



الهيئة المستقلة لحقوق الإنسان "ديوان المظالم"
The Independent Commission for Human Rights
(ICHR)



Status of Human Rights in Palestine

Executive Summary

2017

23 23rd Annual Report **2017**
January - 31 December 2017 1

Board of Commissioners:

Varseen Shaheen, Commissioner General

Ahmad Harb	Cairo Arafat	Assem Khalil
Salameh Bsisso	Mirvat Rishmawi	Zainab Al-Ghunaimy
Fayha Abdel Hadi	Hamah Zidan	Fateh Azzam
Mamdouh A'ker	Hanan Ashrawi	Mahmoud Al-Atshan
Essam Al-Aarouri	Esam Younis	Shawki El-Eisseh
Anton Shulhet	Muhammad Mei'ari	Zeyad Amr
Azmi Shu'aibi	Yahya Al Sarraj	

The Independent Commission for Human Rights (ICHR) was established by Presidential Decree No. 59, promulgated by the late President Yasser Arafat on 30 September 1993.

Founding Body: Hanan Ashrawi (President), Mamdouh A'ker, Fateh Azzam, Mona Rishmawi, Raja Shehadeh, Rajy Al-Sawrani.

A Palestinian State, where the rule of law and equality are promoted, and human rights and freedoms of all individuals are respected.

Law - Rights - Freedoms



الهيئة المستقلة لحقوق الإنسان "ديوان المظالم"
The Independent Commission for Human Rights
(ICHR)

Status of Human Rights in Palestine

23rd Annual Report
1 January - 31 December 2017

Executive Summary 2017

This report is prepared through the concerted efforts of all ICHR's staff members , each in his/her position, under the supervision of the Director General; Dr. Ammar Dwaik. It has been drafted and compiled by the Monitoring of National Legislations and Policies Department with contributions by the Investigation and Complaints Department including the presentation of the complaints and prisons' visits. Special mention must be made to Khadijah Zahran, Maen Id'es, Aiche Ahmad, Taher al Masry, Ammar Jamous, Hazem Haneyeh, Mustafa Ibrahim, Musa Abu Duheim, and Sami Jabareen.

ICHR Staff

Dr. Ammar Dwaik, Director General

- **Monitoring of National Legislations and Policies Department:** Khadijah Hasan, Director
Maen Id'es, Aiche Ahmad, Hazem Haneyeh, Mustafa Ibrahim, Taher al Masry, Ammar Jamous, Burhan Ashtieh
- **Investigations and Complaints Department:** Mousa Abu Duheim, Director
Sami Jabareen, Suheil Hajjaj
- **Public Awareness and Training Department:** Islam al Tamimi, Director
Bahjat al Helou – Anas Bawateneh
- **Central Office:** Walid al Sheikh, Manager
Amani Seif, Rana Kalbouneh, Hazem Makhalfeh, Yasser Salah, Arine Dweikat
- **Northern Office:** Ala' Nazzal, Manager
Rana Wahbeh, Sameer Abu Shams, Mohammed Kamanji, Nadayah Abu Diyab, Yazan Sawaftah
- **Southern Office:** Farid al Atrash, Manager
Yousef Warasneh, Bilal al Mallah, Rammal Hureibat, Rana al Ja'bari, Ala' Ghanayem, Ala' Gheith
- **Gaza Strip:** Jamil Sarhan, Deputy Director for the Gaza Strip
Essam Muqawasi, Riham Ilayyan, Siham Shalash, Mohammed Eid
- **Southern Gaza Office:** Ahmed al Ghoul, Manager
Hasan Halaseh, Mahmoud al Hashash, Hibah Ali, Khaled Abu Shab
- **Gaza and Northern Gaza Office:** Ra'fat Salhah, Manager
Mohammed Srour, Nisreen Taha, Rana Abu Ramadan, Anas Barqouni
- **Financial and Administrative Department:** Nisreen De'bas, Director
Sana' Abu Ta'ah, Mohammed Abu Thaher, Firas Khalil, Nabiheh Elwan, Raja' Badareen, Lisa Karajeh, Molouk Khalaf, Ahmed Jamil, Elham Qar'an, Issa Salem, Jad Ashtieh.
- **Public Relations and Media:** Majeed Sawalhah, Officer
Nesmeh al Halabi
- **International Relation and Programme Development Officer:** Ola Adawi
- **Office of the Director and Commissioners:** Mohammed Shamasneh
- **Internal Auditor:** Shadi Qare'
- **Montiroring and Evaluation Officer:** Rasha Salah al Din

Addresses of ICHR Palestine Offices

- **Main Office**
Ramallah, behind the Palestinian Legislative Council, Opposite Thalasia Center
Tel: +970 2 2960241/2986958
Fax: +970 2 2987211 P.O Box 2264
Email: ichr@ichr.ps Webpage: www.ichr.ps
- **Middle Office**
Ramallah, Ramallah Al-Tahta, Opposite to Germany Representative Office, Raha Building Fl.#6
Tel: +970 2 2989838
Fax: +970 2 2989839
- **North Office**
Nablus, Sufian Street, Al-Laham Building, Fl. #1
Tel: +970 9 2335668
Fax: +970 9 2336408
- Tulkarem-Thabet Thabet Hospital Street-Debas Building, Fl. #3
Telefax: +970 9 2687535
- **South Office**
Hebron-Ras Aljoura, near the DMV building, Herizat Building, Fl. #1
Tel: +970 2 2295443
Fax: +970 2 2746885
- Bethlehem-Nazzal Building, above Arab Bank, Fl. #2
Tel: +970 2 2750549
Fax: +970 2 2746885
- **Gaza and North Gaza Office**
Al-Rimal-Opposite the Legislative Council, Behind AlQuds Bank
Tel: +970 8 2824438
Fax: +970 8 2845019
- **Middle and South Gaza Office**
Khan Younis- Jamal Abdel Naser Street, Shubeir Building Fl. #1, near Jawwal Company previously
Tel: +970 8 2060443
Fax: +970 8 2062103

Preface

In 2017 we observed the continuity of the Israeli violations of the rules of the International Human Rights Law and the International Humanitarian Law and escalation of such violations. The occupying State continued imposing lockouts and blockades, and arbitrary arrests, confiscating lands, stealing natural resources and prosecuting farmers and fishermen; with deliberate targeting of women and children, and violation of Palestinians' rights in general in different aspects of life. Israel also aggressively reinforced its crackdown, amidst the International Community's failure to hold the occupying State accountable and enforce the international law. Further, we witnessed a qualitative change in the Israeli violations to include a list of projects proposed to reinforce its control of the Occupied Palestinian Territories.

Internally, No Palestinian presidential or legislative elections took place and our institutions continued working with no legislative control and in absence of accountability of the operations of the executive authority. We were optimistic for achieving the inter-Palestinian reconciliation; however, to date we have not seen the aspired real change on the ground to put an end of the divide for good. We have not seen any change in the Palestinian political structure towards joint action to get rid of the occupation. The different operation patterns continued in both the West Bank and Gaza Strip with their serious repercussions on the legislative, executive, and judicial levels in absence of any prospect for economic local development under the occupation policies, and failure of national reconciliation to handle the repercussions of the divide, and amidst the absence of the legislative council and the repercussions of such absence on the status of democracy in Palestinian.

Adding to the complexity of the situation, came the American President Trump along with his arrangements for the so called "Deal of the Century" and with his declaration and irresponsible decision concerning the relocation of the US embassy to East Jerusalem; giving Israel the green



light to reinforce its hold on Jerusalem. As a consequence, the Israeli violations increased in the city: killing and imprisoning the Palestinians including children; destroying houses; and restricting mobility. All of these violations are within a systematic policy to deny the Palestinian right, eliminate the Palestinian cause and ruin the efforts exerted for the establishment of peace and the two-state solution.

The suffering of Gaza population increased in the social and economic aspects due to the continuous lockout and increased unemployment rates which recorded unprecedented levels that foreshadow an economic collapse. Movement of patients to receive treatment outside of Gaza became even more difficult and electricity supply to Gaza was reduced. Violations against the fishermen increased to include shooting in their direction and reducing the fishing zone, confiscating their boats, and killing some of them. In the same context, four hundred commodity items were prevented to enter Gaza, movement of passengers was restricted, and persons travelling through Rafah Crossing were arrested.

8



The continuous lockout of Rafah Crossing was detrimental to the ensured rights and to the economic and social conditions in the Gaza Strip. Additionally, the Cabinet issued decisions that violate the right to equal access to public service, deducted the salaries of objector public employees in Gaza Strip and assigned public employees for early retirement, in violation of the Civil Service Law and the International Covenant on Civil and Political Rights (ICCPR).

The citizens who were displaced internally in the Gaza Strip due to the Israeli occupation military attacks continued suffering, in terms of living in houses that lack the minimum basic housing requirements due to the continuous lockout and the Palestinian divide as well as the scarce funding sources, in addition to the obstacles that prevent the government from assuming its duties in relation to reconstruction. Gaza experiences an unprecedented humanitarian crisis, in the humanitarian and economic aspects, and in different aspects of life.

The political arrests continued in both divisions of Palestine. ICHR followed up the summoning and detention of bloggers and journalists in relation to the freedom of opinion and expression and the freedom of the press. The

Executive Summary

security forces in the West Bank and Gaza Strip continued suppressing media freedoms in violation of the right to freedom of expression, media activity, publishing, use of Social Media, and to access information and criticize public figures. The law concerning cybercrimes was issued with no transparency and sufficient consultations, and therefore, it needs to be reconsidered and revisited.

The right to life was grossly violated in Gaza Strip as 6 death sentences were carried out without following the prescribed legal actions. The military court continued rendering death sentences and affirmed 21 out of 37 death sentences. These procedures breach the obligations and treaties acceded by the State of Palestine, such as the ICCPR, the Convention against Torture, and the Palestinian Basic Law. In addition to violations committed by the security forces in both divisions of Palestine including violation of the right to freedom of movement and travel across the crossings, denial of passports and the political arrests.

The judicial system continued being subject to the security agencies and executive authority dominance which undermined the judicial performance and independence. This constitutes a violation of the law and the principle of the separation of powers. Furthermore, the Decree Law on High Criminal Court breaches the safeguards of the right to a free trial, restricts the right to defense, and violates the judicial integrity and independency.

In the same context, ICHR detected many violations, most prominently, disrespect of the court rulings, the right to the due legal process; including arbitrary arrest on the grounds of political affiliation, the right to physical integrity; including torture, ill-treatment, and excessive use of force, the right to peaceful assembly. In addition to violations of the right to hold public office and the rights of public servants which includes competition on positions and the employment rights.

We observed increasing detentions in the Governor's custody, as well as in the custody of the Joint Security Committee (JSC) and heads of security agencies, which are all unconstitutional measures in violation of the Basic Law, and the relevant legislation and conventions to which Palestine State has acceded.



The tripartite committee constituting of the Presidency, the Prime Minister, and ICHR, which was formed in 2016 to follow up the recommendations set out in ICHR's reports, is still stalled despite the repeated ICHR's communications to activate its operations.

In the course of our work with the multiple security agencies, we observed continuous cooperation to facilitate ICHR's visits to the detention and arrest centers. Further, the security agencies responded to the majority of ICHR's communications and continue participating in ICHR's activities and trainings. Additionally, the security agencies took some disciplinary measures against their members who committed violations.

In 2017, ICHR Board of Commissioners was expanded with the exit of 7 commissioners who ended their membership term. The new commissioners were admitted using a transparent process where representatives of human rights and civil society organizations, in addition to former general commissioners took part. Seven new commissioners joined the Board of Commissioners, bringing the total number of members to 21.

10



ICHR concluded some agreements with related institutions and authorities toward integration and institutionalization of the joint action. At the international level, ICHR signed a memorandum of understanding (MOU) with the Danish Institute for Human Rights, with support of the Danish Representative Office at the State of Palestine. Further, ICHR developed joint cooperation with The Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Danish Association for the Prevention of Torture (APT) in line with establishing the national mechanism for the prevention of torture after Palestine Acceding to the Optional Protocol to the Convention against Torture (OPCAT).

On the local level, ICHR signed MoUs with the Syndicate of Palestinian Journalists and the Media Development Centre at Birzeit University toward joint cooperation in the areas of media and freedom of opinion and expression, and to boost the abilities of media professionals in their pursuits to follow up the human rights issues.

In conclusion, I would like to extend my sincere gratitude and thankfulness to the Board of Commissioners for their commitment to advocate human

Executive Summary

rights issues and for developing the work of ICHR. I extend a special thanks to all the commissioners whose membership terms had expired. I welcome all the new commissioners who will benefit ICHR with their expertise toward promotion of the human rights system in Palestine. I also would like to thank Dr. Ammar Dwiek, the Director General, for his relentless work and commitment to develop the institutional functioning. I thank ICHR's staff, each in their respective position, for their dedicated efforts and commitment to human rights and promotion of such rights in Palestine. I extend thanks and gratitude to ICHR's Consortium of Donors (Denmark, Norway, Switzerland, Netherlands, and Sweden) for their nonstop support and faith in ICHR action.

Dr. Varseen Shaheen
Commissioner General
ICHR



1. The Israeli Occupation's policies and violations and their impact on the ability of the State of Palestine to fulfill its obligations in relation to the human rights in Palestine

The Israeli occupation constituted the most prominent challenge hindering the efforts of the State of Palestine to safeguard the human rights of the Palestinians in 2017. It kept being the primary obstacle hindering Palestine's ability to meet its obligations under the international human rights conventions to which Palestine became a party since 2014, amidst the continuous arbitrary actions and systematic policies of the occupation authorities against the Palestinian lives, lands, rights, and freedoms.

The occupation forces continued targeting the lives of Palestinian people whereas the number of Palestinian martyrs reached 84, including 15 children, in the West Bank, including Jerusalem, and the Gaza Strip. Further, the occupation authorities continued withholding the bodies of 15 Palestinian martyrs. In 2017, Israel launched wide campaigns to arrest many citizens; as they arrested 6742 citizens, including 1467 children and 156 women and girls. Children arrest constituted about 21.8% of total arrests. The imprisonment of 12 representatives of the Palestinian Legislative Council continued. Total number of Palestinian prisoners and detainees in the occupation prisons reached 6500 by the end of 2017, out of which 350 children, 58 women, and 22 journalists. The number of administrative prisoners reached around 450 as the occupation authorities issued 1119 decisions of administrative arrest; ranging from new decisions and renewal of previous decisions for administrative arrest.

The demolition of Palestinian houses and facilities continued; 206 houses and 205 facilities were demolished. The demolitions in Gaza led to displacement of 659 Palestinian persons and affected the livelihood of more than 6600 other persons. The occupying forces set nearly 5382 unannounced roadblocks which hindered the movement of individuals and goods. The residential communities were raided at least 6396 times in the West Bank and Gaza Strip governorates.



The Israeli occupation forces continued the siege of the Gaza Strip for the eleventh year in a row and they tightened restrictions on the movement of individuals and goods across the Gaza crossings. This exacerbated the deteriorating human conditions and living standards, as well as the rising of unemployment rates, and the deteriorating economic condition in Gaza and the situation of rights of the Gaza population. The hospitals in Gaza suffered lack of 191 medicines. Rates of approved permits for departure to receive treatment through Erez/ Beit Hanoun Crossing dropped by 54%, causing the death of 54 Palestinians. Ban on entry of many commodities and raw materials, machineries, spare parts, and construction materials into Gaza continued.

In Jerusalem, the occupying State continued its violations against the holy city and its population. The Judaization policies and violations against the Palestinian environment continued. In addition to the continuation of water scarcity, increased settlement, and confiscation and leveling of lands. The attacks committed by the settlers continued, as 482 attacks against Palestinian people and properties were detected, causing the killing 5 martyrs, and injuring 89 other persons, including 15 children.

Accordingly, in line with its vision to safeguard the rights of the Palestinian people, ICHR recommends the State of Palestine to:

- (i)** Continue pressuring the International Community to take serious action at different levels to end the long-standing Israeli military occupation of the Palestinian Territories occupied in 1967, and to force the occupying State to apply the international conventions, to which Israel is a party, on the Occupied Palestinian Territories.
- (ii)** Call upon the United Nations to step in to stop the escalating violations committed by the occupation forces, and to take serious action to provide the Palestinians in the Occupied Palestinian Territories with international protection, and to activate the accountability mechanisms against the offenders, in line with the legal obligations of the member states.
- (iii)** Demand the convening of an international conference to urge the international community to support the prisons, define their legal status,



Executive Summary

and to exert pressure on the occupying State to stop the arbitrary arrests of the Palestinians, especially the children, and to stop its practices against them. ICHR recommends inviting the Rapporteur of arbitrary detention to visit Palestine to check the state of the prisoners closely and to take the required actions to ensure their justice.

- (iv) Take serious measures to end the maximized Israeli siege of Gaza Strip, open all Gaza crossings for the movement of individuals and goods to end the humanitarian crisis in Gaza and to facilitate the crossing of patients to receive treatment outside of Gaza Strip.
- (v) Increase the international diplomatic efforts to exert pressures on the occupying State to enforce the International Security Council Resolution No. 2334 concerning settlement, and to immediately stop all settlement activities in the Occupied Palestinian Territories.
- (vi) Invite the UN's Treaty Bodies to activate their role of monitoring the occupying State and its violations of the human rights of the Palestinians. Call upon the UN Human Rights Council to form a fact-finding commission concerning the violations committed against the human rights of the Palestinians by the occupation authorities.

ICHR calls upon all documentation departments across the Palestinian ministries to work hard detecting and documenting the violations committed by the occupation authorities against the Palestinian land and people in order to hold the occupation authorities accountable internationally for their violations, through the international human rights mechanisms. Further, ICHR calls upon the human rights organizations to support the efforts of the State of Palestine in its international efforts in suing the Israeli war criminals before the International Criminal Court, and to maximize and unify the national efforts and the efforts of the human rights organizations to detect and document the crimes of the occupation authorities in order to expose them.



2. Framework of Rights

2.1 Variables on the Civil and Political Rights

2.1.1 The Right to Life

The courts continued rendering death sentences in Gaza Strip, with 27 death rendered sentences in addition to 6 sentences that were rendered in previous years but they were appealed or challenged in 2017 and were affirmed by the Court of Appeal or Court of Cassation; comparing with 12 death sentences rendered in 2015.

Although Palestine joined the ICCPR which ensures the right to life, it failed to take any legislative procedures to consolidate ICCPR in the national legislation and to stop death penalty or limit the criminal acts subject to such penalty. Carrying out of the death sentences continued in Gaza as 6 death sentences were carried out which were evolved considerably when compared with 2016 where 3 death sentences were carried out.

ICHR recorded 170 non-natural deaths, including 109 in Gaza Strip and 61 in the West Bank; including 46 children, and 39 females. The recorded female deaths included 18 unexplained deaths: 10 deaths for failure to follow the public safety procedures, 5 deaths resulted from household disputes, one death arising from suicide, and 5 deaths for medical negligence.

At the same time, ICHR recorded 46 child deaths; including 8 unexplained deaths and 26 deaths for failure to follow the public safety procedures, 8 deaths in household disputes, and one death in detention centers, making the number of deaths more than the number recorded last year where none of such cases was recorded as one death was recorded as a result of gun misuse by a citizen and 2 deaths for medical negligence. ICHR continued recording the unexplained deaths which amounted to 49 cases; 32 in Gaza Strip and 17 in the West Bank.



The procedures performed by the different municipal councils, the Palestinian Energy And Natural Resources Authority (PENRA), and the Ministry of Labor (MOL) are far from sufficient in the field of monitoring the public and private places, and ensuring the availability of public safety precautions within the respective geographic borders. Further, there is a need for the municipal councils to perform a bigger role in observing the dangerous places in the regions affiliated thereto and take the public safety procedures to reduce the deaths arising from failure to follow the public safety procedures.

ICHR recommended that until the cancellation of the death penalty from the Palestinian legal system, the President of Palestine should continue refraining from approving the death sentences rendered by the Palestinian courts and use his constitutional powers to grant pardons in order to mitigate death sentences rendered by the Palestinian courts to life imprisonment. Further, it is necessary for the Public Prosecution to investigate all cases of killing that occur in non-natural circumstances to find the killers and bring them to justice, especially the unexplained killings, and those known as “family honor killings”, in addition to the cases of females killed due to misuse of weapons, or the female victims who were recorded as deaths arising from failure to follow the public safety procedures, especially in the West Bank, or the deaths recorded as suicide. The Military Prosecution should conduct serious investigations on the allegations related to the right to life which are committed by the law enforcement personnel, especially in the detention centers, and the deaths arising from the misuse of weapons by those personnel. The local councils should practice an active supervisory role in the public and private places, and ensure that public safety precautions are in place within the geographic borders affiliated thereto. The role of these municipal councils observing the dangerous places in each region affiliated thereto and taking public safety procedures that reduce the deaths arising from failure to follow the public safety procedures therein should be activated. PENRA should perform adequate supervisory, inspection, and awareness procedures to reduce the deaths arising from eclectic shocks, whether in workplaces or houses. The Ministry of Health (MOH) should perform a serious role investigating the death cases following receiving of treatment or undergoing surgeries and set serious preventive and treatment measures for such cases.



ICHR further calls upon MOL to conduct active and real inspection of the workplaces to ensure that the public safety measures are in place, especially in the buildings and establishments under construction where a remarkable number of deaths occurs every year.

In line with the right to access information, it is necessary that the Judicial Authority, Ministry of Interior (MOI), Public Prosecution, and Security Agencies in the West Bank and Gaza Strip publish information in relation to the procedures and measures adopted regarding different rights, and the accountability measures adopted to affect these rights, especially the right to life. Further, they should also publish this information to be accessible by everybody easily and with no complications.

2.1.2 The Right to Physical Integrity

In 2017, the State of Palestine joined the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 2002*, making it the fifth Arab state that joins the protocol which aims at establishing a national and international system to prevent torture, including establishing a National Preventive Mechanism (NPM) to Prevent Torture that pays unannounced visits to the detention and arrest centers to prevent torture, in coordination with the UN Subcommittee on *Prevention of Torture*.

On the other hand, ICHR detected 898 alleged violations against the right to physical integrity; including 350 allegations in the West Bank. The types of violations against the right to physical integrity ranged between physical or moral assaults outside of the detention centers, physical torture or threats during custody within the detention centers, in addition to the cruel, inhumane, and degrading treatment. ICHR recorded 155 cases or physical or moral assaults outside of the detention center; 98 in the West Bank and 57 in Gaza Strip. It also recorded 571 cases of physical torture or threats during custody within the detention centers; 203 in the West Bank and 368 in Gaza Strip. Additionally, it recorded 172 cases of cruel, inhumane, and degrading treatment; 50 in the West Bank and 122 in Gaza Strip, which is slightly lower than the number recorded in the past years. In 2017, it was observed that the number of violations against the right to



physical integrity committed by the Jericho-based JSC increased. ICHR has demanded in more than one occasion to reconsider the formation and legal foundation of such committee.

In relation to accountability for the violations against the right to physical integrity, ICHR observed that the number of accountability cases performed this year regarding the violations against the right to physical integrity was far less than the number of alleged violations, noting that ICHR recorded an unprecedented case where a magistrate of Ramallah Court referred a number of police officers to the Military Public Prosecution because they were suspected to torture defendants who were brought before the court, which is a good step enforcing the criminal accountability against persons accused of committing torture and ill-treatment.

In line with its vision to protect and boost the right to physical integrity, ICHR recommended enacting a legal framework against torture, including criminal punishment for all forms of torture and ill-treatment, and expedite establishing the national preventive mechanism to prevent torture, as well as activate criminal accountability against those accused of committing torture and ill-treatment.

20



2.1.3 The Right to Personal Freedom and Security

In 2017, the Decree-Law No. 16 of 2017 concerning the cybercrimes was issued. Such law includes many provisions that would undermine the right to personal freedom, the right to privacy and inviolability of private life of the citizens. ICHR and civil society organizations criticized the said Decree-Law and demanded cancellation thereof or making of essential amendments thereto in a manner that promotes the right to freedom of opinion and expression, and the right to privacy and inviolability of private life. The Decree-Law No. 23 of 2017 concerning the Police was issued and it contained many provisions related to the regulation of the police service. However, the law did not regulate the judicial powers granted to the police, being law enforcement members, nor did it regulate the powers classified as preventive measures, such as the identification of persons, and the restrictions enforced on the right to movement, as well as precautionary imprisonment of individuals, preventive search, and seizure

of seized items, which are powers closely and directly relevant with the right to personal freedom and security.

On the other hand, ICHR recorded a remarkable rising in the number of violations of the right to personal freedom and security in the West Bank and Gaza Strip. The complaints included 1721 allegations of violating the right to personal freedom and security; 887 violations in the West Bank and 834 violations in Gaza Strip, which include 808 cases of arbitrary detention out of total number of violations against right to personal freedom and security; 483 cases in the West Bank¹ and 325 cases in Gaza Strip, and 72 cases of house search without a legal search warrant; 35 cases in the West Bank and 37 cases in Gaza Strip, and 744 cases of disrespect of the rights of the detained persons; 288 cases in the West Bank and 456 cases in Gaza Strip. ICHR recorded 97 cases of failure to enforce court orders to immediately release the detained persons; 81 cases in the West Bank and 16 cases in Gaza Strip. Again, ICHR observed in 2017 the rising of violations against the right to personal freedom and security which were committed by the Jericho-based JSC and the Gaza Strip-based military police, which used to settle the financial disputes arising among the citizens, in violation of the provisions of the law and the principles of natural litigation and independence of the judiciary, before referring all of its files to the civil public prosecution and the competent courts in the awake of 2018.

Concerning the accountability measures, the West Bank-based Military Justice Commission stated that there are 12 cases recorded of deprivation of liberty “arbitrary detention”, in violation of the provisions of the law, which were committed by security agencies personnel this year, 4 of them were referred to the competent military courts, and other 4 cases were closed for lack of evidence, while other 4 cases are under investigation before the Military Public Prosecution. Further, ICHR stated that 16 complaints were filed by ICHR and the civil society organizations, and that such complaints are under investigation by the competent authorities. ICHR did not indicate the nature and subject matter of such complaints, and whether they are about violations against the right to personal freedom and security or violation of other rights².

¹ Including 96 cases of what is called “detention in the Governor’s custody”.

² The **Military Justice Commission letter to ICHR No. 4421 dated 17/12/2017**.



The West Bank-based Public Police Service stated that internal administrative accountability measures have been adopted against 27 police officers in 2017 after proving that they violated the right to personal freedom and security. Further, the Public Police Service referred 10 of its personnel to the military courts on account of alleged violations against the right to personal freedom and security³. In Gaza Strip, ICHR has not received any replies to its communications from any official agency concerning the accountability measures adopted against the security personnel who allegedly violated the right to personal freedom and security.

It is observed that the numbers reported by the Military Justice Commission and Public Police Service are far less than the number of violations detected by ICHR through the complaints filed by the citizens and its communications with the competent authorities regarding such complaints, which indicated that despite the importance of such numbers, holding the security personnel criminally accountable for their violations is insufficient as compared with the number of alleged violations.

22



In line with its vision to safeguard the right to **personal freedom and security**, ICHR recommends amending the Code of Criminal Procedure, as amended by cancelling the amended article 137 thereof, and expressly stating that the request to extend arrest must be considered through a hearing and in the presence of the defendant in person so that the court can monitor the legality and constitutionality of the arrest procedures. ICHR also recommends cancellation of the Jordanian Crime Prevention Law in force in the West Bank and introduction of express legal provisions that enforce providing fair compensations to the victims of illegal arrest. It also recommends the civil and military public prosecution to refer those proven to violate the right to personal freedom and security, during hearing the of cases by the court, to criminal investigation immediately and to activate administrative accountability of those accused of violating the right to personal freedom and security by subjecting them to serious administrative investigation, and impose administrative penalties on those who are proven to violate the right to personal freedom and security.

³ The Director General of Police Service Letter to ICHR No. 15/242 dated 30/1/2018

2.1.4 The Right to Freedom of Movement

ICHR received 35 complaints about violations of the right to movement and travel, including 14 complaints in the West Bank; 11 complaints against the General Intelligence Service, one complaint against the Preventive Security Service, one complaint against the Public Prosecution, and one complaint against the MOI. In Gaza, ICHR received 21 complaints; 18 complaints about the MOI in the West Bank denying issue of passports to the citizens, and 3 complaints about the MOI in Gaza Strip banning travel through Erez/ Beit Hanoun Crossing.

The state of political conflict between the two Palestinian divisions overshadowed the situation of the right to movement and travel and violations against the right to movement continued. In this respect, ICHR received 18 complaints from citizens who were denied passports by the MOI in the West Bank as no passport is issued for the West Bank population unless a security clearance is issued by the security agencies in the West Bank, which delays the issuance of passports.

Rafah Crossing was open for 20 non-consecutive days and it was closed for 341 days. Additionally, the Israeli siege was imposed on Gaza Strip and the restrictions imposed thereon throughout the years of the siege were maximized. The crossings remained closed and additional restrictions on travel through the crossings were levied.

Despite the declaration of implementing the reconciliation agreement regarding the delivery of the crossings on 1/11/2017, the Rafah Crossing crisis continued. Failure to open the Rafah Crossing continuously further exacerbated the suffering of the population, amid the Palestinian government's inability to control some groups, called "special coordination" which is controlled by the Egyptian side which stipulates that they must enter before all the travelers registered in the MOI's lists from previous periods. The citizens suffered waiting for long hours due to bureaucracy, red tape, and unavailability of necessary services for the passengers, and due to the multiple security barricades, further exacerbating the suffering of the patients and elderly. Notwithstanding the close follow-up conducted by ICHR, it did not receive any replies from the official agencies concerning the policies and measures adopted to safeguard the right to movement.



In line with its vision, ICHR recommended the National Consensus Government to assume its responsibilities and reach an agreement with the government of Egypt to end the suffering of the citizens at Rafah Crossing, and to reach a specific mechanism to open the Crossing and enable the citizens to travel without complications. The MOI should suspend the security check procedure which is required to issue passports to the Gaza population, and suspend all cases of denial of passports for security reasons without a court order, to ensure that the needs of Gaza population are met and to enable them to get passports in a reasonable time. The official agencies in Gaza Strip should stop introducing administrative procedures to prevent the citizens from travelling or to restrict their movement, such as the decision which states that the MOI's prior consent is a requirement to travel through Beit Hanoun Crossing, because such decision violates the citizens' right to movement and travel.

2.1.5 The Right to Freedom of Opinion and Expression

The Decree-Law No. 16 of 2017 concerning the cybercrimes was considered to be a true threat to the freedom of opinion and expression, and the right to privacy and inviolability of private life of the citizens. It is also considered a substantial violation of the amended Basic Law, and of the international human rights conventions to which Palestine is a party.

On the other hand, ICHR received 67 complaints which represent 67 violations against the freedom of opinion and expression; including 37 complaints in the West Bank and 30 complaints in Gaza Strip. The complaints received from the West Bank include 19 complaints related to the freedom of press and media; including 3 complaints related to the freedom of publishing and broadcast and 18 complaints related to violations regarding the use of social media platform "Facebook".

In 2017, arrest and indictment of journalists and activists who expressed their opinions were performed by the Public Prosecution, under the law issued in 2017 concerning the cybercrimes in force in the West Bank. Others were charged with misuse of technology, under the amendment made by the Change & Reform Bloc at the Legislative Council in Gaza to the Penal Code No. 74 of 1936 in force in Gaza Strip.



Executive Summary

In the area of violating the press freedoms, ICHR detected the arrest or deprivation from liberty of 21 journalists in the West Bank and Gaza Strip, some of them were arrested on the grounds of the political divide. Such arrests which undermined the freedom of opinion and expression had negative effects on the media professionals and raised their concerns which prevented them from reporting the news freely for fear of prosecution and arrest. Most of the procedures of journalists' interrogation and detention did not follow the due legal process. Some journalists indicated that they were abused and that the investigations focused on their journalistic and professional work and activity and their activities covering the events, taking press photos, editing, or preparing press reports, whether written or visual.

It was observed that the West Bank-based Preventive Security Service and General Intelligence Service, and the Gaza Strip-based Police Service, Criminal Investigations Department, and Internal Security Force are the most frequent violators of the right to freedom of opinion and expression and freedom of press. These agencies are the subject of most of the complaints filed to ICHR; therefore, the violators of such right must be subject to accountability measures.

Regarding the policies, measures, and procedures adopted to protect the right to freedom of opinion and expression, ICHR found out through communications with the competent authorities that they did not set any policies nor did they adopt any new measures or procedures to protect to the right to freedom of opinion and expression.

In line with its vision to safeguard to the right to opinion and expression, ICHR reiterates its position on the Decree-Law No. 16 of 2017 concerning the cybercrimes and notes that the observations filed by ICHR in partnership with the civil society organizations should be taken into account and such law should be amended in consistency with the amended Basic Law and the international human rights conventions. ICHR further recommends the National Consensus Government to instruct the police and its security agencies, especially the West Bank-based Preventive Security, to stop arresting and summoning the journalists, or summoning citizens on the grounds of their opinions. It recommends that President Mahmoud Abbas should step in and instruct the General Intelligence Service to stop its



interventions in the West Bank. ICHR also recommends the National Consensus Government to revisit the applicable legislation related to the freedom of opinion and expression, such as the Penal Code and the Press and Publications Law, and to amend the same in consistency with the obligations of the State of Palestine under the international conventions.

2.1.6 The Right to Peaceful Assembly

ICHR received 53 complaints regarding violating the right to peaceful assembly; including 16 in the West Bank and 37 in Gaza Strip. The Complaints included 58 violations; including 18 violations in the West Bank and 40 violations in Gaza Strip; ranging between assaulting of the participants, disperse of peace assemblies, and ban of peaceful events. Violation of the right to peaceful assemblies of political nature represented the most common violation in the West Bank, while violation of the right to peaceful assemblies held to voice economic or social demands represented the most common violation in Gaza Strip.

The related official agencies failed to set any policy or adopt any new measures or procedures to protect the right to peaceful assembly, noting that the competent authorities still enforce restrictions on the public meetings held in confined places in Gaza Strip, in violation of the provisions of the law.

In relation to the administrative and criminal accountability measures adopted by the competent authorities to hold the violators of the right to peaceful assembly accountable, the security agencies did not respond adequately to ICHR's correspondence related to the accountability measures adopted by these authorities.

In line with its vision to safeguard the right to peaceful assembly, ICHR recommends that the lawmaking authorities adapt the national legislation regulating the right to peaceful assembly with the international instruments signed and upheld by the State of Palestine. It also recommends that the MOI and security agencies immediately issue a code of conduct for the law enforcement personnel which should be consistent with the international human rights protection and promotion conventions signed and upheld by



the State of Palestine. ICHR further recommends that the security agencies and MOI abide by the provisions of Law No. 12 of 1998 on Public Meetings and the Public Prosecution and the judiciary immediately to investigate any incident that undermines the right to peaceful assembly in the State of Palestine, and to hold accountable any person who has been proven to assault the participants in peaceful assemblies or use excessive force contrary to the instructions.

2.1.7 The Right to Freedom of Association

The Cabinet cancelled the condition requiring the founders of associations to receive a financial acquittal certificate, which is one of the illegal restrictions in force since 2012 that hinder the registration of associations. However, the Cabinet continued subjecting applications to register associations to security checks by the security agencies, a procedure that is not stipulated in the Law concerning the Associations and its implementing regulations and it violates the Cabinet resolution cancelling the security clearance condition, as well as the judgment rendered by the High Court on the case of public servants in 2012 which deemed the condition of security clearance as a violation of the Basic Law.

Funding of the nonprofit companies is still monitored by the Cabinet. Such nonprofit companies include the nongovernmental human rights organizations, based on the Cabinet resolution No. 3 of 2010 concerning the Regulations as to Nonprofit Companies, as amended, which compromised the functioning of many nongovernmental organizations that operate in Palestine, which called for cancelling of such condition in more than one occasion, because it represents an interference by the executive authority in the functioning of the nongovernmental organizations and violates the recommendations of the UN Special Rapporteur on Human Rights Defenders who considered funding of the civil society organizations as an essential element to safeguard to right to freedom of assembly and the free action of the civil society organizations. In 2017, the Decree-Law No. 11 of 2017 concerning regulation of the right to conduct strike in public posts was issued and it banned public servants in some professional sectors from conducting strikes, which constituted a restriction on the right to conduct strike and the freedom of union action.



Notwithstanding the declaration of Palestinian reconciliation, the decision issued by the former Minister of Interior in the deposed government in Gaza continued in force. Such decision bans all the civil servants (objectors) from holding memberships in the general assemblies of the charity associations and nongovernmental agencies, or serving as employees or board members therein. No board of directors of the said associations is approved if it contains any of the objector employees among its members, which is a severe restriction of the right to form and join associations.

In line with its vision to boost the right to form charity associations, ICHR recommended cancellation or amendment of the Decree-Law No. 11 of 2017 concerning regulating the right to conduct strike in public posts, to ensure the right to conduct strike. It also recommended lifting the restrictions imposed on the funding of nonprofit companies, and that the MOI should suspend requesting security check to register the charity associations, being an illegal condition that levies unjustified restrictions on the right to form associations and unions.



2.1.8 The Right to Political Participation and to Hold Public Office

2.1.8.1 The Right to Run for Elections and to be elected

ICHR has a positive view of the elections of local councils announced in 2016, especially as they were announced in the West Bank and Gaza Strip at the same time, and the announcement made by most of the political parties that they will participate in these elections, and nominate the lists of candidates, especially Fatah and Hamas Movements, being the parties to the divide, and due to the importance of such elections if they are conducted in the West Bank and Gaza Strip in parallel, making it the first elections to be held in both divisions of the State. Such elections are also important because they prepare the general atmosphere for the presidential and legislative general elections.

Upon monitoring of the election process by ICHR and reviewing of the data of the number of male and female candidates and candidate lists, ICHR believes that the citizens demonstrated adequate participation by the male and female candidates running for elections to join the local councils

where running for election is available. Even more, two lists of female candidates which contained no male candidates have run for elections. However, on the other hand, the number of lists running for elections dropped and the number of candidates dropped in 2017 compared to the elections held in 2012/2013.

ICHR observed a remarkable improvement in the rate of local authorities which held elections compared to the previous years, especially 2012/2013, as the local authorities in which elections were held this year represented 49%, compared to 39% in 2012-2013. At the same time, the rate of authorities' councils which won uncontested seats dropped from 61% in 2012/2013 to 51% in 2017.

The Central Elections Commission (CEC) received 102 administrative appeals across the electoral process, which is far less than the number of administrative appeals received concerning the 2012/2013 elections which reached 149. The courts received 34 judicial appeals against the CEC's decisions issued in 2017, which is far less than the number of judicial appeals filed against the 2012/2013 elections which reached 48. The court accepted 4 judicial appeals out of those filed in 2017 and it accepted 5 of the appeals filed in 2012/2013.

More than one third of the citizens were denied their right to choose their representatives in the local councils in the West Bank following the decision rendered by the High Court of Justice on 3 October 2016 to hold the elections in the West Bank and suspend elections in the Gaza Strip to a later date to be determined. Accordingly, 61% of the citizens managed to practice their right to run for elections and to elect (West Bank citizens) while 39% of the Palestinian population was denied such right (Gaza Strip citizens).

To ensure the right to political participation, ICHR believes that the official and party authorities in the West Bank and Gaza Strip should finalize a true, active, and honest reconciliation next year so that everybody is enabled to practice their right to choose their representatives on all levels; presidential, legislative, and local. Until a true political reconciliation is in place, the related parties in the West Bank and Gaza Strip should lift the political obstacles hindering the holding of local elections in Gaza Strip. Holding



such elections will have a great impact creating a favorable environment and setting up the atmosphere to end the political divide on the ground, and hold presidential and legislative general elections. The legislative authorities should review the legal amendment made to the law concerning the election of the local councils in 2017 and complete amending of the other legal provisions, in a manner to honor the constitutional human rights stipulated in the Basic Law, such as the right to equality before the law and the judiciary, the right to run for elections and to elect, and the right to resort to the judiciary.

2.1.8.2 The Right to Hold Public Office

Variables on the national legal framework in 2017 directly affected the status of public office, represented in the Decree-Law No. 1 of 2017 concerning Amendment of the Civil Service Law No. 4 of 1998 as amended and the Decree-Law No. 11 of 2017 concerning to right to conduct a strike by public servants⁴, which is ensured by the Basic Law. For example without limitation, strike of public servants was banned, especially in the critical and executive facilities which are related to health, media, justice, presidency, and Cabinet⁵. The Decree-Law allows the Cabinet or any entity affected by the strike to resort to the High Court of Justice to suspend the strike. The Decree-Law also regulated the litigation proceedings in this respect.

The Civil Service Law continued excluding employment in top posts from the conditions of competition and announcement and from subjecting them to the promotion and evaluation conditions and procedures which are applied on the remaining public servants in all other job grades. For such top posts, the hiring, promotion, and evaluation conditions and procedures were not regulated on the basis of merit, equal opportunities, and non-discrimination, like all other employees.

4 The Palestinian amended Basic Law ensured the right to conduct a strike, under Article (25/4) which states that “The right to conduct a strike shall be exercised within the limits of the law”

5 Article (4) of the Decree-Law bans strike by health professionals, except administrative personnel, the personnel of the presidency, Cabinet, Palestinian Broadcasting Corporation, the judiciary, and Prosecution).



Executive Summary

On 4/4/2017, the Cabinet adopted a decision reducing the salaries of public servants in Gaza Strip by 30 to 50 percent on the grounds of payment of the basic salary to the employees in the southern governorates and excluding professional bonus and other bonus. The decision did not state the legal basis on which it was adopted. Further, public servants were assigned for early retirement under the Palestinian Cabinet's resolution issued in its session held on Tuesday, corresponding to 4/7/2017 which assigned 6145 public servants in the southern governorates (Gaza Strip) to early retirement⁶.

ICHR received 13 complaints related to the fair competition over employment; including 10 complaints in the West Bank and 3 complaints in Gaza Strip. It also received 91 complaints related to administrative disputes (promotion, retirement, financial entitlements); 76 of which were received in the West Bank and 15 in Gaza Strip. ICHR further received 15 complaints on incompliance with the legal norms of suspension and dismissal, and firing from public posts in the West Bank, mostly on the grounds of political affiliation. Further, the Public Employees Union at Gaza Strip banned some of the "objectors" employees from being reinstated in their posts after the National Consensus Government requested some of its employees in the ministries of finance, local governance, and endowment to return to their posts and assume their job duties.

The National Consensus Government formed a legal administrative committee chaired by the deputy of the Prime Minister to integrate and regularize the position of Gaza government employees, within the administrative and legal structure of the public servants affiliated to the official agencies of the State of Palestine. This committee was formed as one of the outcomes of the recent reconciliation agreement which entered into force as a result of Hamas Movement disbanding the administrative committee on 17/9/2017⁷ which was responsible for regulating the public post affairs, as well as the civil administrative service, security forces, top grade employees, and supreme military ranks, and for supervising the judicial service. However, the committee failed to produce any outcomes

6 On 7/9/2017 the Palestine Gazette (official Gazette) published Decree-Law No. 17 of 2017 concerning early retirement of civil servants which was concluded with a note stating that it was issued on 22/7/2017.

7 See the statement issued by Hamas Movement on 17/9/2017.



to integrate and regularize the position of Gaza government employees.

On the other hand, ICHR did not receive any replies concerning the accountability measures adopted by the General Personnel Council. In line with its vision to ensure the right to hold public posts, ICHR recommends the Cabinet to cancel the decision assigning public servants in Gaza Strip to early retirement, and to observe the obligations arising from Palestine accession to the International Covenant on Economic, Social and Cultural Rights (ICESCR). It further recommends that the National Consensus Government applies the Civil Service Law and its implementing regulations to all the employees, and to enable the General Personnel Council to perform its role pursuant to the law in relation to the procedures of hiring in public posts, and promotion, evaluation, and dismissal or firing from public posts. It further recommends that National Consensus Government is enabled to perform its role handling the case of the employees of Gaza former government and regularizing their position in a manner that ensures the employees' rights arising from assuming government positions. Additional recommendations include the administrative legal committee assigned by the National Consensus Government to expedite regularizing the legal position of the employees of Gaza government and ensuring their rights based on the law.

32



2.1.9 Defenders of Human Rights

The Decree-Law No. 16 of 2017 concerning the cybercrimes undermined the rights of defenders of human rights, as the Public Prosecutor issued a decision blocking 29 websites, mostly news-related, which violates the individuals' basic right to access the internet according to the Human Rights Council' decision issued in 2016 concerning boosting and safeguarding of the human rights on the web, and the right to freedom of opinion and expression, and to receive and send information.

A number of human rights' defenders and social media activists were exposed to assaults, including defenders of the freedom of opinion or the right to peaceful assembly, and those calling for protesting against the political, economic, and social conditions, and the crises in the Palestinian territories, especially in Gaza Strip, such as the crisis of electricity, closing

of Rafah Crossing, and the restrictions on the right to movement and travel.

The number of violations committed against the human rights defenders and activists increased remarkably and they were exposed to different forms of harassments; such as denial of the right to peaceful assembly, and exposure to threats and assault through beating and kidnapping by anonymous persons, and exposure to summoning and detention by the different security agencies. Some of them were brought to the judiciary under the Decree-Law No. 16 of 2017 concerning the cybercrimes as some of them were banned from their rights-based activities in the field and materials and documents were seized from them on the course of their pursuit to document and monitor the violations of human rights in the field.

In 2017, the attacks against defenders and activities increased dramatically and they were denied the right to express their position, the right to peaceful assembly as well as the right to participate in the political life and social momentum. Many of them were arrested and indicted on the grounds of voicing their positions and opinions via the social media platform Facebook, or on account of misuse of technology, under the amendment made by the Change and Reform Bloc in the Legislative Council in Gaza to the Penal Code No. 74 of 1936 in force in Gaza.

ICHR found out that the official agencies have not set any policies or adopted any new measures or procedures to protect the defenders of human rights. ICHR addressed the competent departments in the MOI and the different security agencies in the West Bank and Gaza Strip to access official data on the number and nature of the administrative accountability procedures adopted against the personnel who were proven to commit violations against the defenders of human rights, however, the replies received were stereotypical.

In line with its vision to protect the defenders of human rights, ICHR recommends that the Public Prosecution should conduct the necessary investigation of the cases where the defenders of human rights were exposed to assault by the security agencies or by anonymous persons, and prosecute the offenders. It also recommends the MOI to investigate the complaints filed about the assault and detention of defenders of human rights and stop the intervention of the security agencies, stop dispersing



of peaceful assemblies by force, and stop the detention and summoning of activists and advocates of peaceful assemblies. It is recommended that the MOI investigates their complaints and make essential amendments to the law concerning cybercrimes to make it consistent with the international human rights standards and the Palestinian Basic Law.

2.2 Variables on the Situation of Economic, Social, and Cultural Rights

2.2.1 The Right to Work

The unemployment rate continued rising among the labor force, recording 43.6% in Gaza Strip versus 18.1% in the West Bank, growing by 1.9% in Gaza Strip as compared with 2016. The women employment rate continued dropping, and the men employment rate recorded 71.2% versus a women employment rate of 19.0%, out of the total number of labor force. The child labor rate decreased, as the rate of child labor in the age group 10-17 years recorded 3.4%; 4.6% in the West Bank and 1.7% in the Gaza Strip. Failure to integrate the informal labor sector under the legal protection continued where the rate of individuals working in the informal sector reached 29.0%; 31.2% in the West Bank and 23.5% in Gaza Strip.

ICHR concluded that the procedures and activities performed by the MOL to reduce unemployment do not live up to the magnitude and rate of such phenomenon, which requires bigger interventions and budgets than the current ones in place, especially in Gaza Strip, where the government efforts and remedies are still incapable of achieving the minimum level required. Further, the MOL did not adopt any measures or procedures to improve women labor and empowerment and women's right in equality and indiscrimination in work, and to protect the informal economic sectors. Further, the MOL failed to review the decision of national minimum wage and to detect incompliance therewith.

The MOL failed to adopt new mechanisms to ensure monitoring and follow-up of all work sectors, and failed to adopt procedures and measures to enforce amending of the minimum wage decision on a regular basis. The MOL also failed to provide a healthy work environment consistent with the



occupational health and safety standards and conditions as ICHR detected 18 deaths due to lack of occupational safety and health requirements in the work sites; 7 of them were recorded in the West Bank and 11 in Gaza Strip.

In line with its vision to ensure the right to work, ICHR recommends that the MOL should introduce measures and procedures to address the rising unemployment rates, and to develop programs that target the youth, in partnership with the private business sector. ICHR further recommends adopting of an urgent plan in Gaza Strip to handle the widespread unemployment. It also recommends that the MOL should adopt the minimum wage, introduce mechanisms to ensure monitoring and follow-up, and adopt measures and procedures to punish any violating entity.

2.2.1 The Right to Social Security

ICHR received 14 complaints from citizens who represent prisoners, injured persons, and martyrs, alleging they were arbitrarily denied access to the funds prescribed thereto in accordance with the law. Most of the complaints were received in the West Bank; where 10 complaints are related to prisoners, 2 are related to injured persons, and 2 are related to martyrs. In Gaza Strip, the families of the martyrs and injured persons who are the victims of the Israel aggressions since 2014 are waiting to receive their financial entitlements but in vain. Additionally, ICHR received a complaint from a number of the prisoners who were set free under the Shalit Deal who are considered to be members of Hamas. The complaint was filed because their salaries, which are their only source of income, were suspended suddenly, and no administrative or legal measures that justify such suspension were adopted. ICHR followed up on this complaint and addressed the related official agencies⁸ and President Mahmoud Abbas, in his capacity as the Chairman of the Executive Committee of the Palestine Liberation Organization and the President of the State of Palestine, requesting to resume payment of the salaries of those prisoners in fulfillment of their rights which are ensured pursuant to the Law No. 19 of 2004 concerning the Prisoners and Freed Prisoners.

⁸ ICHR addressed Dr. Rami Hamdallah, Prime Minister, Dr. Shukri Bishara, Minister of Finance, Representative Azza al Ahmad, member of the Legislative Council, Dr. Kamal El Sharafi, human rights adviser to Palestinian President, and General Majed Faraj, Chief of Palestinian General Intelligence Service.



ICHR further received 64 complaints related to the violation of the financial entitlements of the marginalized groups who are covered by the social aid program as they were denied social coverage which is delivered by the Ministry of Social Affairs (MoSA) to the groups who live below the poverty line and the marginalized households who live between the national and severe poverty lines, in particular, the households which include persons with disabilities, elderly, orphans, persons with chronic diseases, or households led by women. The complaints are classified as follows: 36 complaints in the West Bank and 28 complaints in Gaza Strip. The number of complaints related to the persons who are unable to work amounted to 18 complaints in the West Bank and 13 complaints in Gaza Strip. The complaints related to divorced women amounted to 9; 4 complaints in the West Bank and 5 complaints in Gaza Strip. ICHR received 12 complaints regarding the elderly; 4 in the West Bank and 8 in Gaza Strip. ICHR further received 30 complaints related to violation of the rights of persons with disabilities to social security; 18 complaints in the West Bank, 6 of them are related to divorced women, and 12 complaints in Gaza Strip, 3 of them are related to women.

36



The number of violations which were followed up by the MoSA against the duty-bearers in relation to delivery of service to the marginalized groups reached 15 against 15 employees. The MoSA stated that it adopted special measures to hold the offenders accountable and that 13 employees of them were found guilty while the others were found not guilty. The MoSA punished the employees who were found guilty through disciplinary actions and it issued instructions to rectify the actions of the duty-bearers. Further, the MoSA referred a complaint to the judiciary which is still considered before the High Court of Justice.

In line of its vision to ensure the right to social security, ICHR recommends that the Foundation for Care of the Families of Martyrs and Injured Citizens should approve payment of the entitlements of the families of the martyrs and injured persons who are victims of the Israeli aggression in 2014 and allocate budgets that ensure continuous payment of their funds. It further recommends that the Cabinet and the Commission of Detainees' affairs should resume payment of salaries of the prisoners held in the occupation's prisons whose salaries were suspended in 2017. It also recommends that the

Cabinet should increase the MoSA's shares in the budgets for 2017/2022 so that it can assume its duties and achieve its goals, pursuant to the agenda of national policies, and not to subject the MoSA's budget to any expenditure rationalization or austerity plans.

2.2.2 The Right to Health

In an important development on the international level, and in the context of realizing the human right to physical and mental health, the Special *Rapporteur* on such *right* issued a special report on 14 July 2017 which discussed the relationship between the human *right* to enjoy the highest attainable standard of physical *and* mental health and the corruption which might undermine and compromise the realization of such right⁹. Further, a Decree-Law concerning the transfer and transplant of human organs was issued to regulate the transfer, transplant, and preservation of human organs, and it defined the conditions and procedures of human organ donation.

The MOH's operational budget for 2017 reached approximately 9.7% of the total general budget, and it represented 11.32% of total current expenditures, while in 2016, the *MOH's* operational budget represented 11.5% of total current budget. The salaries and wages represented nearly 45% of the budget, as compared with 50% in the budget of 2016. The development budget allocated for the health sector was not included in the general budget, although nearly 41 million Shekels were spent in 2017 as development expenditures and despite the Minister of Health's announcement that approximately 290 million Shekels were spent in 2017 as development expenditures.

The nature of development projects listed in the MOH's budget did not reflect its trend toward establishment of the medical services. The development projects listed in the budget do not increase the capacity of the secondary and tertiary care which can increase the capacity of the hospitals, quantitatively and qualitatively, although a large portion of the

⁹ The United Nations General Assembly, a report entitled "The right to the Highest Attainable Standard of Physical and Mental Health", which was presented in the 72nd session/ item 73-b dated 14/7/2017



funds spent on the development projects were used to build hospitals, which would contribute in establishing the medical services related to the referred conditions. However, failure to list the same in the budget would lower the community and rights-related surveillance thereof.

The most prominent event recorded in the report concerning the measures adopted in the field of medical negligence was the development of a draft Decree-Law concerning the medical and health protection and safety in the end of 2017. Such Decree-Law is expected to be completed and passed by the end of 2018.

The health system in Gaza Strip was gravely compromised which led to a severe shortage of medicines, medical disposables, lab supplies, and blood banks, causing the failure of some medical devices and equipment, decrease of medical referrals, and complication of referral procedures on the Palestinian and Israeli sides, in addition to the continuation of the acute fuel crisis and its grave repercussions on all the primary, secondary, and *tertiary* health services.

38



On the other hand, in 2017, ICHR received 76 complaints pertaining to the right to health, which included 11 complaints about the availability of vaccines and medicines, and 32 complaints about lack of proper health services, requesting additional medical services in certain regions, in addition to 21 complaints about medical referrals, and 12 complaints about responsibility for medical negligence; which included 10 complaints about deaths that occurred after receiving medical treatment, making accusations of medical negligence.

In terms of gender, the complaints were classified to 30 complaints pertaining to women and 46 complaints pertaining to men. In terms of age, they were classified to 26 complaints pertaining to children and 50 complaints pertaining to adults. In terms of the geographical regions, the complaints were classified to 18 complaints in Gaza Strip and 58 complaints in the West Bank.

Toward realizing the right the health, ICHR recommends that the MOH should provide access to adequate and required statistical data in order to identify the situation of the right to health every year. The MOH

should also engage all the related institutions and different civil society organizations in enhancing the draft Decree-Law concerning medical and health protection and safety and issue the same by the end of 2018. ICHR recommends showing the development budget in the MOH's budget, increasing the funds allocated for this item in the MOH's budget, and re-allocating and re-organizing the MOH's budget through more than one procedure; such as increasing the expenses of establishment of health services, development of the health services delivered to the Palestinian citizens by adopting many measures, including increasing the number of beds in the hospitals to match the natural increase of the population, and enhancing the health services delivered in the field of reproductive health, and motherhood and childhood health. ICHR further recommends taking serious steps to provide sufficient health services in Gaza Strip by providing all the required medicines, medical disposables, lab supplies, and blood banks and fixing the broken or over-used medical equipment, or replace them with new devices, increase Gaza's share in the medical services acquired from outside the formal health institutions, fix the considerable structural deficiency of the MOH's personnel by increasing the professional technical cadres and reducing the number of administrative staff, and reduce the impact of the fuel and electricity shortage crisis on the right to health.

2.2.3 The Right to Education

Palestine enacted the Decree-Law No. 8 of 2017, concerning Public Education, and the Decree-Law No, 5 of 2017 amending the Decree-Law No. 5 of 2013 concerning the Loan Fund for Undergraduate in Palestine.

The budget of the Ministry of Education & Higher Education (MOHE) for 2017 constituted approximately one fifth of the State's general budget, however, it is observed that the budgets earmarked for each program are low and insufficient to achieve its goals, causing the dire conditions of the education process, in terms of the development of its physical and human resources infrastructure. On the other hand, the poor financial resources of the universities, and government inability to provide the financial support required to handle the accumulated deficit in the budgets of universities, directly impact the principle of access with its economic dimension.



According to the latest results issued by the MOHE, the total rate of enrollment in KG1 and KG2 together dropped as it recorded 56.1% in 2016. It is clear that the rate of enrollment in public kindergarten classes is very low since the government failed to adequately provide this type of public education system which is set forth in Article 6 of the Decree-Law No. 8 of 2017 concerning Public Education.

The curricula in general receive considerable criticism. The curriculum in Palestine still needs to introduce the principles of human rights in the textbooks and to emphasize such principles in terms of their values, in a clear, smooth, and significant manner, and to neutralize the content which contravenes the human rights, or which provides a stereotyped image of women in the textbooks. Further, it is required to ensure complete consistency, harmony, and coherence between the textbooks of all education stages, in the aspect related to teaching of human rights in the curriculum.

40



The rate of students with disabilities included in the public schools does not exceed one percent of the total number of students. The statistical data issued by the MOHE for the academic year 2016/2017 showed that the number of students with disabilities who are enrolled in the public schools reached 8074 students; 5350 in the West Bank and 2724 in Gaza Strip. The results also indicated that the vocational education sectors¹⁰ do not include any students with disabilities.

ICHR received 15 complaints against a number of institutions and ministries, including alleged violations of the right to education, including 13 complaints in the West Bank and 2 complaints in Gaza Strip. The complaints were about the shortage of teachers capable of dealing with students with disabilities, requests to furnish the students who live in remote areas with transportation and to provide transportation for the students with disabilities, requests for exemption from school fees, and complaints pertaining to academic freedoms.

The replies received by ICHR from the MOHE regarding accountability of the officials for violating the right to education concluded that about 116 investigation committees were formed to investigate personnel accused

¹⁰ MOHE. Ibid

Executive Summary

of committing violations; including 33 violations of morning delay and frequent absence, 14 violations of beating of students, 12 violations of failure to fulfill the duty, 10 violations of using distasteful language, 5 violations of insults via Social Media platforms, 3 violations of sexual harassment, 1 violation of forging official documents, and 38 other violations.

In line of its vision to fulfill the right to education, ICHR recommended the MOHE to adapt the national legislation and executive regulations related to the right to education, both public and higher education, with the international conventions signed and enshrined by the State of Palestine. ICHR also recommended the Cabinet to increase the financial resources earmarked for the MOHE, in particular the item line related to development expenditures, so that the MOHE is enabled to enhance the quality, type, and outcomes of the educational process. It also recommended that the government of Palestine should provide the required financial resources for the inclusion and increasing of the number of students with disabilities in the educational process.



3. Assessment of Complaint Handling by the Official Agencies with ICHR

3.1 ICHR's role receiving and following up on the citizens' complaints

The ICHR received 2656 complaints which are classified as follows: 1551 complaints in the West Bank and 1105 complaints in Gaza Strip. The civil complaints represent 28% of total number of complaints which amounted to 2656 complaints. The number of complaints pertaining to security issues filed to ICHR amounts to 1901 complaints, representing 72% of the total number of complaints that amounted to 2656. The number of child-related complaints filed to ICHR amounted to 204 complaints and the number of complaints related to persons with disabilities amounted to 45 complaints.

ICHR adopts diverse approaches to follow up on the citizens' complaints with the complainants. Such approaches are listed on the complaints manual adopted by the ICHR. To follow up on the complaints, ICHR uses phone calls, meetings, field follow-ups, visits, internal memos, workshops, written correspondence, and written reminders. Usually, the ICHR receives replies to such correspondence. In this regard, it should be noted that these approaches are the same used over the past years.

The number of field follow-ups conducted with the security and civil agencies in the West Bank and Gaza Strip reached 3309 follow-ups, including phone calls, meetings, visits, and filing of recommendations. ICHR sent approximately 2273 primary letters and reminders. The rates of replies in the West Bank and Gaza Strip are as follows: the West Bank-based ICHR offices sent 1063 primary letters and reminders and received 644 replies thereto where the ratio of replies to the correspondence reached 61%. In Gaza Strip, ICHR sent 1210 primary letters and reminders and received only 16 replies thereto; therefore, the ratio of replies to the correspondence represents 1.3% which indicates lack of serious cooperation on the part of Gaza Strip.



Although ICHR received some written replies which indicated that some of the security agencies, especially the police, took some actions against their personnel, ICHR still receives stereotypical replies, especially from the security agencies which do not respond to ICHR's demands in many times, or deny the claims cited by the citizens without taking any action to verify such claims. In an effort to improve this, ICHR included the relevant legal texts in its correspondence, but to no avail, on the contrary, the stereotypical replies continued. On the other hand, some security agencies said they do adopt many disciplinary measures if it is established that any failure or deficiency took place and caused violations against the citizens, and that such act is not necessarily reported to ICHR, according to the statement made by a security agency.

3.2 Assessment of the Agencies and Complaints filed to ICHR

44



In the West Bank, ICHR recorded 98 complaints which were handled satisfactorily in cooperation with the General Intelligence Service, out of 119 complaints which have been closed. ICHR recorded 109 complaints where the Preventive Security Service cooperated satisfactorily. ICHR recorded 56 complaints which did not receive satisfactory cooperation, out of 99 complaints against the governors. ICHR also received 354 complaints against the police, 236 of which were closed; including 140 complaints handled satisfactorily in cooperation with the police and 15 complaints handled without cooperation. ICHR also received 73 complaints against the MoSA; 20 of which were closed; including 18 which were closed satisfactorily in cooperation with the MoSA and 2 complaints closed without satisfactory cooperation.

On the other hand, ICHR received 36 complaints against the MOHE; 15 of which were closed, including 11 closed satisfactorily in cooperation with the MOHE, and 3 were closed without satisfactory cooperation, and 1 complaint which was closed without cooperation.

ICHR further recorded 604 complaints against the police; 503 of which were closed, including 363 complaints closed satisfactorily in cooperation with the police, and 12 complaints were closed without satisfactory cooperation. Further, 42 complaints were closed with satisfactory cooperation, out of

130 complaints filed against the Internal Security Force. ICHR received 116 complaints against the correction and rehabilitation centers; 100 complaints of which were closed, included 98 closed with satisfactory cooperation. Moreover, 14 out of 21 complaints filed against the MOH were closed; including 5 complaints closed with satisfactory cooperation and 7 complaints closed without satisfactory cooperation.

3.3 ICHR's role monitoring the Detention Facilities

3.3.1 Correction and Rehabilitation Centers

In 2017, some developments were made to the correction and rehabilitation centers in the West Bank; a correction and rehabilitation center was established in Jenin governorate, in the constructional aspect, the designs of a correction and rehabilitation center plan in Hebron governorate were approved, 200 new staff members were recruited to increase the management staff of the correction and rehabilitation centers and to operate the new centers. In Gaza Strip, there were no developments in respect with the correction and rehabilitation centers. The political divide overshadowed the requirements of the correction and rehabilitation centers and lack of special budgets to such centers, whether in relation to the development of services or expanding.

The conditions of the correction and rehabilitation centers' inmates did not change as compared with their condition in 2015 and 2016. The police continued restricting ICHR access to the correction and rehabilitation centers and snap visits were not carried out. Further, there are no sufficient spaces in the centers to separate the inmates and reduce the severe congestion. The centers have no convenient living and detention conditions and they lack the entertainment, employment, and rehabilitation means. Too many persons are detained in detention centers or Police Detention Facilities for long periods that sometimes extend to months or years.

ICHR recommends establishment of correction and rehabilitation centers that meet the required conditions, in order to provide the inmates with convenient living and health conditions, and expedite closure of



Bethlehem correction and rehabilitation center due to the problems and conditions which compromise the human rights and inmates' rights. It also recommends permitting and applying snap visits to the correction and rehabilitation centers, finding legal mechanisms to expedite resolution of inmates' files, and apply the article which stipulates release after serving two thirds of the sentences which would reduce the number of inmates held in the correction and rehabilitation centers.

3.3.2 Police Holding Facilities

Nothing has changed with respect to the conditions of the Police Detention Facilities. They still lack the minimum level of detention requirements, whether in terms of spaces, or the living standards or health conditions. These facilities are affected by limited spaces, high humidity, inadequate ventilation, and insufficient natural lighting. Sanitary toilets are also lacking, resulting in a repulsive smell.

46



ICHR recommends establishing correction and rehabilitation centers in the governorates which have no centers, and expand the same in order to prevent transferring the Police Detention Facilities in these governorates to permanent detention facilities. It also recommends the rehabilitation and maintenance of these Police Detention Facilities in terms of the infrastructure, and fixing their health and environmental conditions until correction and rehabilitation centers are established. ICHR recommends providing military medical service clinics in these Police Detention Facilities which should be open 24-hour a day and should contain all medicines. ICHR recommends observing the arrest periods stipulated in the law and not to exceed the statutory periods permitted by the law for detention in such detention facilities, which is a maximum of 24 hours.

3.3.3 Detention Facilities affiliated to the Security Agencies

The 3 securities agencies in the West Bank; namely the Preventive Security, General Intelligence, and Military Intelligence, continued pursuing their duties as usual, being vested with judicial duties, where they detain persons in the centers of the security agencies for extended periods of

time, although they are temporary centers.

Nothing changed regarding the affiliation of the detention centers to the security agencies in Gaza Strip during the term covered by the report, as compared with 2016. The Internal Security continued pursuing its duties as usual, being vested with judicial duties. In 2017, another detention center was added to the Military Police and Intelligence.

ICHR recommends cancelling of the JSC and following the legal and judicial procedures set out and approved in the Code of Criminal Procedure for their importance in this respect to protect the rights of the inmates and detained persons. ICHR recommends the related judicial authorities to conduct periodic and regular judicial inspections of the conditions of the investigation and detention centers, and to check the legal status of the detained persons, especially that such centers are now used as permanent detention facilities. ICHR recommends allowing ICHR, in its capacity as a national ombudsman office and oversight body, to conduct snap visits to the holding and detention facilities affiliated to the Preventive Security in the West Bank governorates. ICHR further recommends the rehabilitation of the infrastructure and utilities, including the water network, sewerage, and electricity, and provision of outdoor spaces in all the Preventive Security centers in the West Bank.



