinction. The whole exercise was divisive and demoralising and led to significant conflict within the organisation.

That experience, however, does not invalidate performance appraisal or make it unnecessary or undesirable. Performance appraisal is good both for the institution and for the staff. For the institution, it enables an assessment to be made of the staff's capacity and of areas in which training and development is required. It helps the organisation to become more effective. For the staff members, it provides a better understanding of their strengths and weaknesses and enables them to press the institution for training opportunities to address the weaknesses. It helps staff members to improve their skills and expertise. But the concept and the procedure must be explained to staff before an appraisal process begins. It must be seen as objective and evidence based and as directed towards improvement, not punishment.

The performance appraisal used in ICHR may include a reward and incentive system, other than recognition by the immediate supervisor, but it need not. If it does include such a system, the incentives do not have to be financial. There are many ways to recognise good performance and to motivate people, such as choosing a monthly or yearly "best employee". However, in any incentive system the criteria should be clear, transparent and objective so that they can be understood by all employees. Many performance appraisal systems do not include any rewards or incentives. This removes fear and threat from the process and enhances honest cooperation by focusing squarely on performance.

Recommendation 38

The staff performance appraisal procedure and forms should be revised in consultation with the heads of the units and programs and clear standards should be established to ensure a transparent appraisal process that encourages high standards of performance among the staff and discourages and addresses poor performance.

ICHR should also adopt a practice of "exit interviews" as another good personnel practice. It provides every employee who leaves ICHR employment with an opportunity to meet with senior management to discuss their experiences in working in the institution and the reasons for their decision to leave. It gives senior managers insights into the actual conditions of work in the organisation and into the factors that motivate staff and the factors that alienate them. It can assist the institution to change situations that undermine its effectiveness and that of the staff. In some circumstances, the exit interview can also be a means of assisting a valuable employee to stay in the job.

Recommendation 39

ICHR should ensure that all employees leaving the organisation are given an opportunity for an exit interview in which they can discuss with the Executive Director or another senior manager their experiences, positive and negative, in working for ICHR.

7.3 Financial management

ICHR budgets for a three year period, in accordance with its three year strategic plan. It prepares an annual budget for each year under the plan. It has clear written procedures on how to prepare the budget. However, it does not have a software system that links budgeted and actual expenditure.

Recommendation 40

ICHR should explore the use of a software system that links the chart of account of the financial system with budgeting statements for better financial accounting and control.

ICHR has an accounting system, called Audit, and all financial reports are done through the system. Hard copies are still kept as a documentation procedure but this is becoming cumbersome. Scanned documents should replace the hardcopy versions for filing purposes. Salaries are not tied to this system but are prepared manually each month, with a great deal of time and effort and with a high possibility of mistakes occurring. The introduction of linking software will enable salaries to be brought into the electronic accounting system.

ICHR has a good transparent internal control system. All its bidding systems are clear and transparent and documented. All training expenses are documented. There is a good financial system and clear recruitment procedures. ICHR always uses its bidding procedures for its external auditors. This means that there is always a possibility of changing the external auditor, which is a healthy situation.

There are problems with signing checks as the levels of delegation are now too low. The delegations should be changed to make the system less complex but still subject to tight financial controls.

Recommendation 41

The Finance Manager should be added as an additional authorised signatory for checks, so that

- **checks up to a specified limit (initially USD 5,000) can be signed by any two of the Commissioner General, the Executive Director and the Finance Manager and**

- **checks above that limit (initially USD 5,000) must be signed by a member of the Board of Commissioners and the Executive Director.**

ICHR's staff salary scale was reviewed and adjusted in 2008. The donors expressed some concerns to the evaluation team that ICHR salaries are now increasing by about 6% annually. Some staff members complained to the team that ICHR salaries are too low. The finance and management expert on the evaluation team investigated the issue and found that ICHR salaries are not increasing 6% annually. ICHR used to pay 15% of the total salary bill into a provident fund for its employees. This was considered an excessive contribution. To resolve the issue, 7.5% of each salary was incorporated into the new salary scale. This seemed to inflate salaries but it is a one-off increase due to this re-arrangement of the remuneration system. The evaluation team considers salaries at ICHR to be within the average range for comparable positions in other institutions. However, staff members seem to have little understanding of how the salary scales were determined and how they are applied.

Recommendation 42

The salary scale should be explained to the staff so that everyone is clear on its structure and implementation. It should be tied into the financial management system and the human resource system.

ICHR's donors also expressed to the evaluation team grave concerns regarding the organisation's perceived inability to address financial problems arising from exchange rate fluctuations. This year ICHR is suffering a significant decline in real income as a result the instability of the exchange rate. The donors say they have warned ICHR many times of the need to take corrective action. Although it is difficult for ICHR to address the current problem quickly, the issue now is how to handle the exchange rate in the triennial budget for the coming planning period. This is the responsibility of ICHR but one with which the donors themselves should engage. They should assist ICHR to find a solution that will protect its income. Some donors require ICHR to return to them any substantial benefit arising from an increase in the exchange rate but they do not share in any detriment caused by an exchange rate decline. Donors could meet any decline in ICHR's income because of exchange rate fluctuations or ICHR could be permitted to have a large contingency figure in its annual budgets as a reserve to meet any decline. Meantime ICHR should be looking at realistic future budgeting based not on a one-off exchange rate estimate but a calculation derived from historic rates.

Recommendation 43

To assist in its financial planning, ICHR should prepare its next triennial income and expenditure budget on the basis of an historic average exchange rate, that is, the average rate against the US dollar over the last five years. This budget should be submitted to donors and potential donors. ICHR should then minimise its risk of loss due to exchange rate fluctuations over the three years of the budget by placing the financial gains of better than average exchange rates into reserves to offset the

financial losses of worse than average exchange rates. ICHR should discuss with donors other strategies for handling exchange rate fluctuations to minimise the potential negative impact on the institution, its work and its staff.

7.4 Monitoring and evaluation

Monitoring and evaluation are geared towards learning from what has been done or is being done and how it is being done. They are tools to help an organisation or a project know when plans are not working and when circumstances have changed. They give management the information it needs to make decisions about the project or organisation and about changes that are necessary in strategy or plans.

Monitoring and evaluating ICHR has three dimensions:

- efficiency: whether the input into the work, that is, money, time, staff, equipment and so on, is appropriate in terms of the output
- effectiveness: whether the program or project or activity achieves the specific objectives set for it
- impact: whether what was done made a difference to the problem or situation being addressed.

Indicators are an essential part of a monitoring and evaluation system because they are what is measured and/or monitored.

The evaluation team has made recommendations already in this report that will lead to good monitoring and evaluation. In relation to staffing, for example, it has recommended that ICHR make sure all its recruitment processes are transparent, each position is advertised either externally or internally or both, that good selection criteria be used, that appropriate training be provided for employees, that job descriptions exist for each position and that work be performed according to those job descriptions. Criteria should be established for evaluating staff performance and then evaluation should occur at the end of each year, to make sure people are well motivated and that good and bad performance is identified.

In relation to finance, good monitoring and evaluation require adequate planning, annual budgets that are prepared and matched with the planned activities, and clear written rules for bidding procedures.

In relation to complaints handling, adequate monitoring should be provided to ensure timely procedures and effective follow up for the complaints. Indicators should specify an appropriate complaint load for staff, who should follow up the complaint, the time required to handle the complaint, how many complaints could be tackled each week or month.

Public awareness campaigns, workshops and other activities should be organised according to a specific plan, with indicators selected to assess the impact of the campaign

or activity and to measure effectiveness. Training should be evaluated for effectiveness, to ensure the quality of the training and the achievement of the expected results. In particular all participants should complete evaluation forms and the forms should be collated and analysed.

ICHR should appoint an officer with specific responsibilities to monitor and evaluate all its core activities and functions. Indicators should be established at each level, to enable the impact of activities to be assessed and corrective actions identified where necessary.

Recommendation 44

To ensure good monitoring and evaluation of its performance generally and of its various activities and services, ICHR's strategic plan should include a specific component on monitoring and evaluation, identifying key performance indicators for the institution at each level, to enable the impact of activities to be assessed and corrective actions developed when necessary. The Executive Director should carry responsibility for monitoring and evaluation, with the assistance of an officer reporting directly to her on this function.

8. STAFFING STRUCTURE

The evaluation team has considered the ICHR staffing structure in the light of its findings and recommendations in this report. We are aware that ICHR underwent a complete re-structure in 2008 and that it was inevitably disruptive to the work of the institution and disturbing to staff. We are concerned that the institution not be destabilised by another complete re-structure so soon after the last one. And we do not consider a complete re-structure necessary. On the contrary the current structure is working well on the whole, though it is not perfect.

The evaluation team has concluded that the staffing structure introduced in 2008 is appropriate in most part to what ICHR does and plans to do and that it should be retained, with some finetuning.

Recommendation 45

The general framework of ICHR's present staffing structure, based on centralised planning and decentralised implementation, apart from the performance of certain central functions at the central level where appropriate, should be maintained, though with some adjustments for finetuning. Adjustments should address six weaknesses identified in this evaluation:

- **insufficient use of international human rights law and comparative jurisprudence in litigation, reports and advice work**
- **inadequate access to specialist training support**
- **insufficient human resource expertise**

- **too little and too dispersed community and public relations expertise**
- **fragmented data analysis**
- **lack of appropriate roles for the four program coordinators.**

During the course of the evaluation, the evaluation team prepared an organisational chart that in its view responds to these needs (Appendix 6). In subsequent discussions, it seemed more appropriate to have the Media and External Relations Unit more directly attached to the executive director position, say by placing it in the chart to the right of that position. Also, there were issues relating to the most appropriate title for the position heading the legal and research analysis units; the chart uses the term “general counsel” but that may not be the most appropriate title. That position is seen as being filled by a person who can also be deputy to the executive director and act for the executive director in her absence. We simply present the chart and these issues for the consideration of ICHR’s Board of Commissioners and staff.

9. GENDER MAINSTREAMING

ICHR sees the necessity both of mainstreaming gender issues into its work and of undertaking where appropriate specialised activities on women's rights and violence against women. It has attempted to mainstream women’s rights and gender issues but this has been done through isolated individual activities rather than systematically. It has not been undertaken with a consolidated, conscious approach. Certainly women’s rights issues have featured in the work of its units, from the regional office staff visiting places of detention to the central office staff undertaking research, advocacy and publication in support of women’s rights.

The evaluation team was provided with a number of examples of this approach.

- ICHR has allocated a special section in its annual report to addressing the issue of so-called honor killings and violence against women and the responsibilities of official institutions, especially the police and the public prosecutor, in addressing it.
- ICHR worked with the Ministry of Women's Affairs and women's human rights and civil society organisations towards the abolition of provisions of 1960 Jordanian Criminal Law 1960 that allows "honor killings". It has submitted proposals for amending those provisions to ensure that gender-based killings are treated and punished as ordinary crimes. These proposals were approved by the Cabinet and sent out to the Presidential Office for adoption as law by order.
- ICHR is regularly visiting women's prisons and shelter homes as part of its program of visits to and inspections of places of detention..
- ICHR is involved with other NGOs and women's organisations in lectures, meetings, workshops and training activities related to women's human rights and gender-based mechanisms for the protection and promotion of women's rights.
- ICHR has focused the March 2010 edition of its quarterly *Al-Fasilya* on women's issues.

ICHR cooperates with human rights and women's organisations in addressing women's issues and protecting their rights. For example, ICHR was approached by the United Nations Development Fund for Women (UNIFEM) to undertake a project on the protection of female prisoners in the West Bank. ICHR will provide legal expertise to lawyers representing the female prisoners. It will undertake a baseline study on the situation of female prisoners in the West Bank with specific recommendations for Palestinian official institutions, in addition to monitoring court sessions and living conditions of female prisoners in Palestinian jails. The agreement with UNIFEM was due to be signed at the end of July.

The ICHR Monitoring Policy and Legislation Department featured women's rights issues in many of its reports and projects.

- It considered and reviewed publications relating to the alimony fund with the fund's manager.
- It contributed interventions in the national strategy on violence against women, including participation in the national strategy meetings, preparation of the necessary modifications to this strategy according to its major points and dispatching them to the relevant authority.
- It participated in preparing the cross-sector national women's plan, modifying the draft penal law with the technical committee responsible for the amendments and the focus group.
- It also took part in preparing a study on *Women in the Labor Market* carried out by *Muwaten*.
- It joined in reviewing a draft law prepared by the Ministry of Labor to regulate the right to strike.
- Finally, it represented ICHR in the workgroup discussions on the role of national institutions in protecting women's rights, held in Qatar in March 2010.

Field staff and central office staff also participate in public awareness raising on women's rights. Lectures have included general protection mechanisms for women in the Palestinian society and security and human rights standards. Lectures have also focused on presenting ICHR and its role in safeguarding public rights and freedoms. They also shed light on the peoples' right to decent standard of living, abolition of the death penalty and the *Convention on the Elimination of Discrimination against Women (CEDAW)*.

In spite of these significant initiatives, more needs to be done in a conscious, strategic, integrated approach to gender issues.

Recommendation 46

ICHR should incorporate into its next strategic plan an explicit strategy on women's rights and gender issues, ensuring both that they are mainstreamed into the work of all units and through all projects and also that they are the subject of special projects where required and appropriate. Staff should be provided with training

and development opportunities to sensitise them more to gender issues and perspectives.

ICHR also needs to ensure a more equal recruitment of women and men to senior positions. Although the Executive Director is a woman, only one of the director-level staff is a woman. Of the 17 members of the Board of Commissioners, only four are women.

Recommendation 47

ICHR should develop a strategy to ensure more equal recruitment of women and men to senior positions on the Board of Commissioners and staff.

10. SIX MAIN QUESTIONS

The Terms of Reference for the evaluation pose six main and many subsidiary questions. The evaluation team has sought to respond to these questions in the body of this report, analysing the various issues of the nature and status of the ICHR, its governance and staffing structure, its functions and activities. Here, we summarise briefly our principal conclusions, relating them specifically to the six main questions asked of us.

1. To what extent are ICHR and its programs and structures relevant and appropriate to meeting the contemporary human rights needs of the citizens of the Occupied Palestinian Territory?

The evaluation team has concluded that ICHR and its programs and structures are very relevant and appropriate. We have made recommendations relating to governance, structure and programs that in our view would enhance the relevance and effectiveness of the institution.

2. How effectively and efficiently has ICHR implemented the two strategic objectives identified in the Strategic Plan 2008-10 and the 25 specific objectives identified in the Plan of Action for 2009, through its complaints handling, public awareness, research and law reviews functions and its four regional offices as well as what has been implemented so far in the plan of action 2010?

The evaluation team has concluded that ICHR has been extremely effective in implementing the two strategic objectives in its Strategic Document 2008-2010. We have found that its programs and activities have achieved tangible results for the human rights of the people in the OPT. We have examined the 25 strategic objectives of the 2009 Plan of Action. Although some of them have not been implemented in full and although some of the performance indicators have not been measured or have not been found to be useful, we are satisfied that implementation of the Plan as a whole has been successful and effective. To the extent that it is possible to evaluate implementation of the Plan of

Action for 2010, we are satisfied that it too is being successfully and effectively implemented.

3. To what extent are ICHR's management and organisational structures and systems appropriate to the implementation of legal mandate and its Strategic Plan?

The evaluation team has concluded that the management and organisational systems are appropriate and effective on the whole. We have made some recommendations to address shortcomings that we have identified.

4. To what extent has ICHR implemented its Strategic Plan for 2008-10? In particular, has it successfully undertaken all the projected activities in the Plan and its annual Plans of Action?

The evaluation team has concluded that ICHR has implemented almost completely the projected activities in the Strategic Document 2008-2010. Implementation of all the projected activities in the annual Plans of Action has been more difficult to evaluate but we are satisfied that they have been predominantly implemented.

5. To what extent has ICHR implemented the recommendations of the External Evaluation conducted in 2007 by Professor Brian Burdekin, Mr Bill Chapman and Professor Nahla Abdo? To the extent that any recommendations have not been implemented, are those recommendations still relevant to ICHR and still requiring attention?

The evaluation team has concluded that most of the recommendations in the 2007 evaluation report, including all of the most important recommendations, have been implemented. Appendix 7 contains a table that indicates the implementation status of each of the recommendations in that evaluation report. We have addressed other recommendations in the body of this report, endorsing some and making alternative recommendations in relation to other issues.

6. What recommendations does the Evaluation Team make for the more relevant, effective and efficient operations of ICHR during the period of its next strategic plan?

The evaluation team has made 47 recommendations for the more relevant, effective and efficient operation of ICHR during the period of its next strategic plan.

Final Performance Rating

- What is the extent of ICHR's overall progress in meeting its objectives and mission statement?
- What are possible adjustments for the organisation's activities and management systems that would maximise ICHR's efficiency and relevance in the future?

The evaluation team has concluded that ICHR has achieved its objectives to a very high level and has been highly effective in its work of promoting and protecting

human rights in the extremely difficult context of the Occupied Palestinian Territory. It has made good, steady progress that has seen significant gains achieved and consolidated. It faces great challenges but it is well placed to meet and respond to them. We have made 47 recommendations to add to its capacity to operate even more effectively in the immediate future. Those recommendations are practical and cost sensitive and achievable.

In giving ICHR a final performance rating, the evaluation team recognises the difficult context in which ICHR is working. It must be an NHRI in the absence of a State. It is required to work in a territory still under military occupation. It must relate to two entities exercising governmental functions. It must be neutral in divided society. We consider that, in spite of these overwhelming obstacles, ICHR goes about its work of protecting and promoting human rights effectively and efficiently. We consider it a very successful NHRI.

APPENDIX 1

LIST OF RECOMMENDATIONS

Recommendation 1

ICHR should revise the draft law considered by the Palestine Legislative Council in 2006 with a view to presenting a draft for the consideration of the PLC at the first opportunity after it resumes operations. The revision should be directed towards ensuring that the law meets the requirements of the Paris Principles and the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In particular the revision should ensure that ICHR has a broad mandate in relation to international human rights law and that its powers and functions are directed towards the promotion and protection of human rights recognised in international human rights law.

Recommendation 2

Pending passage of an organic law, ICHR should revise its Internal By-laws to ensure so far as possible their consistency with the requirements of the Paris Principles and the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In particular, the revision should address issues relating to the membership of the Board of Commissioners, including criteria for membership, the procedure for the appointment of new members, terms of office for members and rotation of members. It should also ensure that ICHR has a broad mandate in relation to international human rights law and that its powers and functions are directed towards the promotion and protection of human rights recognised in international human rights law.

Recommendation 3

ICHR should see and present itself as a national human rights institution rather than as a hybrid organisation that is part NHRI and part ombudsman. It and its staff should see and present its work as an integrated program consistent with the full range of functions of NHRIs as contained in the Paris Principles, including complaint handling. The use of the word 'ombudsman' in connection with its complaint handling work and investigations should be discontinued.

Recommendation 4

For the immediate future, members of the Board of Commissioners should continue to be selected on the basis of their prominence and position within Palestinian society and ICHR's human rights expertise should continue to lie within the professional staff. This division of roles, responsibilities and expertise has served ICHR well to date and will continue to do so under the current political circumstances of the OPT.

Recommendation 5

ICHR's Commissioners should continue to meet in full session on an annual basis. They should be seen collectively as the Commission, rather than as the Board of Commissioners, and in their full meeting they should constitute ICHR's highest policy making and strategic organ. Between annual meetings the business of the Commission should be conducted by an executive board of five Commissioners elected annually by the Commission at its annual meeting.

Recommendation 6

ICHR should continue to include among its Commissioners persons drawn from outside the Occupied Palestinian Territory. A larger and more proportionate number of Commissioners should be residents of Gaza.

Recommendation 7

Because of its experience ICHR's top management structure should be reviewed and the report of the review should be considered at the next annual meeting of the Board of Commissioners. The review should consider whether it is realistic to expect that a full time Commissioner General can be identified, whether it is even desirable to do so, and whether a different management structure should be adopted. It should consider

- the role of the Commissioner General as chairperson of ICHR, its principal representative at the highest levels of Government and its principal spokesperson
- the role of other members of the Commission, including whether they should take on individual responsibilities for specific issues or areas, and
- the role of the Executive Director as principal adviser to the Commission and head of ICHR's professional staff, with broad responsibility for ICHR's advocacy, the implementation of its strategic and action plans, and its management.

The appropriate titles of senior positions, in Arabic and in English, could also be reviewed.

Recommendation 8

ICHR should maintain its commitment to decentralised implementation through strong, adequately resourced and appropriately empowered regional offices.

Recommendation 9

ICHR should pursue and strengthen its strategies that

- filter out less significant complaints, through an immediate assessment of

- whether the complaint is within jurisdiction, in that it concerns an issue of human rights and not merely unfairness or some other maladministration, and
 - the significance of the complaint, that is, whether it is frivolous,
- and then the dismissal of any complaint that is not within jurisdiction or that raises an issue that is insignificant
- use fast, informal procedures to seek to resolve complaints before they become entrenched and bureaucratised, for example, by acting quickly to make telephone contact with the respondent and arranging a preliminary conference at the local level to attempt to settle the matter by conciliation
 - streamline complaints procedures so that as much as possible is handled at the regional level, for example, by requiring the executive director to sign only the initiating and closing letters relating to a complaint and leaving all intermediate contact and correspondence to be undertaken by the appropriate ICHR officer and the officer nominated by the respondent to act on behalf of the respondent.

Recommendation 10

The ICHR complaints manual should be revised to reflect the current state of the law governing ICHR and its operations and the strategic approach and specific strategies recommended in this report. The revision should be undertaken in a consultative manner, permitting all complaints handling staff to contribute, and the revised manual should be submitted promptly to the Board of Commissioners for formal approval.

Recommendation 11

ICHR should continue to analyse complaints received to identify patterns of human rights violations. On that basis it should prepare analytical reports on the policies and practices raised by the complaints, analysing those policies and practices according to national and international human rights standards and making recommendations for better human rights compliance.

Recommendation 12

- ICHR should continue its program of scheduled and unscheduled visits to all places of detention in Palestine.
- Regional offices should continue to attempt to resolve issues raised during visits locally through informal approaches to centre directors and officials.
- Regional offices should report monthly to central office on the visits to places of detention, highlighting the principal issues raised during the visits and drawing attention to those issues that need to be addressed centrally rather than locally.
- The appropriate central office unit should prepare for the Commissioners a monthly analysis of prisons visits, including issues that should be the subject of advocacy with the PNA or the Gaza entity.

Recommendation 13

ICHR should produce a simple information leaflet or brochure to advise detainees of its mandate and procedures, its program of visits to places of detention, how to arrange a meeting with ICHR staff during a visit, how to lodge complaints of human rights violation and how to contact ICHR staff where a human rights violation is occurring or at risk of occurring. ICHR should seek the agreement of agencies responsible for places of detention for the provision of this leaflet or brochure to all detainees on intake as part of the standard intake process.

Recommendation 14

In making visits to places of detention ICHR staff should give priority to monitoring the wellbeing and safety of juveniles. In particular they should determine on every visit whether there are any juveniles in any place of detention of adults and, if there are, they should interview those juveniles on each visit to assess their wellbeing and safety and do everything necessary to ensure that the juveniles are detained separately from adults in conditions that conform to international human rights standards for the detention of juveniles.

Recommendation 15

ICHR should ensure that regional office staff have available to them basic resource materials for public awareness raising activities and that they are familiar with the materials and able to speak accurately about ICHR and its mission, mandate, functions and procedures and in particular the nature of its complaint jurisdiction and how to lodge a complaint. Regional office staff need to be trained in methods and techniques of public awareness raising as part of ICHR's staff development and training program.

Recommendation 16

ICHR should develop criteria for all regional offices to guide staff in determining whether and when to undertake or participate in a public awareness activity.

Recommendation 17

To ensure that ICHR's training work is far more professionally prepared, conducted and evaluated, ICHR should establish a staff position of training specialist to

- take primary responsibility for ensuring the quality of the training programs
- prepare standard training courses, with training programs, training manuals and resource materials, that can be conducted by staff in all regions
- conduct an internal audit of the staff's present training qualifications, attained through both formal courses and short courses, and maintain a register of each staff member's training qualifications and experience

- prepare a standard course evaluation form for each participant to complete at the end of each course
- analyse the forms to assess the participants' evaluation of each element of each course
- provide an analytical evaluation of the course to central office directors, regional office managers and all staff in the region where the course was conducted.

All ICHR staff that do or could do training should have opportunities to undertake formal and informal training as trainers

Recommendation 18

The ICHR training program should be evaluated and reviewed by an external training specialist to determine its past effectiveness and to make recommendations for its future development.

Recommendation 19

The operations of the regional offices should be reviewed, annually or at least every second year, to determine their staffing and support needs, including

- a review of workloads and staffing levels in each regional offices to determine whether, and if so what, additional staff are necessary and able to be provided
- an assessment of the financial costs that regional office staff are incurring personally without reimbursement and of ways to alleviate that drain on their personal finances
- ensuring access to counselling and other psychological support for regional office staff when necessary due to stress and trauma associated with their work.

Recommendation 20

Each regional office should have an office car for official use. ICHR should seek the assistance of donors in obtaining tax exemption for the purchase of these vehicles.

Recommendation 21

ICHR should build into its legal analyses and reports follow up mechanisms to provide advocacy for its recommendations and to monitor governmental responses.

Recommendation 22

Subject to the availability of resources, ICHR should issue "position papers" on laws or proposed laws, including legislative bills, executive regulations and decrees, or on other Government policies that adversely affect human rights. These position papers should

- describe the law or proposed law or policy
- set out the problems ICHR sees with the law or proposed law or policy

- analyse the law or proposed law or policy from the perspective of international human rights law
- analyse the law or proposed law or policy on the basis of relevant comparative law and
- make recommendations.

Recommendation 23

ICHR should continue to produce legal analysis reports to promote better knowledge and understanding and thus better policy in specific areas of human rights. These reports should be based on rigorous analysis in accordance with national and international human rights law and relevant comparative law. They should provide well argued cases for alternative laws, policies and practices that are consistent with human rights.

Recommendation 24

ICHR should monitor the proceedings and decisions of civil and military courts both to ensure that human rights are observed in the judicial systems and to provide legal commentary on the consistency of decisions with applicable international human rights law.

Recommendation 25

Subject to the availability of resources, ICHR should issue “case reviews” of decisions of civil and military courts, to provide legal commentary on the consistency of decisions with applicable international human rights law.

Recommendation 26

To strengthen its legal analysis and reporting, ICHR should increase its in-house expertise in international and comparative human rights law and practice

Recommendation 27

ICHR should undertake legal action or intervention of three types:

- initiating cases on behalf of those who may be unable themselves to bring cases to protect their rights, for example, children, the mentally ill, and prisoners
- initiating cases to challenge the legality of executive action and to obtain judicial orders to remedy the situation, particularly where the executive has ignored the NHRI’s recommendations on the subject
- intervening in cases to provide advice to the courts, such as *amicus curiae* briefs or third party interventions, without being a party to the case.

Recommendation 28

ICHR should develop and adopt a policy that establishes the criteria for involvement in litigation for each of these three situations and the procedure by which a proposal to become involved is assessed and determined.

Recommendation 29

To strengthen its role in undertaking cases, including as an *amicus curiae*, ICHR should increase its in-house legal expertise in case analysis using international human rights law and comparative law.

Recommendation 30

The ICHR should strengthen its role in media and external relations by

- reaching out more extensively to the media, including print, TV, radio, website, electronic mail, video and archives
- undertaking a more extensive program of external relations with local actors, including through the production of *Al-Fasilya*, which should continue to focus on the ICHR's activities
- maintaining and extending its international relations with a variety of international actors, including other national human rights institutions and their international and regional associations, United Nations agencies, principal non government organisations and the international media.

Recommendation 31

ICHR should develop a media and external relations strategy that includes

- a component on communications policies and strategies, including media relations, use of contemporary information and communications technology, methods of work with the media and procedures for making public statements
- a component on public awareness raising, including strategies and priorities for public awareness activities and key partners in public awareness raising
- a component on external relations strategies, including relations with Palestinian governmental authorities and agencies, Palestinian NGOs and ICHR's donors
- a component on international relations strategies, including relations with other NHRIs and their international and regional associations, United Nations agencies, international NGOs, ICHR's donors and other local representative offices of other States

If necessary, a specialist public relations or media consultant should be engaged to work with ICHR on developing this strategy.

Recommendation 32

ICHR should ensure wide access to the media to publicise its role as an independent national human rights institution, the services that it offers to Palestinian citizens and other persons in the OPT, and its successes, to encourage people to see ICHR as the place to which they can bring their human rights concerns, lodge their complaints of human rights violations and express their views on human rights issues.

Recommendation 33

ICHR should organise a high level dialogue once or twice a year between its most senior decision makers – the Commissioner General, other Commissioners and the Executive Director – and its principal donors, and possibly with other interested representative offices, at head or deputy head of mission level, to exchange analyses and views on the human rights situation in the Occupied Palestinian Territory generally and on the work, policies and views of ICHR in particular.

Recommendation 34

ICHR should ensure that all staff members are adequately informed of its policies, strategies and activities, including through regular (perhaps monthly or bi-monthly) meetings of staff at all levels and through internal newsletters and memorandums.

Recommendation 35

ICHR should strengthen its human resources management, through the engagement of a specialist to ensure clear personnel policies, practices and procedures, including accurate and appropriate job descriptions for all positions, staff conditions, salary scales, recruitment processes, performance appraisal, and staff training and development.

Recommendation 36

ICHR should develop a staff recruitment policy that includes guidelines for internal recruitment, with a requirement for clear selection criteria and procedures for the selection of staff for every position advertised.

Recommendation 37

ICHR should ensure that it has an institution wide training and development plan and that each staff member has a personal training and development plan within the responsibility of the Human Resource specialist in consultation with the Executive Director.

Recommendation 38

The staff performance appraisal procedure and forms should be revised in consultation with the heads of the units and programs and clear standards should be established to

ensure a transparent appraisal process that encourages high standards of performance among the staff and discourages and addresses poor performance.

Recommendation 39

ICHR should ensure that all employees leaving the organisation are given an opportunity for an exit interview in which they can discuss with the Executive Director or another senior manager their experiences, positive and negative, in working for ICHR.

Recommendation 40

ICHR should explore the use of a software system that links the chart of account of the financial system with budgeting statements for better financial accounting and control.

Recommendation 41

The Finance Manager should be added as an additional authorised signatory for checks, so that

- checks up to a specified limit (initially USD 5,000) can be signed by any two of the Commissioner General, the Executive Director and the Finance Manager and
- checks above that limit (initially USD 5,000) must be signed by a member of the Board of Commissioners and the Executive Director.

Recommendation 42

The salary scale should be explained to the staff so that everyone is clear on its structure and implementation. It should be tied into the financial management system and the human resource system.

Recommendation 43

To assist in its financial planning, ICHR should prepare its next triennial income and expenditure budget on the basis of an historic average exchange rate, that is, the average rate against the US dollar over the last five years. This budget should be submitted to donors and potential donors. ICHR should then minimise its risk of loss due to exchange rate fluctuations over the three years of the budget by placing the financial gains of better than average exchange rates into reserves to offset the financial losses of worse than average exchange rates. ICHR should discuss with donors other strategies for handling exchange rate fluctuations to minimise the potential negative impact on the institution, its work and its staff.

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To ensure good monitoring and evaluation of its performance generally and of its various activities and services, ICHR's strategic plan should include a specific component on

monitoring and evaluation, identifying key performance indicators for the institution at each level, to enable the impact of activities to be assessed and corrective actions developed when necessary. The Executive Director should carry responsibility for monitoring and evaluation, with the assistance of an officer reporting directly to her on this function.

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The general framework of ICHR's present staffing structure, based on centralised planning and decentralised implementation, apart from the performance of certain central functions at the central level where appropriate, should be maintained, though with some adjustments for finetuning. Adjustments should address six weaknesses identified in this evaluation:

- insufficient use of international human rights law and comparative jurisprudence in litigation, reports and advice work
- inadequate access to specialist training support
- insufficient human resource expertise
- too little and too dispersed community and public relations expertise
- fragmented data analysis
- lack of appropriate roles for the four program coordinators.

Recommendation 46

ICHR should incorporate into its next strategic plan an explicit strategy on women's rights and gender issues, ensuring both that they are mainstreamed into the work of all units and through all projects and also that they are the subject of special projects where required and appropriate. Staff should be provided with training and development opportunities to sensitise them more to gender issues and perspectives.

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ICHR should develop a strategy to ensure more equal recruitment of women and men to senior positions on the Board of Commissioners and staff.

APPENDIX 2

Terms of Reference for an External Evaluation of the Palestinian Independent Commission for Human Rights

1. Background

The Palestinian Independent Commission for Human Rights (ICHR) was established in September 1993 and is currently operating from its temporary headquarters in Ramallah, as well as from its Regional Offices in Gaza, Nablus, Ramallah and Hebron. The Presidential Decree which established ICHR gave the organization a mandate to “follow up and ensure that all requirements to safeguard human rights are provided for in the various Palestinian laws, by-laws and regulations, and in the work of the various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization”. The Decree entrusted ICHR with the drafting of its statutes in a manner that would ensure its independence and effectiveness. ICHR submitted its draft law to the Palestinian Legislative Council in May 2005, taking into consideration the Presidential Decree No. 59 for the year 1994, Article 31 of the Amended Palestinian Basic Law, promulgated on 18 March 2003. The draft law has defined the dual personality of ICHR as being the national human rights commission with an ombudsman function. The law has not been ratified yet. In 2009, ICHR obtained full accreditation with the International Coordinating Committee of National Human Rights Institutions (ICC) and membership of the Asia Pacific Forum for National Human Rights Institutions (APF), recognising ICHR as adhering to the 1993 Paris Principles which regulate the work of national human rights institutions.

With the new political developments in June 2007, after the Hamas takeover in the Gaza Strip resulting in political division, fragmentation and internal disputes between the two major political parties (Fateh and Hamas), ICHR has had to work under extraordinarily difficult political situations that resulted in the deterioration of the human rights in the West Bank and the Gaza Strip, and a remarkable increase in violations. ICHR has had to review its working strategies and make prompt decisions in dealing with the *de facto* Authority in the Gaza Strip. Despite those unanticipated developments, ICHR has functioned efficiently to protect and promote human rights and the rule of law, and defend Palestinian citizens’ rights within the Palestinian-controlled Territory regardless of the perpetrator.

ICHR achieves its objectives through the following activities:

- Handling and processing complaints submitted by citizens related to violations of legal and human rights, maladministration and abuse of power;
- Conducting reviews of Palestinian laws, by-laws and draft laws to make sure they conform with international standards and principles of human rights;
- Lobbying and advocacy work with decision-makers and legislators to ensure that policies and legislation are in conformity with international human rights standards;
- Awareness Building Programs to educate and wider disseminate the culture of human rights and law among Palestinian citizens, and to raise their awareness of their rights and freedoms and the mechanisms for their protection from violations;
- Training programs on law and human rights targeting Palestinian Government Officials to ensure the performance of their duties with due respect of the law and human rights principles;
- Training programs in Gaza targeting civil society organisations;
- Publishing special and legal reports and the Annual Report on the status of Palestinian citizens' rights and the violations of those rights by the authorities.

2. Objectives of the External Evaluation

An external evaluation is intrinsic to developing ICHR's institutional capacity, by assessing the organization's current performance and assisting in defining future directions. The purpose of this evaluation is to:

- Review ICHR's program activities and inter-institutional coordination;
- Assess the success of ICHR in achieving its dual role/function, both as an ombudsman and a national human rights commission;
- Assess the success of ICHR in achieving its stated objectives, in terms of relevance, efficiency, effectiveness, impact and institutional capacity;
- Identify barriers to effective operation and provide recommendations for overcoming these;
- Draw recommendations for the future development of ICHR, feeding into ICHR's strategic planning process which will take place during August– September 2010.

The evaluation will review the implementation of ICHR's activities in the following areas:

- ICHR role as an ombudsman in protecting citizens rights to access public services provided by the government;
- Receipt of and handling of complaints of human rights abuses;
- Legal and judicial interventions of ICHR;

- Activities related to legal reviews;
- Public awareness (and training) activities;
- Public relation and media strategy;
- Research and publications;
- Coordination and networking, at the national, regional and international levels;
- Relation with the government bodies and security apparatus
- Institutional development regarding coordination with international and national NGOs;
- Gender equality policy and gender mainstreaming;
- Administrative and financial management procedures and internal control mechanisms;
- Organizational structure in terms of its overall effectiveness and efficiency for the management of the program and the delegation of authority and decision-making processes within the institution;
- Institutional development and capacity building;
- Organizational and personnel management systems;
- The workings of the Board of Commissioners- was the activation of the full board members successful;
- The workings of the Donors' Consortium;
- Identification of the strengths and weaknesses of ICHR.

In addition, the evaluation will assess the ability of ICHR to adapt to changing situations, risks and external factors, and longer-term sustainability.

3. Specific questions to be addressed

The six main questions that the evaluation should address are:

1. To what extent are ICHR and its programs and structures relevant and appropriate to meeting the contemporary human rights needs of the Citizens of the Occupied Palestinian Territory?
2. How effectively and efficiently has ICHR implemented the two strategic objectives identified in the Strategic Plan 2008-10 and the 25 specific objectives identified in the Plan of Action for 2009, through its complaints handling, public awareness, research and law reviews functions and its four regional offices as well as what has been implemented so far in the plan of action 2010?
3. To what extent are ICHR's management and organizational structures and systems appropriate to the implementation of legal mandate and its Strategic Plan?
4. To what extent has ICHR implemented its Strategic Plan for 2008-10? In particular, has it successfully undertaken all the projected activities in the Plan and its annual Plans of Action?
5. To what extent has ICHR implemented the recommendations of the External Evaluation conducted in 2007 by Professor Brian Burdekin, Mr Bill Chapman and Professor Nahla Abdo? To the extent that any recommendations have not been implemented, are those recommendations still relevant to ICHR and still requiring attention?

6. What recommendations does the Evaluation Team make for the more relevant, effective and efficient operations of ICHR during the period of its next strategic plan?

In addressing these main questions, the Evaluation Team may have regard to the following issues:

Relevance

- Are ICHR's individual activities in complaints handling, public awareness, research and law review well designed and relevant to the current political and social environment?
- Do they advance and show consistency with ICHR's mission statement and organisational objectives?
- How effective are the methodologies for identifying public awareness target groups and research priorities?

Effectiveness and Efficiency, including Cost Effectiveness, of the Program

- Have ICHR's activities in complaints handling, public awareness, research and law review met their goals?
- Have they been efficiently implemented?
- What are the barriers hindering effective or efficient implementation?
- How it's related to the financial management?

Impact

- Have ICHR's complaints handling, public awareness, research and law review activities reached their designated target groups, including government authorities, complainants, training participants and the general public?
- How have the activities impacted on these target groups?
- Have there been any regional imbalances in the distribution of activities?

Institutional Capacity

- Have activities strengthened the capacity of ICHR and its operations?
- How has capacity building programmes impacted on staff?
- Do ICHR's organisational and personnel management systems enable effective program implementation?
- How effective is coordination and communication within and between ICHR offices?
- How effective is liaison and communication between ICHR and its donors, in light of the consortium arrangement?
- How do the activities of the Board of Commissioners and its relations with ICHR offices impact on the organisation's activities?
- How effective is ICHR's financial management?
- How effective is ICHR's international networking, including coordination/recognition?

Final Performance Rating

- What is the extent of ICHR's overall progress in meeting its objectives and mission statement?
- What are possible adjustments for the organisation's activities and management systems that would maximise ICHR's efficiency and relevance in the future?

4. Composition of the Evaluation Team

The Evaluation Team will be composed of three experts, one international consultant and two Palestinian consultants. Among consultants, two will be commissioned full time (20 working days) to review and evaluate effectiveness and efficiency of the program and one of them will be the team leader. The other national consultant will be commissioned for 5 days to review and evaluate ICHR's institutional capacity, including administrative and financial management procedures.

5. Methodology

The evaluation will be undertaken in July 2010 and consist of three stages:

4.1 Literature Review (3 days)

The Evaluation Team will review the following documents: background material, narrative and financial reports, strategic plan, annual plans, log frames and budgets, evaluations of individual projects (complaints handling mechanism, awareness - raising) and/or interventions, publications, and other materials produced by ICHR, External Evaluation Report (2007) and ICHR's Annual Reports. ICHR will prepare a grid to indicate whether and the extent to which individual recommendations in the 2007 Evaluation Report and individual activities in the 2009 Plan of Action have been implemented.

4.2 Field Visit: (12 days)

The Evaluation Team will meet with ICHR representatives on the first day to discuss the final plan of the field visit. The team will conduct interviews with ICHR Executive and Technical Teams and other members of staff, Commissioners and donors, as well as with a representative sample of relevant key government and NGO counterparts, and any other entity and/or individual as deemed necessary by the Evaluation Team. This can also include site visits and attendance of and participation in meetings and activities. The team will visit the Ramallah, Nablus, Hebron and, if possible, Gaza Regional Offices (otherwise through video conference with Gaza). The team will also inspect additional documents not seen in the initial document review.

4.3 Reporting: (5 working days)

The Evaluation Team will present its initial findings, in summary form, to ICHR management, senior staff and Commissioners at the end of its field visit as well as to the consortium donors. The final report will be submitted following ICHR's comments on the initial findings. The report will be prepared and presented jointly by the team of experts. The report should be submitted in English (not later than a week after the field visit), and ICHR will ensure translation into Arabic.

APPENDIX 3

MEMBERS OF THE EVALUATION TEAM

HASSAN JABAREEN

Hassan Jabareen is a lawyer and the founder and general/legal director of Adalah – The Legal Center for Arab Minority Rights in Israel. He has extensive experience in litigating landmark cases before the Israeli Supreme Court on behalf of Palestinians in Israel and in the Occupied Palestinian Territory (OPT). Major cases include representing Arab political parties and leaders in elections disqualification cases and in political, criminal cases; and challenging the Citizenship Law, which prohibits family unification between Palestinians and the no-compensation law, which banned Palestinians from the OPT from obtaining damages from Israeli security forces. He also led the legal team in the representation of the 13 bereaved families of the October 2000 killings and Arab political leaders before the Or Commission of Inquiry. He received the Peter Cicchino Award for excellence in public interest lawyering from the American University Law School in Washington DC and he was chosen in 2005 as a Yale World Fellow. He has been teaching in Israeli law schools since 1998 as an adjunct lecturer for courses he initiated on the legal status of Palestinian citizens of Israel. He has also published academic articles on cause-lawyering, minority rights, and the constitutional status of the Palestinians.

RANIA JABER

Rania Jaber is the Head of the Business and Marketing Department at Birzeit University. She is a Lecturer in Management and Electronic Commerce, where she teaches undergraduate courses including Human Resource Management, and Organizational Behavior, as well as graduate courses including e-business courses and Strategic Management. She has a wide experience in organizational and human resource development. She used to be the Coordinator of the MBA program. Previously she worked as the Executive Manager/Human Resource Manager. Birzeit University Institute of Law. Work included overseeing 35 staff members and supervising 8 projects, including being responsible for the projects' financial and administrative oversight including providing technical input and management advice. She worked with different private and public organizations as a consultant to conduct strategic planning workshops. She also worked with the KFW program, implemented by the UNDP, to evaluate the experience of implementing 164 small projects implemented in Palestinian Authority districts. She provided training in the fields of communications, human resource management, electronic commerce, presentation and interviewing skills.

CHRIS SIDOTI (team leader)

Chris Sidoti is a human rights lawyer, activist and teacher. He currently works from Sydney, Australia, as an international human rights consultant, specialising in the international human rights system and in national human rights institutions. He was director of the International Service for Human Rights, based in Geneva, Switzerland, from 2003 to 2007. He has been Australian Human Rights Commissioner (1995-2000), Australian Law Reform Commissioner (1992-1995) and Foundation Director of the Australian Human Rights and Equal Opportunity Commission (1987-1992). He has also worked in non-government organisations, including for the Human Rights Council of Australia and the Australian Catholic Commission for Justice and Peace. In 2007-08 he was the independent chair of the United Kingdom Government's Northern Ireland Bill of Rights Forum. He is an adjunct professor at the University of Western Sydney, Griffith University (Queensland) and the Australian Catholic University, a Fellow of the Castan Centre for Human Rights Law at Monash University and an Affiliate at the Sydney Centre for International Law at the University of Sydney.

APPENDIX 4

External Evaluation Program in Palestine 11-22 July 2010

Sunday 11 July

- 08:00** Meeting between the 3 members of the evaluation team, followed by a meeting with ICHR Executive Director, Ms Randa Siniora
- 10:00** Meeting with ICHR Commissioner General, Dr Mamdou Aker
- 11:00** Meeting with ICHR Executive Team
- 19:00** Meeting with ICHR Board of Commissioners

Monday 12 July

- 08:00** Evaluation team meeting
- 09:00** Meeting with ICHR's Donor's Consortium
- 10:00** Meeting with Walid Namour, Managing Director, IDARA
- 15:00** Meeting with ICHR Monitoring Policies and Legislation Department

Tuesday 13 July

- 08:00** Meeting with Technical Team of the West Bank Program
- 15:00** Meeting with General Administration of Complaints, Prime Minister's Office
- 15:45** Meeting with West Bank Central Regional Office staff in Ramallah

Rania Jaber

Further meeting with ICHR Monitoring Policies and Legislation Department

Wednesday 14 July

Chris Sidoti West Bank Southern Regional office in Hebron and Bethlehem

- 09:00** Meeting with the civil society organisations, Bethlehem (participants' list attached)
- 10.30** Meeting with Raod Othman, General Director, Ma'an News Agency
- 12:00** Visit to the Preventive Security Detention Centre, Hebron
- 14:00** Meeting with staff in Hebron office
- 17:30** Visit to old city of Hebron

Hassan Jabareen Work at ICHR Headquarters

Meeting with Musa Abo Dhaim, Director of the West Bank Program, to address complaints handling
Meeting with Majeed Sawalha, Media and Public Relations Office

Rania Jaber Work at ICHR Headquarters

Meeting with Nisreen De'bas, Administration and Financial Director
Further meeting with ICHR Monitoring Policies and Legislation Department

Thursday 15 July

Chris Sidoti West Bank Northern Regional Office in Nablus

09:00 Introductions to the West Bank Northern Regional Office in Nablus
09:30 Meeting with Abu Da'oud, Chief of Intelligence Services in the Nablus Governorate.
10:00 Visit to Bureau of General Intelligence Detention Centre, Nablus
11:30 Meeting with the civil society organisations, Nablus (participants' list attached)
13:00 Meeting with West Bank Central Regional Office staff in Nablus

Hassan Jabareen Work at ICHR Headquarters

Meeting continues with Musa and Majeed (Complaints and Media), to address complaints handling
Meeting with Majeed Sawalha, Media and Public Relations Office

Rania Jaber Work at ICHR Headquarters

Meeting continues with Nisreen (Financial and Admin Matters)

16:00 Evaluation team meeting

Friday 16 July

Chris Sidoti Jerusalem

13:00 Lars Adam Rehof, Head of Mission, Danish Representative Office to the Palestinian Authority

Sunday 18 July

08:30 Meeting with Khalil Karaja Al-Rifai, Deputy Minister of Justice
09:00 Meeting with Dr Ali Khashan, Minister of Justice
09:30 Meeting with Fateh Parliamentary Bloc, Palestine Legislative Council
10:30 Meeting with Dr Said, Minister for Justice, and heads of the Bureau of General Intelligence, the Bureau of Military Intelligence and Preventive Security Service
12:30 Meeting with Dr Fayyad, Prime Minister, Palestine National Authority
13:30 Meeting with Judge Thuraya Judi Alwazir, High Judicial Authority
15:00 Meeting with Change and Reform Parliamentary Bloc, Palestine Legislative Council
16:30 Visit to Ramallah Central Prison and meeting with Prison Administration

Monday 19 July

- 08:00** Meeting with General Prosecutor
- 09:30** Meeting with Head of Military Court
- 12:30** Meeting with the civil society organisations, Ramallah: Women's Centre for Legal Advice and Counselling, Al Haq, Jerusalem Centre for Legal Aid
- 14:00** Meeting with Eva Tomic, Office of the United Nations High Commissioner for Human Rights, Ramallah OHCHR
- 15:30** Meeting with Diane Halley, European Union Police Coordinating Office for Palestinian Police Support, Ramallah
- 19:30** Meeting with ICHR Board of Commissioners

Tuesday 20 July

- 08:30** Videoconference with the Technical Team of the Gaza Regional Office
- 11:00** Meeting with Minister of Social Welfare
- 12:00** Videoconference with the Technical Team of the Gaza Regional Office (continued)
- 14:15** Evaluation team meeting
- 16:15** Videoconference with the Technical Team of the Gaza Regional Office (continued)

Wednesday 21 July

- 14:00** Evaluation team meeting

Thursday 22 July

- 09:00** Meeting to report to the ICHR Board of Commissioners
- 11:00** Briefing for ICHR's Donor's Consortium
- 15:00** Meeting with Commissioner Dr Hanan Ashrawi

Meetings with Non Government Organisations

Bethlehem 14 July 2010

Name	Organisation
	Christian Students Forum, Bethlehem University
Muna Abu Sneineh	DCI
Leena Hazem Qumsieh	YMCA / YWCA
Zyad Hmeidan	Al-Haq
Hasan Abd-el jwad	Journalist Syndicate
Muna Khalil Al zghier	Palestine Women's Union
Sami Salahat	Political and National Advisory Committee, PLO Bethlehem
Jameel Jaraiseh	Patient Friends Society
Saeda Al Atrash	Center for Protection and Empowerment of Women and Family
Mahmoud Abu Odeh	General Union of Workers Syndicate / Palestine
Husni Khalid Rahhal	Political Steering Committee, Palestine Security Services
Tariq Zakari	Office of "Fateh" Parliamentary Bloc

Nablus 15 July 2010

Name	Organisation	Position
Allam Jarrar	Medical Relief Society	Program Director
Samar Hawwash	Palestinian Women Workers Union for Development	Program Coordinator
Sawsan Salhat	DCI	Lawyer
Mouhammad Sama'neh	Students Union / Najah University	Member
Mahmoud Na'na'	Students Union / Najah University	Member
Salah Daraghme	Doctors of the World	Coordinator

THE CONTEXT OF ICHR'S WORK

Extract from the ICHR Narrative Report for 2009, submitted to donors in March 2010

1. Major Political changes:

In 2009, the Palestinian National Authority (PNA) stepped into yet another critical phase of its political history as human rights were largely threatened and legal bylaws were still being utilized arbitrarily as a result of the internal political dispute. There was also a weakening of democratic legitimacy and the absence of parliamentary monitoring over the executive authority's activities, which came as a result of the disruption of the Palestinian Legislative Council (PLC), while at the same time there was a halt in negotiations between the Palestinians and Israelis since Israel declined to cease its settlement activities.

The political variables monitored by **ICHR** in 2009, which clearly had a negative effect on the foundation of rights and freedoms in the Palestinian territories, are as follows:

1.1 The Escalating Measures of the Israeli Occupation

Year 2009 witnessed an escalation in Israel's occupying policies and measures against the Palestinian civilian population of the OPT, and reached their peak with the brutal Israeli aggression against the Gaza Strip resulting in the high number of casualties among the Palestinian civilian population and a massive destruction of their properties. This was also combined with the systematic policies of the occupying authority in the West Bank including East Jerusalem, through the expansion of settlements, restrictions on movement, house demolitions and numerous other human rights violations.

On 12/1/2009, the United Nations Human Rights Council (HRC) set up a fact-finding committee headed by Judge Goldstone, to investigate violations committed in the Gaza Strip during what became known as the "Cast Lead Operation" in the Gaza Strip. The formation of the UN fact-finding mission came following the international mobilization towards ending the aggression on the Gaza Strip which has resulted in a large-scale destruction and killings among the Palestinian civilian population. The fact-finding committee conducted its investigations on violations committed during the Israeli war on Gaza and submitted its report to the Human Rights Council. The fact-finding report has taken into consideration: the deliberate murder crimes, intentional attacks on civil targets, the arbitrary attacks against civilians, the use of human shields, collective punishment against civilians through the continuation of the siege, and has concluded that Israel during Cast Lead Operation against the Gaza Strip has committed war crimes, some of which possibly amount to crimes against humanity. The report also provided detailed

recommendations for the HRC, the Secretary General, the General Assembly, Israel, and the PNA and to Gaza Authorities and Palestinian Armed Groups. The report requested from the PNA and the “competent authorities” in the Gaza Strip and Israel to carry out internal investigations in relation to human rights violations highlighted in the fact-finding report.

The voting on the report, originally scheduled for the 12th session of the HRC on 29/9/2009, was deferred for the 13th session of March 2010, upon the request of the Palestinian representatives via the Islamic and Arab Groups at the HRC. The decision to delay the voting on the Goldstone’s report led to an intense popular mobilization led by civil society organizations and legal bodies working within the Palestinian-controlled Territory. As a result to the public pressure on the PNA, a special session of the HRC was requested and approved by the members of the HRC. The special session was held on 16/10/2009, and the report was fully endorsed by the HRC with the recommendations contained therein.

ICHR was present at the Human Rights Council sessions in Geneva and presented its oral and written statements utilizing its special status as a National Institution with full accreditation with the United Nations. At the national level too, ICHR has worked closely with other human rights organizations and has been active in consolidating national efforts to ensure that recommendations presented in the Goldstone report are seriously addressed by the international community and internally by the PNA and the De-facto Authority in the Gaza Strip.

1.2 The Political Division between the West Bank and the Gaza Strip:

Despite efforts made to end the state of political and geographical division on the Palestinian front, no progress has been achieved during 2009, and efforts made for reconciliation between Fatah and Hamas have all failed. The initiative for ending the internal division has been manifested in what became known as the “Egyptian paper” that had specified the proposed grounds for ending the division and reuniting the West Bank and the Gaza Strip. It has been suggested to the two disputed parties that upon the signing of the agreement between Fateh and Hamas, its provisions will be implemented according to specified time-schedules, for the purpose of carrying out Legislative and Presidential elections, as well as administering issues in the Gaza Strip. Despite the hopes and aspirations of the Palestinians for reconciliation and the ending of the internal political division the year 2009 ended without any substantive progress made in this regard.

President Mahmoud Abbas issued a Presidential decree indicating that both Presidential and Legislative elections shall be carried out in January 2010 in accordance with the provisions of the Palestinian Basic law. However, the Central Elections Commission (CEC) declared on 12/11/2009 that it was incapable of holding the electoral process in a timely manner due to obstacles faced by the CEC in preparation for the elections. Among those obstacles were those imposed by the Deposed government in the Gaza Strip who has not allowed the CEC staff to complete the registration process and make the

necessary technical and administrative preparations. This was accompanied by Israel not responding to the requests made by the CEC in preparation for the elections in East Jerusalem. The ongoing internal Palestinian division and the failure to reach a national reconciliation meant that both, Presidential and Legislative elections were not being carried out on their specified dates set by the law.

2. The Impact of Political Developments on the Status of Human Rights in the Palestinian-controlled Territory

Through monitoring and documenting human rights violations and complaints received by ICHR, a number of human rights violations have been registered in both the West Bank (by the current Palestinian government) and the Gaza Strip (by the Deposed government). The source of those violations was clearly the continuing state of division and the mutual reactions by both sides of the conflict. Patterns of human rights violations monitored and documented by ICHR during 2009 included violations of the right to life and physical safety, being exposed to torture and ill-treatment, arbitrary detention based on political affiliation by presenting civilians before military courts and dismissal from public office for “security considerations” or lack of “security clearance” from security agencies in the West Bank, attacks on freedoms of the media and constraints on fundamental rights such as the right to association and the right to travel and peaceful assembly.

3. Accountability and Impunity

By following up and analyzing violations of human rights in the Palestinian-controlled Territory in 2009, ICHR found that the Palestinian accountability procedures against perpetrators of unlawful killings, torture and ill-treatment, or against the violation of the prisoners' and detainees' rights were insufficient, either through the provision of justice to the victims, or through the deterrence of perpetrators.

The current justice system proved to be unable to hold those in charge of murder, torture and ill-treatment accountable for their actions, which resulted in creating an environment of impunity, the absence of transparency and the inability to respond to the victims' complaints. Accordingly, the mechanisms employed by the relative authorities to follow up on the violations and grievances were regarded insufficient.

During 2009, ICHR documented 22 extra-judicial killings in Gaza Strip, as well as the death of three detainees in Palestinian detention centers in the West Bank and ten detainees within detention centers in the Gaza Strip. With regard to physical safety violations and the subjugation of detainees to torture and other forms of harsh degrading treatment, ICHR has received 202 and 107 cases of allegations of torture and ill-treatment in the West Bank and Gaza Strip respectively. In these cases, the detainees claimed to be subjected to torture and ill-treatment by the various security services. In cases followed up by ICHR, it became evident that the detainees were exposed to such crimes under semi-total impunity. This is partly ascribed to the absence of an independent authority to prosecute the perpetrators and to hold them totally accountable for their violations. Civil

courts refuse to prosecute military personnel due to the lack of jurisdiction, as it is the military courts and military public prosecution which have the jurisdiction to pursue complaints raised against members of the security services including the police. ICHR regards the Military Judicial Commission as a non-independent authority, simply because the military public prosecution and its judges are from among the officers of the security agencies which are affiliated to the Chief of Military Judicial Commission who in many cases gives the permission for the security agencies to carry out detention and arrest.

Role of the civil public prosecution in accountability and impunity

Public prosecutors play a crucial role in adopting punitive measures against the perpetrators of crimes, beginning with persecuting them, overseeing the legality of investigation, supervising the implementation of court decisions as well as the exercise of other tasks. As representatives of public interest, they may efficiently contribute to the respect of human dignity in terms of their contribution to the reliability of procedures, and the intactness of the proper functioning of the criminal justice system. In accordance with the law, the public prosecutor watches the course of justice, oversees the jails and detention centers and law enforcement. He also represents the executive power in front of the judiciary and the courts, and communicates with the competent authorities directly.

It should be noted here that ICHR has reiterated its position on more than one occasion during 2009 that in all cases of detention the public prosecutor is required to investigate into death incidents. In the cases of the two cases of suicide in detention, ICHR also expressed concerns over the conditions in detention centers, which often lead those persons to commit suicide. It has also reiterated its position that the PNA and its security agencies remain responsible and are required to improve conditions inside detention centers. On more than one occasion, ICHR has also expressed concern about the allegations of torture and ill-treatment by security personnel, especially the General Intelligence Service and the Preventive Security and followed on the numerous complaints it has received over the year and called on the Palestinian Authority to take measures to put an end to torture and ill-treatment in Palestinian detention centers in the West Bank.

While structural developments have been made during 2009 to ensure internal monitoring mechanisms within the Ministry of Interior and the within Palestinian security agencies, more serious efforts are required to ensure that legal and judicial measures, and not only disciplinary measures are undertaken, when government officials and security personnel commit serious violations of human rights such as extra-judicial killings, arbitrary arrests and torture. There should be legal and judicial measures undertaken against those officials who commit those crimes, and they should be made accountable for their acts. Current structural measures, while a step in the right direction which contributes to the development of internal monitoring mechanisms, remain insufficient if no serious measures of accountability and responsibility are made and if no redress and compensation are provided to victims of those serious human rights violations.

4. Results and Conclusions based on Political Changes During 2009

Political and legal changes during 2009 have had a direct impact on rights and public freedoms of Palestinian citizen within the Palestinian-controlled Territory, and the major conclusions made by ICHR could be summarized as follows:

4.1 Israeli occupational policies in the OPT remained the prime factor and the key element behind the deterioration of human rights in the Palestinian-controlled Territory during 2009. This was reflected in the Israeli aggression on the Gaza Strip early 2009 which resulted in the destruction of Palestinian official institutions, infrastructures, schools and hospitals, resulting in a long-term impact on the PNA's ability to provide the requirements that allow Palestinian citizens to enjoy their rights. Israeli practices also undermined the ability of the PNA to perform its tasks, hold its legal responsibilities, provide safety and security for the Palestinian citizens in Palestinian-controlled Territory, and to enforce the rule of law. Further more, the occupying authority and its policies in the West Bank including East Jerusalem attempts at undermining the efforts of the PNA in maintaining public safety and security to Palestinian citizens, and in the ability of the PNA in enforcing the rule of law in areas under its responsibility and full control through the continuous Israeli military incursions of Palestinian cities, targeted killings and the arrest of Palestinians on insubstantial security grounds.

4.2 The failure of the efforts to achieve national reconciliation and the depth of the political division between the Fatah and Hamas movements in the West Bank and Gaza Strip reflected itself negatively on human rights and public freedoms, as they encountered many violations by both parties of this division. The most important violations to be mentioned are: arbitrary detentions, lack of proper legal procedures during arrest, inspection, detention, elimination of public freedoms, disrespect of court rulings and presenting civilians before military courts, continuing to require security approval which came to be known "security clearance" as a condition to hold a public service position. Additionally, the state of division influenced the construction efforts and the repair of the damages caused by the Israeli aggression on the Gaza Strip as neither the current Palestinian government nor the Deposed government in Gaza were able to start the reconstruction process. This has reflected gravely on depriving citizens from their rights and reducing their suffering and restoring the damages caused by the Israeli aggression.

4.3 The arbitrary use of the provisions of law by interpreting the law from political and security perspectives have led the Palestinian citizen to question the seriousness of the PNA and its role in respecting the rule of law and its regulations which are based on principles of equality, non-discrimination on any grounds. Furthermore, the arbitrary use of provisions of the law has led to a situation where legal provisions are applied on particular groups not other groups, without any consideration to the principle of equality in the public rights and liberties enshrined in the 2003 Amended Basic Law, which affirms that rights and public freedoms shall be respected and given priority over all other considerations.

4.4. Political changes that have taken place during 2009 and the entailing procedures which affected the public rights and liberties proved that having an independent and integral judicial system is a crucial guarantee for maintaining and preserving rights and liberties especially with the absence of the PLC. ICHR notes that there should be judicial oversight by the Supreme Court of Justice over public decisions to ensure the principle of legitimacy and ensure that the Executive Authority, and its administrations, abides by the provisions of the law. In other words, the work of the administration is regulated by specific legal rules and does not have absolute freedom, and that ordinary Palestinian citizens can resort to courts for remedies in case rights were violated. During 2009, the Supreme Court of Justice has contributed to protecting the public rights and liberties incorporated in the legal principles and constitutional provisions following its direct decisions on issues of arbitrary detention and dissolving and closing of associations. It has created a space for ombudsman before the court against the arbitrary actions of the Executive Authority. It also increased the citizens' confidence in the responsibility of the judiciary in general and in administrative judiciary in particular, in preserving and protecting human rights from the deviation of the authority and favoring security considerations over rights and liberties which are guaranteed by law. ICHR hopes that this approach continues in the future as it expects from the judiciary to spread "job security" among civil servants especially at the Ministry of Education and Higher Education who were fired from their posts due to the non-approval of security agencies for their appointments in clear violation of Civil Servants Law. It is hoped that the Supreme Court revokes this illegal practice by annulling the Executive Authorities' decision of "security clearance" as a pre-requisite for holding public office.

4.5 The political changes that occurred during 2009 proved that respecting human rights and public freedoms does not depend only on the availability of legal texts, and the entailed rules and guarantees, as much as it depends on citizens' understanding of these rights and the ability of public opinion to influence them. This was apparent by the strong Palestinian public opinion following the PNA's decision to postpone the voting on the decision of the United Nation Fact Finding Mission regarding the Goldstone Report in the Human Rights Council. The importance of the Palestinian public opinion and its ability to influence decision makers was evident for the first time. It has become also critical for all parties, political factions and civil society organizations to work hard on formulating a strong Palestinian public opinion on human rights-related issues. This is to be achieved by revealing practices and violations, regardless of their perpetrators, and presenting them for discussion within political factions, civil society organizations, and various media outlets for the purpose of creating a strong public opinion which perceives such practices as a threat to each citizen's safety, liberty and life which consequently threatens the Palestinian society of becoming weak and undeveloped. Furthermore, building up Palestinian public opinion will enhance the public and societal monitoring of the authorities' performance in order to deepen the culture of human rights and the rule of law in the Palestinian context.

4.6 In the Palestinian context, past experience confirmed that succeeding in comprehensive well balanced development plans and building a state relies in connecting these plans to the human social and economic rights from one side and the political civil

and cultural rights from another. In addition, democratic and legal legitimacy shall outrank any other legitimacy, while the criteria for an independent Palestinian State shall be based on the principle of rule of law rather than the giving priority to "security considerations. This can be achieved by drawing limitations to the encroachments of the security agencies and giving instructions to government officials within security agencies to fully abide by the provisions of the law. To that end, it is necessary that the security level abides by the instructions and orders imposed by the political level as stipulated in the provisions of the law.

PROPOSED ORGANISATIONAL CHART



IMPLEMENTATION OF THE 2007 ICHR EVALUATION³⁴

JULY 2010

KEY:

IMPLEMENTED: The recommendation has clearly been addressed and implemented by the ICHR

NOT IMPLEMENTED: The ICHR has not implemented the recommendation

STILL RELEVANT: There has been evidence of work towards the implementation of the recommendation but the issue is of continuing importance and needs to be addressed, either specifically or on a continuing basis.

³⁴ This table was prepared with the assistance of Patrick Deegan and Emily Mourad Hanna.

Complaint Handling

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
The draft complaints manual to be adopted by the Commission as soon as final feedback is received from the staff.	IMPLEMENTED	Recommendation 10
Branch offices, with adequate training and instruction for relevant staff, to be allowed to make decisions about jurisdiction of complaints.	IMPLEMENTED	
A protocol to be developed which establishes criteria under which complaints should be forwarded to Head Office for decision making.	STILL RELEVANT	Recommendation 10
Complaints Unit to be retitled Investigation and Monitoring Unit in order to place more emphasis on the proactive role of the PICCR in preventing human rights violations through monitoring – as well as investigating complaints when violations have occurred.	NOT IMPLEMENTED	Recommendation 45
Case management software to be introduced in order to allow the Head of Complaints Unit to keep track of complaints and manage the caseload.	IMPLEMENTED	
Data to be collected on the total number of interviews conducted by the field researchers, not just those that result in a complaint within jurisdiction.	IMPLEMENTED	

Policy and Research

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
Specific training and capacity building be given to PICCR staff on quantitative and qualitative research.	STILL RELEVANT	Continuing need over the life of the organisation

Public Awareness and Training

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
Develop a system of evaluation to measure the effectiveness of training courses.	STILL RELEVANT	Recommendations 17 and 18
Revise the 'training evaluation form' to provide a more specific account of the impact on changing the conduct and attitude of trainees.	STILL RELEVANT	Recommendations 17 and 18
A broad ranging program of capacity building to be undertaken for external target groups, such as: legislators, judges, lawyers, police, security services, prison officials, civil servants etc.	IMPLEMENTED	Continuing need over the life of the organisation
Devise a clear strategy for promoting a culture of respect for human rights in Palestine, targeting both decision makers and the public at large.	STILL RELEVANT	Continuing need over the life of the organisation
Further develop the proposed media strategy.	STILL RELEVANT	Recommendation 31
A sociological or opinion survey to be carried out every three years to assess the effectiveness of PICCCR's awareness raising activities.	NOT IMPLEMENTED	

Management and Organizational Issues

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
The Commission to consider and adopt the proposed Administrative System manual, taking into consideration the comments on the manual provided by the staff committee.	IMPLEMENTED	

Financial Management

C2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
In order to ensure sustainability, PICCCR to raise the issue of its core budget with the PNA/PLC.	IMPLEMENTED	

Because of likely cost, the network of branch offices in the proposed organization to be streamlined.	IMPLEMENTED	
To the extent that the problem still exists, PICCR to take steps to remedy the problem of unevenness in expenditure over estimate by providing more realistic estimates for various heads of expenditure based on previous expenditure and known variations.	IMPLEMENTED	

Personnel Management

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
A fully functioning system of performance appraisal to be adopted by PICCR as soon as possible.	NOT IMPLEMENTED	Recommendation 38
The process of reviewing job descriptions to be completed for all positions as soon as possible, in consultation with individual staff members.	IMPLEMENTED	
For many of the technical positions in the PICCR a 'background in and/or commitment to human rights' to be included in the job descriptions and/or selection criteria as a desirable quality in job candidates.	IMPLEMENTED	

Capacity building

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
Future funding arrangements either through the present Donor Consortium or new donors to include a specific element for capacity building including staff development and training.	IMPLEMENTED	
PICCR to regularly revise its staff training program – for this to be effective each staff member to have an individual training profile.	NOT IMPLEMENTED	Recommendation 37

Organisation Structure

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
<p>Three main departments or units to be established under the Executive Director:</p> <ol style="list-style-type: none"> 1. Investigation, Policy and Research, which would have two sub-units: <ol style="list-style-type: none"> 1.1 Legal, Policy and Research; 1.2 Investigation and Monitoring; 2. Community and External Relations, which would have four sub-units: <ol style="list-style-type: none"> 2.1 Media and Public Relations; 2.2 International Relations, NGOs and Civil Society, and Project Coordination; 2.3 Public Awareness, Education and Training 2.4 Translation and Editing 3. Administration and Finance, retaining its present responsibilities. 	<p>NOT IMPLEMENTED</p>	<p>Recommendation 45</p>
<p>In order to ensure the PICCR has a senior lawyer on its staff, the person appointed to head the Investigation Policy and Research department to be a highly qualified lawyer with experience in human rights.</p>	<p>IMPLEMENTED</p>	<p>Recommendation 45</p>
<p>In order to alleviate delays in production of reports and to reduce the excessive workload of the Executive Director, the position of Translator/Editor to be filled as soon as possible.</p>	<p>IMPLEMENTED</p>	
<p>The position of Coordinator of West Bank Offices to be filled as soon as possible in order to streamline lines of communication between the central office and the various branch offices located in the West Bank.</p>	<p>IMPLEMENTED</p>	
<p>A position of Project Coordinator or Project Manager to be created within the structure (directly responsible to the Executive Director) in order to improve communication with the Donor Consortium, provide one point of contact for donors within PICCR, and ensure prompt response to donor enquiries.</p>	<p>NOT IMPLEMENTED</p>	

Regional or Branch Offices

2007 ICHR Evaluation: Recommendations	Status of Implementation	2010 Evaluation
With current resource constraints, the proposed network of Branch Offices is too ambitious. Other methods of providing outreach to the ordinary citizens of Palestine to be explored.	IMPLEMENTED	
Consideration to be given to increasing resources in the established branch offices whenever circumstances permit.	STILL RELEVANT	Recommendation 19
The Commission to give priority to further steps to improve communications with its branch offices.	STILL RELEVANT	
A more streamlined approach to be considered for the present arrangement whereby some branch office staff report directly to the central office on some issues and to the Branch Head on others.	STILL RELEVANT	Recommendation 45
When circumstances permit, Branch offices to be given a greater degree of operational and financial autonomy.	IMPLEMENTED	

Commissioners

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
The Palestinian people would be better served and the PICCR able to operate much more effectively if the Commissioner-General and at least two other Commissioners (preferably four – if and when resources permit) were appointed full-time. If at all possible, these positions should be paid in an appropriate way from Palestinian consolidated revenue.	STILL RELEVANT	Recommendation 7
The maximum number of Commissioners (both full-time and part-time) eventually to be reduced to eleven.	NOT IMPLEMENTED	
It may also be worth re-examining the rationale for having Commissioners from the diaspora – or if that is felt to be imperative - for having them from the US and the UK (given the tyranny of distance and the cost of travel). If Palestinians abroad are still considered an essential component, consideration to be given	STILL RELEVANT	Recommendation 6

to including prominent Palestinians from Jordan and Egypt (for example). In any event, the full-time Commissioners should be residents of Palestine.		
PICCR staff to be made aware of the Board's thinking and strategic approach through distribution of the minutes of Commission and Executive Committee meetings as soon as possible after the meetings take place. (Of course sensitive or confidential matters should not be circulated in this manner.)	NOT IMPLEMENTED	

Donors

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
PICCR and Donor Consortium to take steps to improve communications between them and develop a problem solving strategy for dealing with any misunderstandings.	STILL RELEVANT	
PICCR and the donors to meet to discuss the issue of the Narrative Reports in order to develop parameters or criteria for the sort of information they ought to contain.	STILL RELEVANT	

The Law

2007 ICHR Evaluation: Recommendations	Status of implementation	2010 Evaluation
PICCR to consolidate its 'multi-function' role to concentrate on human rights and human rights related issues. (For the foreseeable future these should include many – but not necessarily all – of its 'Ombudsman' functions.)	The paralysis of the Palestinian Legislative Council has prevented the enactment of ICHR's law.	Recommendations 1 and 3 are relevant throughout this section
The law to be amended where necessary to make it clear that the PICCR is not expected to perform the roles of an 'Anti-Corruption Commission' or an 'Electoral Commission'.		
Article 7(2) of the Draft Law to be amended to provide that the Commissioner-General and at least two other Commissioners serve on a full-time basis. (The law could provide that up to five commissioners can be appointed full time.)		

<p>Serious consideration to be given to reducing the number of Commissioners (currently stipulated as 16 in Art.10, albeit there are 17) to eleven at some future point.</p>		
<p>The distinction between the ‘Ombudsman functions’ and ‘Non-Ombudsman functions’ set out in Article 13 to be reconsidered, preferably in a Public Conference with all stakeholders, before the Law is adopted.</p>		
<p>Chapter IV of the Draft Law to be reformulated, in line with our recommendations in the section on ‘The Role of Commissioners’, to reflect the reality that the Board does not ‘manage’ the Commission and to incorporate an Article referring to a small Executive Committee or Management Committee of the Board which, together with the Executive Director, is responsible to the Board for managing the Commission – in accordance with the overall direction determined by the full Board.</p>		
<p>Unless the current dysfunctional state of the Courts significantly improves, consideration may need to be given to an amendment to Art.18(2)&(3).</p>		
<p>The provisions in Chapter VI prescribing the PICCR’s powers to be accompanied by appropriate provisions concerning sanctions and penalties for non-compliance or obstruction of the Commission.</p>		
<p>The provision (Art.17) concerning conciliation to be elaborated.</p>		
<p>Further consideration of the Draft Law to be included in the PICCR’s strategic planning priorities.</p>		