

Public Freedoms in the Palestinian Authority Territories

Semi-Annual Report

First Report

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Contents

Introduction	5
First: Violation of the right to life and physical integrity	10
Second: Arbitrary detention, abduction and ill-treatment	17
Third: Violation of the right to freedom of opinion and expression	23
Fourth: Violation of the right to peaceful assembly	33
Fifth: Attacks on official, civil and charitable organizations	41
Sixth: Human rights defenders and lost immunity	46
Results and Recommendations	50

Introduction

Military solution in Gaza Strip and its impact on public freedoms in the Palestinian Authority territories

The report on public freedoms in the Palestinian Authority territories was released one full year after the conflict between the Hamas and Fateh movements was resolved through military means, with Hamas scoring victory. Before, during and after the military solution of the conflict, the Palestinian Authority territories witnessed a long series of human rights violations. For the sake of objectivity, this report discusses the events that preceded the conflict and its causes.

This semi-annual report on public freedoms in the Palestinian Authority territories is prepared by the Ramallah Center for Human Rights Studies (RCHRS). It is hoped that the report will be produced on regular basis. The report shall examine the main causes of the conflict and steps taken by the two parties to the conflict after the decisive military solution. This is because human rights violations in the West Bank and Gaza Strip in the first half of 2008 were an expression and a continuation of those that occurred in the second half of 2007.

Without going into the justifications provided by each party to the conflict for its option to resort to the military means, or into actions and decisions supporting the positions of one party and weakening the other, it is clear that the armed conflict was accompanied by grave violations committed against human rights and fundamental freedoms. These violations continued in the Palestinian territories, with attempts to legitimize them through legal and constitutional procedures both in the West Bank and in Gaza Strip.

After June 14, 2007, Palestinians woke up to a new reality; they became lost between two governments; the emergency government in the West Bank was established under a decree declaring a state of emergency, and the deposed government in the Gaza Strip continued to function, and became a reality on the ground. During the year that followed, the two governments continued to adopt similar procedures; neither complied with human rights standards and obligations for the most part and human rights were undermined under their procedures.

In the West Bank, with the end of the military operation in Gaza on June 14, 2007, President Mahmoud Abbas immediately issued three presidential decrees. The first was the declaration of the state of emergency in all Palestinian National Authority territories. The declaration was justified by the “the criminal war in Gaza Strip and the seizure of the PNA Headquarters and the military coup d’état and the armed mutiny executed by the outlaw armed militias against the Palestinian legitimacy”.

The second decree discharged Prime Minister Ismail Haniya and the third was “to form the government which shall be mandated to implement and enforce the regulations and instructions of the state of emergency”. These decrees were followed by several other decrees. On June 16, 2007, President Abbas issued a decree “on suspending work on provisions of articles in the amended Basic Law”. This was followed by another decree banning all armed militias and military or paramilitary formations: “All armed militias and military formations and paramilitary irregular formations regardless of their affiliations are banned in all their forms.” The second article states that “these armed militias and military formations and paramilitary irregular formations are prohibited from performing any secret or public activities; any person assisting or offering any services to them shall be held accountable at the penal and administrative levels”.

On July 6, 2007, the Palestinian president issued a decree expanding the jurisdiction of the military under the state of emergency. This decree not only violated the provisions of the Basic Law regarding the state of emergency, it also relinquished its control over the jurisdiction and functions of the judiciary and civil prosecution in favor of military judiciary and prosecution. Moreover, it gives all Palestinian forces the capacity of judicial police, namely, the national security forces, the Palestinian national liberation army, internal security forces, general intelligence, any other forces that exist or shall be created within these forces and officers who finished their service for reasons other than disciplinary and those tasked with special duties. This gives all these forces the freedom to interfere, arrest and detain whoever they want and encourages other practices that will lead to violations of rights and freedoms and even abuse of these rights and freedoms, deliberately or otherwise.

In Gaza Strip, the deposed government issued a series of resolutions directly affecting justice. On August 14, 2007, Dr. Yousef al-Mansi, the newly assigned minister of justice in the discharged government, issued a decision prohibiting Ahmad al-Mughni, the public prosecutor, from carrying out the responsibilities of his position, under the pretext that his appointment was not done in accordance with the law. This decision is considered illegal because the jurisdiction of the minister of justice should not interfere with that of the public prosecutor who has to perform his tasks according to the law. On August 16, 2007, the Executive Security Force of the discharged ministry of interior raided the public prosecution premises in Gaza and assaulted the attorney general, detaining him together with other prosecutors and deputies. On August 29, 2007, a new public prosecutor and new aides were appointed in an illegal manner, to perform the duties of the attorney general and his staff. On September 4, 2007, the so-called “Higher Justice Council” (SCJ) was formed by a decision issued by the Council of Ministers of the discharged government, and the designated members headed by lawyer Abdul-Raouf al-Halabi were approved. On September 11, 2007, the Council of Ministers issued a decision approving the designation of the minister of justice and six members of

the council headed by al-Halabi. The six members had to designate other three members who had to be approved by the minister of justice according to article one of the decision. According to article two, the Higher Justice Council is to perform the following tasks: prepare a list of vacant judicial centers and submit it to the ministry of justice to announce the vacancies, propose name of judges, suggest promotion to the Council of Ministers upon recommendation of the employment committee, decide on removing judge or giving them other none-judicial tasks, approve holidays of judges and inform the ministry thereof, and receive judges' complains and take decisions in there regard.

On November 26, 2007, those responsible for the Higher Justice Council, headed by the council's president Abdul-Raouf al-Halabi, went to the regular courts' compound in Gaza and met with consultant Yahya Abu Shahla, vice president of the Higher Judicial Council. Al-Halabi informed Abu Shahla that, as of that minute, all judges and employees of regular courts in Gaza Strip had to abide by his orders and directives, he being the president of the Higher Justice Council. He asked for keys of all the offices of the Higher Judicial Council in order to start performing his tasks. When Abu Shahla refused to abide by the decision, which he considered illegitimate, al-Halabi and his colleagues ordered an employee from the Higher Judicial Council president's office to open the door of the office. A big number of policemen were deployed in the courts' compound. In consequence, judges and employees stepped down and evacuated the building, and the Higher Judicial Council announced the suspension of the work of regular courts in Gaza Strip for an unspecified period of time.

These procedures paved the way for the two governments, an emergency government in the West Bank and a caretaker government in Gaza Strip, to continue their wide-scale violations of human rights during the period covered by this semi-annual report prepared by the RCHRS. In many cases violations took the form of acts of revenge and reactions to certain acts.

In its report, the Ramallah Center for Human Rights Studies seeks to highlight the human rights situation in the PNA territories, particularly with regard to public freedoms. The procedures taken by the two governments worsened the already difficult living conditions and the sufferings of the Palestinians living in the occupied territories. Those violations were accompanied, in one form or another, by continued war crimes and serious violations committed by the occupying Israeli forces against Palestinian civilians and their property, the stifling siege on the Gaza Strip and its isolation from the outside world, the continued Israeli threats to escalate such crimes – especially targeted murder of Palestinian political leaders – by imposing further sanctions on civilians living in the West Bank, and the continued brutal blockade transforming the West Bank areas into isolated cantons.

This report fully tackles internal Palestinian issues, but it does not, in any way, exonerate the Israeli occupation forces of the crimes committed. RCHRS stresses that Israeli occupation authorities are not innocent of allowing the conflict to escalate in Palestine. Moreover, many countries of the world are directly or indirectly considered partners in allowing the situation in Palestine to deteriorate and the violations of the Palestinian's rights to continue by not condemning crimes committed by the occupation forces and by exerting pressure on the Palestinian Authority under many pretexts, among which the obligation to fulfill the obligations of the "Road Map".

This report highlights the violations committed during the period January 1, 2008 and June 30, 2008, in both the West Bank and Gaza Strip, in the following areas: the right to life and physical integrity; arbitrary arrests, abductions and abuse; violation of the right to freedom of opinion and expression; of the right to peaceful assembly and attacks on institutions and societies. The report comes up with results and recommendations.

In order to produce the report, a specific methodology was followed, based on providing a conceptual framework related to each issue, according to international human rights standards, and noticing to what extent local legislation complies with these standards. It then provided an analysis of violations perpetrated and documented them according to the time and place they took place.

At the level of violation of the principle of the right to life, eleven citizens were killed during the period covered by this report, ten of whom were killed in the Gaza Strip, while one died in the West Bank during his detention at the General Intelligence prison in Ramallah. Moreover, eighteen other citizen in the West Bank and Gaza Strip were killed by the widespread phenomenon of taking the law into people's own hands, under the pretext of the so-called vendettas, personal hostilities, and family disputes. These cases were documented in RCHRS report of on the state of tolerance in PA territories. The issuance of the tolerance report came at the same time this report was produced (see the half-yearly report on the state of tolerance in the occupied Palestinian territories; first report 1/1/2008-30/6/2008).

At the level of arbitrary arrests and acts of kidnapping and abuse, and according to information gathered by the RCHRS from several sources, (636) leaders, cadres and supporters of the Hamas were arrested during the period covered by the report in the West Bank. With the issuance of this report, about forty-five of these detainees were still detained; the rest were released after serving different time periods in prisons. In Gaza Strip, (190) leaders and cadres of the Fateh Movement were arrested and with the issuance of this report, twenty of them remain in detention. Detainees held by either Hamas or Fateh were usually subjected to torture and to cruel and degrading treatment.

With regard to the violation of the right to freedom of opinion and expression, ten cases of arrests against journalists have been documented in addition to the storming and closure of two media institutions in the West Bank. In Gaza Strip, thirteen cases of violations of press freedoms were reported such as arrests, abduction of journalists, preventing others from work, confiscation of information materials, and shooting acts.

With regard to the violation of the right to peaceful assembly, the report documented three cases where citizens, political forces and parties were prevented for organizing peaceful demonstrations in the West Bank against nineteen cases in Gaza Strip. As for assaults on public, private institutions and charities, two cases were reported in the West Bank, compared to twenty in Gaza Strip. In a number of assaults assailants remained unknown.

Before going into the details of the human rights and public freedoms situation, stated in this semi-annual report, RCHRS would like to stress its full independence and impartiality in monitoring human rights and the impartiality of the information contained in this report. For the report, RCHRS has heavily relied on international conventions and agreements related to human rights. RCHRS seeks to continue issuing semi-annual reports monitoring developments in the human rights situation in the PNA territories, with the objective of providing a realistic picture of the prevailing conditions. It is hoped that this report will help improve the human rights situation in the territories under the control of the Palestinian National Authority.

First

Violation of the right to life and physical integrity

The right to life is a holy right, guaranteed not only by earthly laws but also by all heavenly religions. It is a right inherent in man and is considered one of the most fundamental rights. The international community has given special attention to this right, based on the premise that the human rights system becomes irrelevant if the right to life is violated. What would be the relevance of other rights when such a sacred right is violated?

The Human Rights Declaration issued by the UN General Assembly on December 10, 1948, gave priority to this right. Article 3 of the declaration stresses that “everyone has the right to life, liberty and security of person”. In Article 5 of the declaration, it was stated that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

On the other hand, the United Nations International Covenant on Civil and Political Rights, issued by the General Assembly, stated in its Article 6 that “this right shall be protected by law”, and that “no one shall be arbitrarily deprived of his life”. The same article stipulates that “in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court”. Moreover, the article stipulates that “when deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide”.

“Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases,” says the same article. It also stipulates that “sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant”.

Local legislation

In the PNA's Basic Law, there exists no explicit text on the right to life. Article 10 of the Basic Law stipulates that "basic human rights and freedoms shall be binding and respected". The right to life was intentionally undermined because the Palestinian law legitimizes the death sentence, according to the penal code 74 of the year 1936 still in force in Gaza Strip, according to the Jordanian penal code number 16 of the year 1960 still in force in the West Bank, and also according to the Revolutionary Penal Code of the PLO issued in 1979.

Extrajudicial killing

Despite the fact that the Palestinian legislation endorses the death sentence in PNA territories, extrajudicial killing has taken a dangerous path with the eruption of the armed conflict between Hamas and Fateh in the Gaza Strip. During the armed conflict, many fighters abducted by either movement were killed. When the battle was concluded with Hamas' victory on June 14, 2007, many revenge-driven crimes were committed by the two movements in the West Bank and Gaza. The report will list only the extrajudicial killings in the six-month period it covers, most of them having occurred in Gaza Strip.

Below is a list of these acts:

- On January 12, 2008, the corpse of 39-year-old Shaaban Salem Dughmush, a resident al-Sabra neighborhood, east of Gaza City, a marine police in the discharged government, was found in the village of Hajar al-Deek, in the center of Gaza Strip. Medical sources indicated that Dughmush was killed by a shot in the head. The victim left his home in al-Sabra neighborhood in Gaza City on Friday evening, January 11, 2008, heading to work in the naval forces of the discharged government. It should be noted that the victim was the brother of "Abu Kassim", the secretary general of al-Nasser Salahuddin Brigades.
- On April 13, 2008, a number of masked gunmen abducted 36-year-old Sami Attiya Khattab, who owned a store selling clothes in the town of Deir el-Balah, and who had been employed by the General Intelligence as an officer. They took him to an unknown destination. On April 15, 2008, his relatives received a telephone call from the police informing them that Sami's corpse was found lying near the seashore in Sheikh Ajlin, west of Gaza City, and that the body had been taken to al-Shifa Hospital in Gaza City.

The Khattab family, in a telephone call with Ma'an agency, accused the internal security forces of the deposed government of the killing of their son. They said that the police had abducted him for 24 hours and then, after an absence of a day and

a night, they contacted the family to inform them that Khattab's body was found in Netzarim. The Interior Ministry said that "security forces have received news on the abduction of Sami al Khattab, and immediately initiated necessary investigations to uncover circumstances of his abduction". The statement of the ministry added that "the next day in the morning, security forces found the body of al-Khattab who was killed by unidentified men. An investigation was started to uncover the details of the crime and its perpetrators". The family of the victim refused to take his body to bury it. They only did so 17 days after his death.

killing during armed clashes

In the period covered by this report many clashes between the different armed groups were witnessed. They mainly erupted in the Gaza Strip, and resulted in casualties among the combatants and among innocent civilians who happened to be in areas. Below are events that resulted in deaths and in scores of injured.

- On January 1, 2008, armed clashes erupted in several areas of Gaza Strip, with attempts by the deposed government to ban and disperse marches organized to celebrate the anniversary of Fateh founding, on January 1. Heavy clashes led to the death of three citizens and several wounded. In al-Sabra neighborhood, east of Gaza city, Suleiman Salem al-Diri, 21 years old, was killed by a bullet in the head and many other were injured. Mahmoud Ali Dughmush, 25, was killed by bullets in different parts of his body during an armed confrontation. Ibrahim Muhammad Abu Dallakh, 78 years old, was killed in a province north of Gaza, and four others were injured. Abu Dallakh's wife was among the injured as a result of an attack launched from a passing car by Hamas members next to Dallakh's house, in Beit Lahya project, during which there was heavy exchange of fire.
- On January 30, 2008, 48-year-old Mohammed Awad Abu Latifa died from injuries he suffered on January 4, 2008, following a raid on his house, in the area of new Absan, east of Khan Younis, by a group of masked gunmen. Abu Latifa was shot in his left leg and suffered severe bleeding. He was taken to a hospital in Israel where his health deteriorated.
- On May 2, 2008, Abdel-Raouf Ahmed Thabet, 55, was killed as a result of armed clashes between Izz Al-Din al-Qassam Brigades and the National Resistance Brigades. In the early dawn hours, a conflict over presence in border areas erupting between members of al-Qassam Brigades, the military wing of Hamas, and members of the National Resistance Brigades, the military wing of the Democratic Front for the Liberation of Palestine. Fire was exchanged between the two parties in al-Nasr village, east of Rafah, in the south of Gaza. The clashes resulted in Abdel-Raouf's injury, in the abdomen, pelvis and thighs, who was in his brother's courtyard, near the area of the clashes. He was taken to the European Gaza Hospital, in the town of Khan Younis, to receive treatment, but

doctors did not succeed in saving his life.

Other killing incidents

- On March 5, 2008, 75-year-old Safia Mahmoud Mehdi, from the Shate' refugee camp, west of Gaza City, died from a bullet accidentally fired by the police officer in charge of guarding the house of the prime minister of the discharged government, who was 50 meters away from the woman. Police sources said that the death was accidental and has happened during the guard exchange. They said that the policeman who fired the bullet was kept in Gaza central prison in order to finalize legal procedures against him.
- On April 16, 2008, 18-year-old Ahmed Mohammed Awad, a member of Al-Quds Brigades, the military wing of the Islamic Jihad movement, died from a bullet shot at him in mysterious circumstances in the town of Rafah. Al-Quds Brigades issued a statement announcing the death of Ahmed Awad, one of its activists, who was killed while performing his jihadi tasks in the city of Rafah, in the south of Gaza.

Death in detention

Incidents of death in prisons, as a result of torture, neglect, use of violence or due to detention conditions endangering the lives of detainees, are crimes punishable by the law. During the period covered by this report, two deaths of detainees held by the Palestinian security forces were reported; one in the West Bank and the second in Gaza Strip.

On February 22, 2008, Sheikh Majd Abdul Aziz Mustafa al-Barghouthi, 44 years old, from Koubar village, north of Ramallah, died in the prison of the general intelligence in Ramallah. According to eyewitness testimonies, al-Barghouti was brutally beaten and suspended for long hours. Witnesses stated that one of the methods used against al-Barghouti was handcuffing his hands to his back with iron chains connected to the top of the window pane, which kept his body suspended above ground. He was arrested on February 14, as he was leaving the village mosque. His family was not allowed to visit him during his detention period. They only saw him dead Friday evening, February 22, 2008, when his body was sent to Khaled Surgical Hospital in Ramallah. On the same night, the body was sent to Abu Dees Forensic Medicine Institute upon an order by the Palestinian attorney general for a medical report. The report said that he died of natural, sudden death and listed the causes of death as "heart failure due to an abnormally enlarged heart; in such cases death happens suddenly". Human rights organizations gathered much evidence, testimonies and pictures of the victim before burial. The forensic medicine report contains indications that the victim was subjected to torture and ill-treatment. He might also have been a victim of medical negligence during his detention.

On June 2008, 72-years old Taleb Muhammad Abu Sitta, from al-Zawaida village, in the center of Gaza Strip, died in Deir al-Balah police station after two days of his detention. According to reports of several human rights organizations in Gaza, on 26 June 2008 at 1:00 dawn time a number of the investigation police went to Abu Sitta's house accompanied by his 26-years old son Mustafa, who was arrested on 25 June 2008. The police searched the house for narcotics and when they finished their search they took Taleb and his son to the police station in Deir al-Balah. On Friday 27 June 2008, at 7 a.m., Abu Sitta was taken dead by an ambulance from the police station to al-Aqsa Martyrs Hospital then his body was sent to the Department of Forensic Medicine at al-Shifa Hospital in Gaza City. The victim's son, Mustafa, who was released by the police after the death of his father, told RCHRS researcher that he had been beaten and tortured during interrogation at the Deir al-Balah police station.

Death penalty in the PNA territories

The Palestinian National Authority is still applying the death penalty, despite the fact that it is in violation of Article 3 of the Universal Declaration of Human Rights issued in 1948, and Article 6 of the Covenant on Civil and Political Rights issued in 1966, both stressing the right to life as an inherent human right that no one shall be arbitrarily deprived of, and despite the fact that the United Nations Convention against Torture issued in 1984 prevents torture and other cruel, inhuman or degrading treatment or punishment, including death penalty.

In February 1994, president Yasser Arafat issued a presidential decree establishing the State Security Court. Human rights organizations opposed the creation of such court, considering it unconstitutional and a clear violation of international standards related to the administration of justice and healthy legal procedures because its procedures lack the simplest justice conditions. The court issued 76 verdicts of death penalty from the date of its creation, against persons convicted of ordinary and other crimes related to national security; at least 15 were executed.

The court based its verdicts on the Revolutionary Penal Code issued by PLO in 1979, which is a very controversial law. The code stipulates punishment for crimes against the revolution committed outside Palestine. Circumstances requiring such a code ceased to exist and this code has not been ratified by the Palestinian Legislative Council, hence these verdicts are considered unconstitutional.

Given the negative role of the State Security Court, many Palestinian human rights organizations welcomed the decision passed by former minister of justice, Abdul-Karim Abu Salah, in June 2003, abolishing these courts and the decision promulgated by Mahmoud Abbas, head of the Palestinian National Authority, on June 22, 2005, to reconsider verdicts issued by the State Security Court and give

these cases to civil courts because state security courts lack the guarantees of fair trials. In 2006, eleven files related to persons sentenced to death by the State Security Courts were given to civil courts to review the verdicts.

These decisions did not abolish the death penalty from the Palestinian law, but were able to limit the number of decisions taken by these courts. While no death verdicts were been issued by any Palestinian court during 2007, three death sentences were issued in the Palestinian territories during the period covered by this report; two in the West Bank, and a third in Gaza Strip.

- On January 24, 2008, a special military court in Gaza sentenced 42-year-old Yasser Zanoun, from the city of Rafah, to be executed by a firing squad. Zanoun, an officer in the Preventive Security Service, was convicted on July 29, 2007 of murdering fellow policeman Ismail Mashwakhi, an officer of the general intelligence. The mentioned court was formed by the military judicial apparatus restructured by the deposed government in the Gaza Strip, according to Article 122 of the Palestinian Revolutionary Penal Code of 1979. The verdict was the first capital sentence handed down since the beginning of 2006 in the Palestinian National Authority territories.
- On April 6, 2008, the Palestinian High Military Court in Jenin sentenced Mahmud Husni Rmailat, 23, from Thinnaba suburb, east of Tulkarem, to death by firing squad. The court session, headed by Judge Ahmed al-Mbayedh, was held to consider the murder of 'Alaa' 'Aayesh Mubarak, a member of the Palestinian National Security Forces. The murderer, Rmailat, an officer of the Palestinian Military Intelligence, was sentenced to death. The ruling can be appealed and it needs the Palestinian president's ratification to be effective. The defendant's attorney, Riad al-Aarda, stated that he was informed by phone about the date of the court's session only one day earlier, although he should have been informed in a written notice at least 72 hours in advance. He added that he applied to the court to allow a psychological appraisal of his client, but the court rejected that. He further demanded delaying his written defense to be delivered after the prosecutor's intervention, but the session was delayed for an hour only, which is not enough to write a petition in a murder case.
- On April 28, 2008, a Palestinian military court in Hebron issued a death verdict by firing squads against Imad Mahmoud Sa'ad Sa'ad, 25 years old, from the town of Yatta, south of Hebron, on charges of treason and of transmitting information to occupation forces. Lieutenant Colonel Ahmad Abu Dayyeh presided over the three-panel court; the other two judges were Major Nu'man Fanoun and Captain Fadi Hijazi, who both supported the death sentence against the policeman. The court convened in the presence of the president of the military prosecution, lawyer Major Issa Amro and the military general prosecutor, 1st Lieutenant, lawyer Hani al-Hih. The verdict read as follows: "The court established that Saad, member of the security forces, is convicted of collaboration and of transmitting information to occupation forces within a network headed by his uncle. The network was

working in Yatta and the convicted person was giving information to his father. The information Sa'ad gave to the Israelis, according to his own testimony, has led to the death of four wanted people, the destruction of a house and the arrest of several more Palestinians." In its verdict, the court relied on Article 131 of the Palestinian military penal code of 1979. The court's commission, unanimously agreed on a verdict sentencing sergeant Imad_Sa'ad to death by firing squad.

Second

Arbitrary detention, abduction and ill-treatment

Following the bloody events in Gaza Strip, in the first half of 2007, between Fateh and the security forces of the Palestinian National Authority, on the one hand, and Hamas and the Executive Force of the Ministry of Interior, on the other, which ended on June 14, 2007, by a decisive military victory of Hamas, the file of political arrests of the different Palestinian security forces in areas under the control of the PNA, especially in the West Bank, was reopened. Ever since that day, the Palestinian security forces of the emergency government headed by Dr. Salam Fayyad conducted many campaigns and individually and collectively abducted a number of Hamas supporters in the West Bank. Some were reportedly ill-treated by members of these forces during investigation. Sometimes, family members of detainees were harassed during detention operations conducted, in many cases, in an illegal manner. A year has passed since the military operation, but arbitrary arrests continued until the day this report was prepared. Detention campaigns were run under various pretexts, such as accusation of belonging to the Executive Force of the discharged government, membership in Hamas, possession of arms and incitement of hatred against the Palestinian National Authority.

Gaza Strip has witnessed similar acts of arbitrary arrests. Typically, these actions were perpetrated by the Executive Force of the deposed government backed by Izz al-Din al-Qassam Martyr Brigades. Al-Qassam brigades acted as a police force and perpetrated illegal acts, such as arresting and interrogating citizens using torture and other cruel and inhuman means, and supervised a number of detention centers. In a number of cases, members of the Executive Force handed over detainees to al-Qassam Brigades who held them in detention centers they administered where they were subjugated to investigation, torture and ill-treatment.

Arbitrary detention

The right to freedom and safety is one of the fundamental human rights. The international human rights law has banned any violation to this right. Detention deprives people or freedom. It becomes arbitrary when it is performed in an illegal manner. International conventions prevent arbitrary detention and any other violations related to this issue.

The Universal Declaration of Human Rights, in its Article 3, links arbitrary arrest to the right to freedom and personal safety. The right to protection from arbitrary arrest

has been further stressed in the International Covenant on Civil and Political Rights, which stipulates in its Article 9 three basic guarantees against arbitrary detention:

- Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
- Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.
- It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should the occasion arise, for execution of the judgment.

The convention also stipulates very clearly, in its articles 14 and 15, guarantees for fair trials. These guarantees are stipulated as follows:

- Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
- Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
- To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.
- To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.
- To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him.
- To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.
- Not to be compelled to testify against himself or to confess guilt.
- Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

Because arbitrary arrest may lead to the use of illegal methods during detention and investigation, the international human rights law has banned resorting to torture to extract confessions from the accused, or the use of torture as an act of vengeance. Torture has been defined in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person”. The covenant also stipulates

that state parties shall abide by specific commitments as follows:

- Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture.
- Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.
- Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.
- Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.
- Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

The National Law

The Basic Law of the Palestinian National Authority (the interim constitution) has stressed personal freedoms of the Palestinian people. The second chapter of the law is dedicated to public rights and freedoms. Article 9 of the amended law of the year 2003 stresses that “all Palestinians are equal under the law and judiciary, without discrimination because of race, sex, color, religion, political views, or disability”. Article 10 of the law stipulated that “basic human rights and freedoms shall be binding and respected” and Article 11 stressed that “personal freedom is a natural right, and shall be guaranteed and protected; it is unlawful to arrest, search, imprison, restrict the freedom, or prevent the movement of, any person, except by judicial order in accordance with the provisions of law. The law shall specify the period of pre-arrest detention. Imprisonment or detention shall only be permitted in places that are subject to laws related to the organization of prisons.

Article 12 of the law states that “every arrested person shall be informed of the reasons for his arrest or detention. He shall be promptly informed, in a language he understands, of the nature of the charges brought against him. He shall have the right to contact a lawyer and to be tried without delay”. And article 13 stressed that “no person shall be subject to any duress or torture. All persons deprived of their freedom shall receive proper treatment”. It also stipulates that “all statements or confessions obtained through violation of paragraph one of this article shall be considered null and void”. Article 14 stressed that “the accused is innocent until proven guilty in a court of law that guarantees the right to defend himself. Any person accused in a criminal case shall be represented by a lawyer”.

It is evident here, without the slightest ambiguity, that the text of Basic Law of the Palestinian National Authority, related to public rights and freedoms, conforms with international human rights treaties and conventions. The law stresses that basic human rights and freedoms are binding and have to be respected. It also stipulates that personal freedom is a natural right and shall be guaranteed and protected. Equality under the law and judiciary is guaranteed and arbitrary arrest or imprisonment in places other than lawful ones is banned. The law stresses the importance of informing the person of the reasons for his arrest or detention and gives detainees the right to contact a lawyer. The law also bans torture or duress and provides detainees with fair trials.

Despite all guarantees stated in the Basic Law, the period covered by the report registered tens of cases of arbitrary detention, acts of kidnapping, illegal detention and acts of torture. The report highlights unlawful acts of detention in the West Bank and Gaza Strip.

■ The West Bank

Security forces of the emergency government in the West Bank continued acts of arbitrary detention of members and sympathizers of Hamas. During a certain period of time, there were acts of collective arbitrary detentions in the West Bank, such as those that took place on January 6, 2008, when security forces arrested 35 members and sympathizers of Hamas, on the eve of US President George Bush's visit to the region. In many cases, Palestinian security forces refused to release detainees whose lawyers were able to issue court decisions for their release. Palestinian human rights organizations have documented many cases of torture and ill-treatment. Sheikh Majd al-Barghouthi, from the village of Koubar, north of Ramallah, died in a prison of the general intelligence in Ramallah on February 22, 2008. Civil and official investigations proved that he was tortured and ill-treated (see section on death in detention).

Although detainee investigation focused on their relations with the Executive Force of the Interior Ministry of the deposed government and the possession of arms, RCHRC believes that these acts detention were unlawful. Arrest orders were issued by the military public prosecutor, a party that has no such authority, instead of being issued by the civil prosecutor. Arrests have also targeted prominent Hamas leaders in the West Bank. On January 6, 2008, the Palestinian security forces arrested 35 sympathizers of Hamas. Sheikh Hussein Abu Kwaik, a leading member of Hamas, was among the detainees. Sheikh Faraj Rumanneh, one of the movement's leaders in Ramallah, was also detained. Muhammad Shtaiwi, correspondent of al-Aqsa satellite station, and Tareq Shihab, a journalist and a correspondent of al-Aqsa station were detained; Ahmad Radwan, one of Hamas leaders in Jenin, was arrested as was lawyer Fadhl Bushnaq.

Despite that arrests have mainly targeted members and supporters of Hamas, but they have targeted other political Islamic movements as well. On May 10, 2008, the Islamic Jihad movement announced that Palestinian security services have arrested two of its members in Jenin, in the northern West Bank. According to the Islamic Jihad, the Palestinian intelligence arrested Mahdi al-Sharkawi and Khaled al-Fahal residents of al-Zababdeh town, Jenin province. Islamic Jihad added that the two detainees are members of the movement and its Islamic students group in the educational institutions.

Information collected by RCHRS from several sources indicates that during the period covered by the report (636) leaders, cadres and supporters of Hamas were detained in the West Bank. With the issuance of this report, 45 persons remain in detention, while other detainees were released after being held for varying periods. Below is the number of people detained, each month, from January – June 2008:

- January 2008: 202 detainees
- February 2008: 97 detainees
- March 2008: 71 detainees
- April 2008: 95 detainees
- May 2008: 93 detainees
- June 2008: 78 detainees

■ Gaza Strip

The Executive Force of the Ministry of Interior of the deposed government was responsible for tens of cases of detention in Gaza Strip. Martyr Izz-Ed-Din al-Qassam Brigades, the military wing of Hamas, acted as a police force and committed unlawful acts. Reports of human rights organizations active in the strip said that al-Qassam brigades supervise a number of detention centers and abducted many citizens, investigated them, tortured them and subjugated them to ill-treatment and inhumane conditions. In many cases the Executive Force handed over detainees to al-Qassam Brigades and detained them in centers under the control of these brigades. Most of the detainees were Fateh members, but sometimes others were targeted too.

According to information gathered by RCHRS from several sources, 190 leaders and cadres of the Fateh movement were arrested during the period covered by the report in Gaza Strip. Below is the number of people detained in each month, from January – June 2008:

- January 2008: 42 detainees
- February 2008: 36 detainees

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- March 2008: 27 detainees
 - April 2008: 24 detainees
 - May 2008: 33 detainees
 - June 2008: 28 detainees

Unlawful detention and the use of torture

According to the reports of many human rights organizations in the West Bank and Gaza Strip, dozens of arrests were in violation of legal procedures. Arrests took place without warrants issued by the competent bodies; dozens of people were arrested for various periods without being sentenced by court. Numerous complaints were received of torture and ill-treatment. Despite evidence of torture, in many cases security forces in both West Bank and Gaza Strip denied having acted as such.

The death circumstances of Majd al-Barghouthi, eyewitness testimonies, the forensic report and the report of the attorney general, all underline that Majd was subjected to multiple forms of torture.

One of the witnesses told the Palestinian Center for Human Rights on February 24, 2008: "...At almost 8:30 am, on Thursday, February 21, 2008, a militant ordered Sheikh Majd to eat and drink water and juice offered to him, but he vomited. Then I felt that the cell was opened. Through a small hole in the wall I saw the militant pulling the Sheikh, putting his hands under the Sheikh's shoulders. The militant asked the Sheikh to stand up but he answered that he no longer had the nerves to do so. In the afternoon, Sheikh Majd was put in the balcony, and we continued to hear his voice and his anguish until Friday, February 22, 2008, 8:30 am, when the voice couldn't be heard anymore."

In another testimony on a torture case in the Preventive Security Service in the town of Qalqilya, the witness said: "At around 4:30 pm, Thursday, May 1, 2008, four men from the Preventive Security Service came to the house of my son A. M, 25 years old, and arrested him without any official warrant or order. They took him to the headquarters of the Preventive Security. We tried to visit him, but we were not allowed to do so. On May 6, 2008, we were told that he was sent to the emergency hospital in the city. I directly went to visit him and I was able to see him at 10:00 in the morning. He told me that he had gone into coma and that he was suspended and beaten by members of the Preventive Security Service. He suffered a coma because of low blood sugar, and for that reason he was taken to the hospital. I saw marks of torture on the body and hands of my son. The hospital administration informed me that he is suffering from muscle ruptures and low blood sugar. At around 11:00 am my son was taken back to the headquarters of the Preventive Security."

Third

Violation of the right to freedom of opinion and expression

The right to freedom of opinion and expression includes freedom of belief; freedom of opinion is freedom to express it by any means, such as writing, drawing, sculpture, songs, music, dancing, etc., without any restrictions other than those prescribed by the law and which are necessary for the protection of the rights and freedoms of others, of their reputation, and of the national security, public order, public health or public morals. Hence, freedom is the rule and restrictions are the exception.

The international law stressed the right to freedom of opinion and belief and the right to express them in the very early stages of the creation of the UN. The Universal Declaration of Human Rights has stressed in its Article 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

The United Nations International Covenant on Civil and Political Rights stipulates in its Article 19:

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

According to the above-mentioned article, it is clear that the right to freedom of opinion and expression includes the right to access information and impart it without any restrictions. In its efforts to support the right to freedom of opinion and expression, the international community continued its efforts of drafting many treaties and conventions to guarantee this right. The United Nations Educational, Scientific and Cultural Organization (UNESCO) issued a declaration in November 1978 on the “Fundamental Principles concerning the Contribution of the Mass

Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War.”

The declaration stipulates in its second article that “the exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding. Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information. With a view to the strengthening of peace and international understanding, to promoting human rights and to countering racialism, apartheid and incitement to war, the mass media throughout the world, by reason of their role, contribute to promoting human rights, in particular by giving expression to oppressed peoples who struggle against colonialism, neocolonialism, foreign occupation and all forms of racial discrimination and oppression and who are unable to make their voices heard within their own territories. If the mass media are to be in a position to promote the principles of this Declaration in their activities, it is essential that journalists and other agents of the mass media, in their own country or abroad, be assured of protection guaranteeing them the best conditions for the exercise of their profession”.

The United Nations Commission on Human Rights, in Resolution 45 of March 5, 1993, decided to appoint a Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The commission requested the Special Rapporteur “to gather all relevant information, wherever it might occur, of discrimination against, threats or use of violence and harassment, including persecution and intimidation, directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights, taking into account the work being conducted by other mechanisms of the Commission and Sub-Commission which touched on that right, with a view to avoiding duplication of work; as a matter of high priority, to gather all relevant information, wherever it might occur, of discrimination against, threats or use of violence and harassment, including persecution and intimidation, against professionals in the field of information seeking to exercise or to promote the exercise of the right to freedom of opinion and expression; to seek and receive credible and reliable information from governments and non-governmental organizations and any other parties who have knowledge of these cases; and to submit annually to the Commission a report covering the activities relating to his or her mandate, containing recommendations to the Commission and providing

suggestions on ways and means to better promote and protect the right to freedom of opinion and expression in all its manifestations". The mandate was extended by the Commission on Human Rights in 2002, in its 58th session (Res. 48). It has called on the rapporteur to continue his activities in resolutions 42/2003 and 42/2004.

National legislation

National legislation means all laws, decrees, decisions and procedures undertaken by the Palestinian National Authority to organize the right to freedom of opinion and expression in areas under its mandate. This right, according to the national legislation, was greatly undermined through manipulating this freedom and restricting it in surprising manners. Highlighted below is the Palestinian legislation organizing the right to practise freedom of opinion and expression.

Press and Publications Law

Law No. 9/1995 on Press and Publications is one of the first issued by the Palestinian National Authority. It was issued on June 2, 1995, before the election of the first Palestinian Legislative Council. It was not later on submitted to the council and no amendments were introduced to the said law. Palestinian president Yasser Arafat issued the Press and Publications Law in 51 articles organizing all issues related to press and publications. The law was heavily criticized by civil society organizations because it puts restrictions on the practice of freedom of press and the freedom of individuals to receive and impart information.

The Basic Law

The Basic Law of the Palestinian National Authority (the interim constitution) explicitly guarantees the right to freedom of opinion and expression. The article guaranteeing this right holds the same number as those in the Universal Declaration of Human Rights and in the UN Covenant on Civil and Political Rights. This was not a mere coincidence. Article 19 of the Basic Law stipulates that "every person shall have the right to freedom of thought, conscience and expression, and shall have the right to publish his opinion orally, in writing, or in any form of art, or through any other form of expression, provided that it does not contradict with the provisions of law". In Article 27, the law covers areas related to journalism and stipulates that "the establishment of newspapers and all media means is a right for all, guaranteed by this Basic Law. However, their financing resources shall be subject to law. Freedom of audio, visual, and written media, as well as freedom to print, publish, distribute, transmit, together with the freedom of individuals working in this field, is guaranteed by this Basic Law, and other related laws. Censorship on media shall be prohibited. No warning, suspension, confiscation, cancellation, or restrictions shall be imposed on media except by law, and in accordance with a judicial order."

Presidential decree on strengthening national unity and prohibiting incitement

In November 1998, President Yasser Arafat issued the Presidential Decree No. 3 on Strengthening of National Unity and the Prohibition of Incitement. The decree came as part of the PNA's obligations under the Wye River Memorandum between the Palestinians and Israelis, in October 1998. Article 1 of the decree states several actions which are considered illegal and punishable by law, including: incitement to apartheid, acts of violence or to unlawful violence, insulting different religions, the use of violence or the incitement to violence which endangers relations with other brotherly and foreign countries, forming illegal associations which practice violence or incite crimes, corruption and inciting people to change by force, and incitement to violate agreements which have been reached between PLO and other states."

Council of Ministers' Decision 182 of the year 2004 relating to the conditions for awarding licenses to terrestrial and satellite radio and television stations.

On September 14, 2004, the Council of Ministers, presided by Ahmad Qureia, issued Decision 182 of the year 2004 relating to the conditions for awarding licenses to terrestrial and satellite radio and television stations. According to this decision, a commission with members from three ministries, Ministry of Communications and Information Technologies, Ministry of Information and Ministry of the Interior, was formed. According to Article 3 of the decision, the three ministries shall undertake the following tasks: 1. Ministry of the Interior handles security issues and validates "the legality of the media organization's capital"; 2. Ministry for [?] Communications and Information Technologies handles technical aspects (e.g., frequencies, transmitters, etc.) and all technical issues related to the operation and creation of the station, specifications and issuing technical licenses; 3. Ministry of Information handles developmental needs for the creation of a station, the nature of the station, content issues, qualifications and expertise of staff and issues professional licenses."

The decision was meant to serve as the legal framework for organizing audio-visual mass media. It stipulates the rights of media and it requires from all media outlets and companies working in the field of media to quickly obtain the necessary licenses in order to be able to continue their work.

Procedures undertaken by the executive authority to limit freedom of opinion and expression

After the decisive military solution in Gaza on June 14, 2007, the deposed government in Gaza Strip and the emergency government in the West Bank

undertook a series of procedures in order to limit media freedoms. In Gaza Strip, the deposed government stopped many radio and TV stations. These are: the Voice of Youth, the Voice of Laborers, the Voice of Freedom and Palestine satellite and TV stations. In the West Bank, Palestinian security forces of the emergency government in Ramallah banned the weekly al-Risalah (the Message) and the daily Palestine newspaper from being printed and distributed in the West Bank. The offices of al-Aqsa satellite station, affiliated to Hamas, were closed. In 2008, during the period covered by this report, these media outlets were still closed and banned.

Violations to freedom of expression and media freedoms

The June 2007 events were accompanied by many attacks on media outlets in the West Bank and Gaza Strip by the two parties to the conflict, their military wings, and their security forces. The period covered by the report, i.e., the first half of 2008, witnessed increased illegal procedures directly affecting the right to freedom of opinion and expression. These were witnessed in both the West Bank and Gaza Strip, where the acts counted raids and closures of media offices, banning of media outlets and detention of journalists and media people.

Below is a list of these violations:

■ The West Bank

- On January 5, 2008, the Palestinian Military Intelligence Force detained four journalists affiliated with Hamas in Tulkarem. These are: Muhammad Shtaiwi, the head of the Aqsa satellite station in the West Bank, Tareq Shihab, correspondent of Sawt al-Aqsa radio in Tulkarem, Saleem Tayeh, correspondent of Palestine newspapers published in Gaza, and Fareed al-Sayyed, who works for al-Zakat hospital in the city of Gaza.
- On January 10, 2008, Al-Mahd media office owned by Sami al-Asaad from Tulkarem was closed by the Palestinian security forces.
- On March 5, 2008, the General Intelligence Office abducted Musa'b Husam al-Din Qatalouni from his house in Rafidia, west of Nablus. Qatalouni is in critical health condition having undergone knee surgery some days before his arrest.
- On March 11, 2008, security forces in the West Bank arrested Muhammad al-Qeeq, a journalist and correspondent of al-Aqsa satellite station in the West Bank.
- On March 12, 2008, the Preventive Security forces raided Ramtan agency in al-Wahidi building, al-Masyoun neighborhood, in Ramallah, and arrested Nawwaf Ibrahim al-Amer, a 45-year-old editor from Kfar Qalil village, southeast Nablus. Security forces confiscated his professional and personal property, including a PC which belongs to the agency. Al-Amer was kept detained until March 13, 2008, at 4:00 am. He was released when Ramtan agency and many individuals

interfered demanded his release.

- On March 25, 2008, security forces in the West Bank detained Tareq Shihab, correspondent for al-Aqsa voice in Tulkarem, as he was going home, to Anabta, east of Tulkarem.
- On May 5, 2008, Walid Abu Mayalah, a judge in the Magistrate Court in Ramallah, discharged criminal charges filed against journalist Imtiyaz al-Mughrabi and declared her innocent of charges pressed against her by the Palestinian Radio and Television Commission. The verdict stipulated that the court, “after examining facts and details of accusations pressed against Mughrabi, found out that she was accused of slander and defamation. Such charges require that the plaintiff claims personal rights. Examining the case documents, the court did not find any personal rights claimed by the Palestine Television and Radio Commission, the plaintiff. Since the Court, after examining the lawsuit documents, did not find any personal rights claim submitted by the plaintiff, and given the absence of such claim, the court decided not to accept the criminal case and to declare, in the presence of the defendant that she is innocent. The verdict has been announced in the name of the Arab Palestinian people and communicated to the defendant.” The PTRC has filed a lawsuit against Imtiyaz because of an article she wrote about PTRC. titled: “Is PTRC on the list of reform?” The article became a public issue and was published on more than 30 Arab sites.
- In August 5, 2008, a general intelligence force arrested 23-years old photojournalist Aseed Amarneh, while filming a march commemorating the 60th anniversary of the Nakba in the city of Bethlehem, and took him to the intelligence headquarters in the city. Amarneh said that intelligence members kept investigating with him on the nature of his work till 11:00 p.m. He was released after submitting court verdict dropping earlier charges against him regarding his work. Naeem al-Toubasi, head of the Palestinian Journalists’ Union intervened for his release. At 11:30 p.m. Amarneh was released, his camera was kept with investigators, but he was asked to come back on Sunday, 11/5/2008 in the morning. It should be noted that Amarneh was arrested on 7/11/2007 by the Preventive Security Service in Hebron, while he was accompanied by journalist Alaa Titi; both were working for al-Aqsa satellite station together with other correspondents of the station in the southern West Bank. In April 24, 2008, the magistrate court in the city of Hebron, after holding sessions more than six times, issued a verdict dismissing charges pressed against the two journalists for lack of evidence and absence of witnesses.
- In the same way, and in the same evening, a general intelligence force arrested two journalists and a columnist in the town of Qalqilya. Forty one years old Mustafa Ali Abdullah Sabri, a photojournalist, said that he has received a telephone call from a person who introduced himself as a Palestinian general intelligence service officer. The officer asked Mustafa to give the address of the place he was in, but the latter offered to go to the intelligence headquarters. The officer insisted on knowing the place of Mustafa who said that he is visiting the guest house of

Dr. Hashim al-Masri, member of Qalqilya municipal council. After some time, a number of the intelligence forces came to the place and one of them called Mustafa on his mobile and asked him to come out after which he was abducted and taken to the intelligence premises. Mustafa was released on Saturday afternoon, 10/5/2008 but was ordered to come back the next morning, Monday, 12/5/2008. Mustafa said that the interrogation was regarding the distribution of a statement criticizing the city's security forces and he denied knowing anything about the statement. He said that he had not been subjected to ill-treatment during his detention. Mustafa is an independent journalist and a member of Qalqilya municipal council.

- At the same time, a general intelligence force arrested 42 years old Dr. Issam Muhammad Youssef Shawar in Qalqilya. According to RCHRS inquiries into the incident, intelligence members went to arrest Muhammad from his house on Thursday, at 10:30 p.m., but he was not in his house. Intelligence members took Muhammad's mobile number from his wife and called him on his mobile. He told the intelligence that he is in Kfar Saba, and they headed there and arrested him from the street. Muhammad is a dentist, and he is a columnist writing to one of the Palestinian newspapers published in Gaza. The distribution of the newspaper has been banned several months ago in the West Bank.
- At 11:00 p.m., intelligence agents arrested 32 years old Muhammad Omar Darwish, a photojournalist working for the American News Agency (the Associated Press). Darwish owns Farah photography studio in the city. He was abducted from his work place and taken to the Intelligence headquarters.

■ Gaza Strip

- Umar Hilmi al-Ghul, a 57-year-old writer, was in 2008 still detained by security forces of the deposed government in Gaza Strip. Al-Ghul was arrested on February 15, 2007, at home in Gaza City. His family was only able to see him after one month in detention. On January 17, 2008, al-Dhamir Group for Human Rights in Gaza issued a statement saying that al-Ghul was detained in one of the detention centers known as Al-Mashtal, by security forces of the discharged government. According to testimonies of al-Ghul family, who were able to see him, al-Ghul was on a hunger strike for five days, protesting the refusal of the security forces' administration to allow him to see his lawyer, and also protesting his detention with no legal justification. Al-Ghul's family claimed that he was tortured and insulted during the first eight days of detention, but then was well treated. Al-Ghul was released on February 1, 2008, upon a deal reached with al-Jihad movement.
- On January 1, 2008, Fadi al-Nahhal, a journalist and a correspondent for Youth Voices radio broadcasting from Gaza City, was kidnapped from his house in Khurbat al-Adas, near to Rafah city, southern Gaza Strip. Al-Nahhal was seriously beaten and kicked in a deserted area by an armed group from al-Qassam Brigades.

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- On January 15, 2008, the internal security forces of the deposed government in Gaza arrested Munir Mahmud Abu Rizq, a 40-year-old journalist, as he left his house in Burj Musa Arafat, Tal al-Hawa neighborhood, southern Gaza City. Members of the police took Abu Rizq to “al-Mashtal” headquarters near al-Shate’ refugee camp, west of Gaza City. Prior to this incident, there were two attempts to arrest Abu Rizq. On January 13, 2008, a big number of the security forces guarding the Burj (tower) where Abu Rizq lives, came to arrest him, but he was not in his house at the time. Another attempt was made on January 14, 2008, when a big number of security forces attacked “al-Hayat al-Jadida” (New Life) premises on the 9th floor of al-Shorouq Tower, in Gaza City, to arrest Abu Rizq. A big number of journalists gathered around the place, so security forces were not able to arrest Abu Rizq and retreated. While withdrawing, a member of the force threatened Abu Rizq saying: “You will pay the price for bringing these journalists and for installing these cameras to take our pictures.”
 - On January 14, 2008, members of the internal security forces of the deposed government detained Mu’in Abu Rizq, 33, the brother of Munir Abu Rizq. Mu’in works on part time basis as head of a section at al-Hayat al-Jadida newspaper in Gaza Strip. He was interrogated on the nature of his brother’s work and threatened to be kept as a hostage until his brother hands himself in. Abu Rizq was released after 23 days of detention.
 - On January 20, 2008, an anonymous group attempted to bomb the premises of al-Aqsa satellite station in Gaza City, according to al-Aqsa radio station.
 - On February 6, 2008, the Magistrate Court of the deposed government in Gaza Strip issued a verdict banning the distribution of the “Palestinian Days” newspaper in the strip. Dr. Hasan Abu Hashish, assistant secretary general at the Ministry of Information, said that the banning decision was issued by the public prosecution and the judiciary because the newspaper published caricatures ridiculing the Legislative Council, in violation of the Press and Publication Law of 1995. The Legislative Council filed an official complaint with the public prosecution and, accordingly, an official decision was taken according to the legal procedures in force. Abu Hashish considered it as a legitimate judicial, criminal and legal act, and not a political one. The court sentenced the cartoonist Baha al-Bukhari and editor-in-chief Akram Haniyeh. Baha’ was sentenced to six months jail, suspended for 3 years, and fines of 1,000 Israeli shekels for the first offensive of defamation. Akram Mazin Haniyeh was sentenced to one month in jail and a fine of JD1,000 because he violated articles 25 and 2 of the Press and Publication Law of 1995.
 - On February 12, 2008, Al-Ayyam newspaper was banned from circulation in Gaza Strip. On May 1, 2008, the newspaper returned after a ban of 78 days.
 - On March 4, 2008, the Interior Ministry of the deposed government issued a decision banning Palestine TV correspondents in Gaza Samir Khalifeh and Adel al-Za’noun from covering news, and ordered them to stop all their media activities related to Palestine TV. On April 6, 2008, the head of the media office

at the Ministry of Interior, Ihab al-Ghusain, denied issuing any decision to ban Adel al-Za'noun and Samir Khalifeh from working inside Gaza Strip. He said that that was a political file and it would be among the issues to be discussed by the different political factions.

- On April 18, 2008, Palestinian police of the deposed government dispersed a demonstration organized by Fateh on the occasion of the Arab and Palestinian Prisoners anniversary in the city of Rafah after Friday prayers. While dispersing demonstrators, a number of the police force attacked Imad al-Ajrami, who works for al-'Alam satellite station, while he was waiting for people to gather and confiscated his camera by force. Al-Ajrami said he went together with Mustafa Abdul-Hadi, correspondent for the station, to the police station in the city. where one of the investigators asked him not to take photos of the demonstration and returned the camera back to them.
- On February 14, 2008, the public prosecutor of the deposed government in Gaza Strip sent a memorandum to Ramallah Police ordering the arrest and handing over of Hafez al-Barghouthi, general director and editor-in-chief of al-Hayat al-Jadida, published in Ramallah, for interrogation. On March 17, 2008, the editor-in-chief of the newspaper received a copy of a lawsuit by fax from Gaza Magistrate Court, inviting him to come to court on March 24, 2008, accused of defamation, according to articles 203 and 204 of 1936 and for publishing material ridiculing the deposed government members. The lawsuit, which carried the heading "A Declaration for the Defendant" and which was printed on the letterhead of the Higher Justice Council, requested adopting necessary procedures to ensure that witnesses attend the court session. On the said date, the Gaza Magistrate Court postponed the session until April 10, 2008.
- On March 25, 2008, an armed group attempted to arrest Tawfiq Abu Jarad, a journalist from Beit Lahya, north of Gaza Strip. Eyewitnesses said that a white Subaru car with no plates parked and armed men tried to kidnap Abu Jarad, correspondent for the "Freedom Radio" in Gaza while he was in al-Manshiyah neighborhood, in Beit Lahya. He was able to escape when many citizens interfered. Abu Jarad was injured during the attempt, suffered from bruises and a broken hand.
- On April 3, 2008, members of the deposed government police stopped Ibrahim Abu Mustafa and Nihad Shana'a, reporter/cameramen from working for the Reuters agency. Police confiscated media material and documents the two were carrying with them during their mission in al-Zawaydeh village, in the center of Gaza Strip.
- On May 24, 2008, the police of the deposed government detained journalist Samir Khalifa, Sudan television reporter and Ahmad al-Ras, photographer and journalist, Ramtan News Agency, while they were in Palestine Square downtown Gaza. The police forced the journalists to go with them to the police station near the place. There, police members took the mobile phone of al-Ras; Khalifeh refused to give his mobile and called the Ramtam agency management. The agency sent its people to the police station to inquire about the incidence. After one hour and a half,

Khalifeh saw the manager of the station and he was told that his arrest was a result of doubt raised regarding his return to work with the official Palestine TV. Both journalists were released on the same day.

- On 19 June 2008, an unknown armed person fired a machine gun with a silencer on Mustafa al-Sawwaf, editor in chief of the daily Palestine newspaper, close to the Hamas, who was inside the offices of the newspaper in the city of Gaza. Security sources reported that one bullet fired by an unknown armed sniper hit the back seat of Mustafa, but he was unhurt. Al-Sawwaf said: "I was sitting in my office when a bullet hit the window and the seat I was using." "It was a shock for me", he added, "I heard a noise and wanted to explore what has happened, and I saw the bullet in the seat."

Fourth

Violation of the right to peaceful assembly

The legal framework of the right to peaceful assembly

The right to peaceful assembly enables individuals to gather in public places to express their opinions through speeches, to hold discussions and to exchange ideas. The right to peaceful assembly or the freedom to take part in any gatherings is a moral right that directly influence public opinion.

International human rights conventions have stressed the right to peaceful assembly and requested governments and states to respect it and to make it an integral part of their national legislation and in practices. Article 20 of the Universal Declaration of Human Rights stipulated that “everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association”. Moreover, the Covenant on Civil and Political Rights has stipulated in Article 21 that “the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, in its Article 5, stipulates that “for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels to meet or assemble peacefully; to form, join and participate in non-governmental organizations, associations or groups; to communicate with non-governmental or intergovernmental organizations”.

Local legislation

Palestinian legislators were keen to stress this right in the PNA's Basic Law (the interim constitution). The Palestinian authority has issued law number 12 of 1998 regarding public meetings, which also stresses this right. However, administrative bodies have attempted to violate this right by issuing orders and administrative instructions to restrict its practice or to suppress many attempts at peaceful assembly. Surprisingly, Palestinian security forces clamped down on peaceful demonstrations organized to denounce crimes committed by the Israeli military occupation against

Palestinians and their properties, especially those organized in the West Bank to denounce crimes committed in Gaza Strip.

The Basic Law

The amended Basic Law of 2003, according to Article 26, has acknowledged “the right of Palestinians to participate in the political life individually and in groups. In particular they shall have the right to hold special meetings without the presence of police members, and to conduct public meetings, processions, and assemblies, within the limits of law”.

The same article stressed “the right of Palestinians to participate in the political life individually and in groups. In particular, to form, establish, and join political parties in accordance with the law; to form and establish unions, guilds, associations, societies, clubs, and popular institutions in accordance with the law; to vote and nominate for election, representatives among them by ballot, in accordance with the law; to hold public offices and positions, in accordance with the principle of equal opportunities”.

Public Meetings Law No. 12 of 1998

Law 12 of 1998 regarding public meetings guarantees the right of Palestinian citizens to hold public meetings, according to international human rights conventions and treaties. In Article 1, the law has defined the concept of public meeting as “any public meeting attended by at least 50 persons in a public and open place, including, public yards, fields, playgrounds, parks and other similar places”. In Article 2, the law explicitly stresses the right of citizens “to hold public meetings, seminars, demonstrations freely without any restrictions other than those stipulated by the law”. Article 3 of the law stipulates procedures to be followed when calling for a public meeting. It stipulates that “a written notification shall be submitted to the governor or to the police chief at least 48 hours before the meeting”. Article 4 stipulates that “a written notification, signed by at least 3 members of the organizers of the meeting, should be submitted, explaining the date and place of the meeting and its purpose. In case the written notification is submitted by a legal entity, the signature of its representative shall suffice. Without any violation of the right of assembly, the governor or the police chief shall have the right to impose restrictions on the period of time and the place of the meeting, according to Article 3, in order to organize traffic. He shall inform the organizers of these restrictions in writing after maximum 24 hours of receiving the notification. In case organizers do not receive a written notification according to the provisions of the first paragraph, they shall have the right to hold the public meeting at the time and place they have specified in their notification. The law stipulated that concerned organs, upon a request by the organizers of the meeting, shall undertake all necessary procedures

to provide protection for the meeting without compromising the freedom of people who gather for the meeting and its activities”.

Violation of the right to peaceful assembly

Law No. 12 of 1998 regarding public meetings governs holding of meetings and peaceful demonstrations. This law does not stipulate in any of its provisions that organizers should obtain an official permission or approval, from any organ, in order to hold a meeting or to organize a demonstration. Article 2 stipulates that a written notification shall be submitted to the governor or to the police chief at least 48 hours before the meeting or the demonstration in order to inform him and to give the police chief the opportunity to organize traffic without any other powers to ban the meeting or demonstration. However, many of the administrative organs (executive authority) attempted to violate this right, ignoring the law and claiming that their procedures are in compliance with the law.

On August 22, 2007, colonel Ahmad al-Sharqawi, Nablus police chief at that time, issued a decision stipulating that, “according to the law, no public meetings, marches or demonstrations are allowed unless necessary prior official licenses are obtained from a legally competent organ, according to the Palestinian law”. The order urged citizens to strictly abide by the law and not to allow those who want to disturb national security, stability, peaceful coexistence and public order the opportunity to do so. Colonel Sharqawi stressed that “Nablus province police is trying its best to preserve the freedom of opinion and expression through marches and meetings on condition that necessary licenses are obtained”. He added that “it is the duty of the police, being the force responsible for security, to know the date, time and the organizers of the march in order to prevent any confusion”.

In a similar step, the official website of the discharged government’s Palestinian police published on April 26, 2008, a piece of news carrying the following title: “The Palestinian police call upon people to obtain licenses before holding public meetings and festivals”. The news item said that “with the aim of preserving the public interest, stability and the rule of law, in accordance with the Public Meetings Law number 12 of 1998 and its executive regulations issued by the Ministry of Interior on 2000, the Palestinian police calls upon everybody who intends to hold a festival or a public meeting in public places to obtain prior permission from the specialized organ, the police/Ministry of Interior in order to maintain law and order. He shall be requested to sign a prior written commitment that he will respect laws in force, and will not allow any person to commit any violation that would infringe upon public order, public moral and will not allow the use of guns or incitement against any party”. In addition, a circular was issued on April 13, 2008, to the managers of festival halls, requesting them to ask every person who wants to book a hall to go first to the police station to obtain a permit and to fill a special form toward that aim.

These decisions are clear violations of the right to peaceful assembly guaranteed by Article 26 of the amended Basic Law of 2003. They also infringe on the Public Meeting Law No. 12 of 1998 itself, which observes, in all its articles, the related international conventions, specially the Covenant on Civil and Political Rights, as mentioned above.

Below is a list of these violations:

■ The West Bank

- On January 10, 2008, the two leftist Palestinian forces, the popular and the democratic fronts for the liberation of Palestine, together with the Palestinian Peoples' Party and the Palestinian National Initiative, and with the participation of many members of the Palestinian Legislative Council and leaders of the civil society, organized a peaceful march to Al-Muqata'a compound in Ramallah city to protest the visit of U.S. President George W. Bush. The moment people started their march from the Orthodox Club premises, where they gathered to head towards al-Manara circle in the city center, they were attacked and beaten by tens of police and security forces. Police used tear bombs to disperse demonstrators. Bashir al-Khayri, member of the political bureau of the Popular Front for the Liberation of Palestine, suffered a broken left shoulder and was taken to Sheikh Zayed Hospital. Four other demonstrators had breathing difficulties due to gas inhalation; among the four were Khaleda Jarrar and Bassam Al-Salihi, members of the Legislative Council. Commenting on what happened, Colonel Adnan al-Damiri wrote an article broadcast by Ma'an News Agency, saying that some of the march organizers had claimed that they were oppressed by the police, saying that it had used violence against them. "They very well know that they have violated the law and the license given to them by the governor. They did not respect his own presence at the place of the march, which was meant to stress their right to freedom of expression and also the presence of the official police spokesman who came to facilitate the task of journalists within the framework of law and order".
- On January 14, 2008, Palestinian police in Ramallah dispersed a peaceful march organized by national factions and the PNGO Network, part of the civil campaign to lift the siege on Gaza. Police arrested Khaled Mansour, member of the Political Bureau of the Palestinian People's Party, who shouted slogans denouncing the continuing siege on Gaza Strip, and took him to the city police headquarters.

Describing the conditions of his arrest, Mansour said: "A police officer came close to me and to other demonstrators to tell us to leave the place. I immediately answered his threatening tone by saying I am a Palestinian citizen who came to demonstrate in support of our people's resistance in Gaza. In order not to allow things to further escalate, I informed the officer that demonstrators have obtained a

prior permission, according to national laws in force... but the officer insisted that we leave the place immediately; I refused to obey his order because I believe that no Palestinian has the right to prevent another Palestinian from pursuing an act that serves the national interests. At that point, the officer ordered his forces to arrest me and to take me to the police station. I suddenly found myself handcuffed, arrested and accompanied by two police officers in a very humiliating manner, like a thief or outlawed criminal."

On 22 June 2008, Qalqilya governor and the Palestinian security forces prevented Hizb ut-Tahrir from holding a symposium under the title "The Day of the Fall of the Khilafah." The party issued a statement describing the ban as arbitrary and irresponsible. The statement said that the owner of the rented hall was forced to close it to prevent the holding of the event. The statement also accused the PA of arresting two members of the party because they were putting on their cars advertisements on the event. In response to the statement, Brigadier Rabie' al-Khadaqqi, governor of Qalqilya, said in a statement issued by him that this ban came so as to "maintain law and order because the law stipulates that a prior authorization should be obtained before holding any public meeting, a festive or even a march; this also applies to the PLO factions; Hizb ut-Tahrir has refused to submit a request to the PA to hold such an event in a public place. It seems that the party refuses to deal with the legitimate authority of the Palestinian people unanimously chosen by Palestinians."

■ Gaza Strip

- In early 2008, the deposed government in Gaza Strip banned the activities organized on the occasion of the launch of the Palestinian National Liberation Movement, Fateh, celebrated on January 1 of each year. This ban came in response to a similar ban imposed in Ramallah on the occasion of the creation of the Islamic Resistance Movement, Hamas, in the West Bank, celebrated on December 14 of each year.
- On January 11, 2008, police forces of the deposed government dispersed by force a peaceful sit-in organized by the staff of the State Information Commission, in protest of a raid made by tens of gunmen on its headquarters in Gaza City a day before, confiscating many of its possessions.
- On January 23, 2008, al-Hayat al-Jadidah newspaper said that the police of the deposed government prevented the newspaper from holding a sit-in in solidarity with Munir Abu Rizk, a journalist, and Omar Ghoul, a writer, detained by the police in Gaza. According to the newspaper report, the solidarity protest was postponed because of the ban.
- On February 17, 2008, when members of the discharged government's Ministry of Interior took over the headquarters of the Financial and Administrative Control Bureau in the city of Gaza, its staff, expelled from the offices, held a sit-in in

front of the headquarters in protest. A police force came and dispersed the employees, claiming that they had not obtained prior permit from the Ministry of the Interior.

- On March 2, 2008, the police of the deposed government dispersed people who had gathered in front of the Khan Younis municipality to denounce the Israeli aggression in Gaza Strip. According to eyewitnesses, the police prevented citizens from gathering in front of the municipality, ready to participate in the march organized by Fateh to condemn the Israeli aggression in Gaza Strip.
- On March 5, 2008, the executive force of the deposed government prevented citizens from participating in a march to denounce Israel's escalation of violence on the strip and the continued blockade on Gaza. Eyewitnesses said that the executive force threatened bus drivers against taking citizens to participate in the march, and took the busses' keys to ensure that they would stay where they were.
- On March 11, 2008, a group of al-Qassam Brigades stormed Saeed al-Mishal Foundation, west of Gaza City, and expelled the organizers of a symposium organized by Fateh Youth Movement at the Islamic University on internal elections, during the sixth general conference of Fateh movement. The brigades have confiscated posters and propaganda materials.
- On March 15, 2008, members of the Qassam Brigades took control of the headquarters of the smaller Palestinian parliament and the Refugee Center for Community Rehabilitation in the town of Rafah.
- On March 27, 2008, the executive force of the discharged Ministry of Interior stormed Martyr Salah Khalaf area, east of Gaza, and kidnapped two Fateh cadres, confiscating all material prepared for a symposium the movement was intending to hold the next day.
- On April 12, 2008, members of the executive force of the discharged Ministry of Interior attacked the participants in a festival held in tribute of martyr Ismaeel Abu Nasr, organized by the Popular Front for the Liberation of Palestine in Jabalya refugee camp, northern Gaza Strip. Eyewitnesses said that a large number of "executive force" surrounded the house of the martyr and the place where the festival was being held and began firing guns, attacking citizens, which led clashes.
- On April 18, 2008, Palestinian police forces of the discharged Ministry of Interior dispersed a march organized by Fateh on the occasion of Palestinian and Arab Prisoners Day in the town of Rafah, after Friday noon prayers. According to eyewitnesses, members of the police attacked participants in the march, assaulting and beating some of them. According to police sources in Rafah, the march was dispersed because organizers had not obtained a permit from the Ministry of Interior and no letter was sent to the ministry notifying it about the march. Fateh regional leaders said they had received messages on their mobile phones from the police, informing them that "no activity shall be held without a prior permission from the police. Those who do not respect the order will bear the full responsibility".

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- On the same date, members of the executive force attacked a march organized to demand that the names of those involved in the murder of martyr Sami Khattab be revealed. The march was organized by the Fateh movement.
 - On May 1, 2008, the executive force of the deposed government banned the holding of a festival on the occasion of the International Labor Day at Rafah Services Club and blocked roads leading to the place. A press statement signed by seven Palestinian organizations said that the executive force had directly threatened owners of halls against hosting any festival or activity if organizers do not have prior permit from ministry.
 - On 13 May 2008, the Executive Force of the deposed government Ministry of Interior dispersed a candlelight march organized by the children and people of Beit Lahia town, north of Gaza Strip, on the occasion of the 60th Nakba anniversary. Sources of the Palestinian People's Party said that the Executive Force arrested three of the party's cadres: Mahmoud al-Radhie', Ra'fat al-Masri and Ziad Ashour.
 - On the same day, the Palestinian police of the deposed government Ministry of Interior raided a gathering of Fateh movement supporters in front of Baha' Abu Jarrad house, one of the movement's leaders in Beit Lahia, north of Gaza Strip and dispersed people by force. The gathering was held to commemorate the first anniversary of his death.
 - On the same day, Internal Security Police of the deposed government dispersed participants of a weekly meeting organized by (GANSO), a project funded by Care International held at Gaza sea shore Commodore Hotel.
 - On 14 May 2008, the Executive Force of the deposed government Ministry of Interior raided Al-Ahli club in Beit Hanoun, and assaulted participants of a symposium held on the 60th anniversary of the Nakba, arresting five citizens. Eyewitnesses said that members of the Executive Force stormed the Symposium organized by the High National Committee to Commemorate the Nakba, assaulting and beating participants in the event and confiscating the chairs in the club's hall.
 - On 15 May 2008, the police banned the holding of a peaceful public festival in Jabaliya refugee camp in commemoration of the Nakba. According to field investigations and monitoring work carried out by human rights institutions operating in Gaza Strip, the High National Committee to Commemorate the Nakba, formed by the National Task Force, has called for a rally commemorating the sixtieth anniversary of the Nakba set to start in northern Gaza Strip Thursday 15 May 2008, at 12:00 pm. On that day, policemen deployed at crossroads leading to al-Fakhurah, northwest Jabalya refugee camp, the place where the event was planned to take place. Just before the time set for the festival, police stopped dozens of people on their way to join the event assaulting and beating them. During these events, police officers have assaulted and beaten Jamal Yassin, chairman of the popular committee of refugees in Jabaliya camp when he was at the festival area. A police force headed to the place where the event

is planned to take place expelling tens of organizers, assaulting and beating them with sticks. Among those who were beaten are members of the National Action Committee and Palestinian factions' activists, among those were Sarhan Sarhan and Fayez Abou Sharkh. It is worthwhile mentioning that the organizers have notified the Palestinian police of their intention to organize an event to mark the Nakba, and some of them met with northern Gaza Strip police director on Wednesday 14 May, 2008 at the police headquarters. The police chief told organizers that he wants an approval letter from the Ministry of Interior. On its website, the police said on Sunday morning 18/05/2008 that it was "obliged to ban the event because its organizers did not obtain a permit from the Ministry of Interior." It should be noted that the law requires notifying the governor or police chief and it does not require a license from the Interior Ministry.

- On 10 May 2008, the deposed government police obliged participants in a conference organized by Alternative Institute to leave the place under the pretext that organizers did not obtain a prior permit from the Ministry of Interior. According to information available to RCHRS from some of the conference participants organized by Alternative Institute entitled "Negotiations and Resistance, in Search of a New Approach," the conference began on Saturday morning 10 May 2008, at 9:00 in Gaza Strip and the West Bank through the video conference system. The system was disconnected at 12:30 when four civilians came in carrying guns, and one of them introduced himself and told the conference coordinator in Gaza of the police decision to stop the conference work and asked participants to leave the conference hall.

Fifth

Attacks on official, civil and charitable organizations

Introduction

After the decisive military solution in Gaza Strip on June 14, 2007, official, civil and charitable organizations started being targeted. Immediately after the military solution, when Hamas seized security, civil and official institutions in Gaza, the West Bank witnessed acts of revenge committed by armed groups affiliated with al-Aqsa Martyrs Brigades (the armed wing of Fateh movement) targeting civil and charitable organizations affiliated with Hamas or those which belonged to sympathizers of the movement. After a short while, revenge acts and assaults stopped, and it was possible to control the acts of revenge.

During the second half of 2007, charitable organizations in the West Bank also started being targeted by official organs of the Emergency Government in the West Bank, through legal measures. On June 20, 2007, Mahmoud Abbas, the Palestinian president, issued a decree concerning re-licensing of non-governmental organizations, according to the provisions of the state of emergency declared by him on June 14, 2007. The first article of the decree grants the Minister of Interior the “authority to review the licenses of societies, institutions and commissions” issued by the ministry or any other governmental department. The second article grants the minister of interior, or the person authorized by him, the right to “take procedures deemed appropriate against associations, institutions and commissions such as requesting them to rectify their legal status, closure and other similar procedures”. Under Article 3, “all existing associations, institutions and commissions shall submit new applications for re-licensing, within a week, as of the date of issuing the decree. Legal procedures shall be taken against those who fail to do so.”

Human rights organizations have strongly criticized this decree, considering it a serious violation of the constitutionally protected right of association, as it increases restrictions already imposed on associations under the law of charitable and civil organizations issued by the national authority in 2000.

On July 2, 2007, the under-secretary of the Minister of Interior in Ramallah, Amin Maqboul requested that associations and non-governmental organizations speed up the process of correcting their legal status within a week. The request included submitting an application to receive a written letter from the under-secretary to reactivate their bank accounts, to receive the new application form, and to submit

the new application within a week. Maqboul asked West Bank associations and non-governmental organizations that were registered by the Ministry of Interior in Gaza to “submit new registration applications to fulfill legal requirements within one week. Otherwise they will be considered in a state of violating the law”.

The under-secretary considered “all associations working in Palestine that are not registered in accordance with the effective law or did not correct their legal status to be in a state of violating the law” and that they should “submit new registration applications within one week to be processed by the Ministry. Otherwise, they will be legally dissolved”.

In a later step, Salam Fayyad, prime minister of the emergency government, told the media on August 28, 2007, about his government’s decision to dissolve 103 civil societies and organizations working in the West Bank “for legal, administrative and financial violations, in accordance with the provisions of Law No. 1 of 2000 on charities and organizations”. Fayyad asked the beneficiaries of these organizations to head to the Ministry of Social Affairs in his government to state their needs. Through follow-up on this issue, it was revealed that most of the associations targeted had been created during the era of the first government of prime minister Ismail Haniyeh, and that some of them were affiliated with Hamas.

During the period covered by this report, the two governments, the Palestinian government in the West Bank and the deposed government in Gaza Strip, and their security services continued targeting public, civil and charitable organizations. However, the rate of violations was higher in Gaza Strip, but none of the two governments dealt neutrally with these organizations.

Below are major violations committed during the period January 1, 2008 and June 30, 2008:

■ The West Bank

- On March 24, 2008, Palestinian security forces stormed the premises of the Islamic Society in Ramallah and arrested some of the staff working for the society and in its school. According to a statement distributed to the media by the Hamas movement, security forces arrested Adnan Jaber, director general of the society, and its Secretary General Ahmad Husni, the head of the personnel department, Rustum al-Kiswani, accountant Salah Suleiman, the messenger of the society, Fayez Warda, and Raed Hamed, the manager of the Islamic school. The statement said that security forces confiscated the society’s computers and files and closed the administration premises. It added that the security forces confiscated identity cards of the other employees and asked them to go to the Preventive Security Service in the next day.

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- On April 12, 2008, unknown individuals attacked Qalqilya municipality, firing bullet shots, causing damage to the building but no casualties. The municipality's administration denounced in a statement the attack committed that night, labeling it as unwise and damaging the city property. The statement said that the attack was the second of that kind in less than one month and it aimed at disrupting the services provided to the citizens suffering from blockades and because of the apartheid wall. The statement called upon civil society organizations to take action to stop attacks on the municipality and said that silence led to the continued attacks and allowed the attackers and their supporters to continue their criminal acts.

■ Gaza Strip

- On January 7, 2008, unknown persons broke into the headquarters of State Information Services, located near Haidar Abdel Shafi circle, in al-Rimal suburb, west of Gaza City, and confiscated 21 computers, three printers, a fax machine, an LCD, a photocopier and two voice systems.
- On January 9, 2008, three gunmen in a civilian car fired a rocket at the American International School, northwest of Beit Lahia, causing material damage. There was a loud explosion and fire broke out on the second floor of the building where the arts studio and cafeteria are located.
- On January 12, 2008, a number of masked gunmen raided the American School, northwest of Beit Lahia. Gunmen locked the two guards of the school in their room and stole computers and other equipment. Before leaving the place, they set fire to five busses used to transport students and a Volkswagen Golf owned by the school.
- On January 17, 2008, police officers of the deposed government stationed at the entrance of the State Information Services (SIS) prevented employees from entering the offices. The police claimed that they were sealing doors with blue wax upon a decision issued by Abu Obeida Bin al-Jarrah, deputy police chief, because SIS had decided to move to its new premises given the expiry of its lease contract. That was the second attack against SIS within only few days.
- On January 20, 2008, the headquarters of the Palestinian Democratic Youth Federation and Student Unity Bloc in the Gaza Strip was attacked by unknown thieves and the possessions of the central bureau were tampered with during the attack.
- On the same date, a bomb exploded in a grocery store near the Islamic University in Gaza, completely destroying it.
- On January 21, 2008, unknown persons detonated a bomb in front of the entrance of a men's barbershop owned by Hamza al-Sahhar. The explosion damaged the shop.
- On January 23, 2008, al-Maghazi Association for Community Development, in the Maghazi refugee camp, was attacked by unknown persons. The attack was

the second of that kind in less than a month, causing damage to the association's windows.

- On January 26, 2008, a suspicious object exploded at the entrance to Arafat Police City "known as the Passport Department."
- On February 7, 2008, unknown gunmen bombed al-Hanin Center for Internet Services in Rafah, owned by Mazen Eid al-Shaert, located in Othman Bin Affan Street near Rafah's east park. The explosion badly destroyed the center's furniture and computers.
- On February 15, 2008, about 10 unidentified gunmen, some masked, raided YMCA headquarters located in al-Jala' Street, in the center of Gaza. They detained the gatekeepers, handcuffed them at gun point and took the keys of the association and two mobile phones. Attackers broke into the administration offices, tampering with the furniture and documents, and into the library building. An explosion heard in the center of Gaza City was in the YMCA library building, which was fully destroyed. The library contained more than 8,000 books, many donated by children. It was an important cultural landmark built over tens of years to serve different age groups and to help hundreds of beneficiaries.
- On February 16, 2008, unknown people broke into the office of tribal affairs in Gaza City and stole important documents and files after destroying the main entrance door. The office has been providing services for nearly 50 years.
- On February 17, 2008, a number of civilians came to the office of Saeed Kallab, acting deputy at the Financial and Administrative Control Bureau. Some were armed and introduced themselves as employees of the Interior Ministry; they requested that employees leave the office building. When Kallab asked to see the ministry decision in this regard, he was informed that the decision had been issued verbally and forced him to gather all employees and evacuate the place, confiscating the keys. The office was established in accordance to Law No. 15 of 2004 and has its own independent legal identity and with full legal competence. The president of the office is assigned by a decision issued by the president of the national authority upon a proposal by the Council of Ministers. His assignment has to be ratified by the absolute majority of the Legislative Council.
- On February 17, 2008, members of the Qassam Brigades confiscated the possessions of the Zakat committee in the town of Rafah and the committee was dissolved.
- On February 21, 2008, several armed men attacked and beat two guards of al-Manara School in Gaza. The raid at the school, located in Al-Zaytoun neighborhood, in Gaza City, was conducted by masked gunmen in a Magnum Peugeot 504 Jeep-type vehicle. The attackers demanded from the gatekeepers to open the school. One of the cars drove into the school and the second remained outside. The gunmen attacked one of the guards and threatened the other with punishment if case they continue to work for the school.
- On March 15, 2008, the police of the deposed government stormed the premises of the Refugees People's Committee in Gaza, took it over, confiscated its

possessions, and expelled its employees without any justification. The committee is a service provider that follows up on the problems of the refugees in the camp. The act was condemned as unjustified and labeled as an assault on the rights of all refugees in Palestinian camps, inside and outside Palestine, especially coming, as it did, at a time when Palestinians commemorate the Nakbah.

- On March 16, 2008, members of al-Qassam Brigades stormed Beit Lahia Sports Club, north of Gaza Strip. Eyewitnesses said that Qassam members burst into the club by force, confiscated some of its possessions, taking control of the club and detaining Yasser al-Borawi, chairman of the board, and two other elected board members, and interrogating them.
- On May 7, 2008, two armed men from al-Qassam Brigades stormed the Mawasi Rafah school, attacking, beating and insulting Ziad al-Nadi, one of the school's teachers. Another teacher working for the school said that gunmen had broken into the school attempting to kidnap al-Nadi, who was beaten and insulted by the attackers.
- On May 21, 2008, a group of masked gunmen, putting bands on their heads written on them the words "Izz al-Din al-Qassam Martyr Brigades," went to the house of the 45 years old Mazen Mohammed Abu Zeid, in Khan Younis refugee camp. Abu Zeid is the secretary of Khan Younis Youth Club. Gunmen ordered him to handed over the keys of the club and they left the place after taking the keys. Another group of armed men, on the same day and time, went to the house of Muhammad Sha'ban al-Qarm, a board member of the same youth club, and took the second copy of the keys to the club. The same day in the morning, al-Qarm went to the premises of the club, where he saw a group of men dressed in civilian clothes, and known to be members of Hamas. Khan Younis Youth Club was founded in 1960, and provides sports, cultural and social services.
- On May 31, 2008, armed attackers broke into al-Manara School in Gaza City. The assailants tied down two school guards and beat them before stealing a Volkswagen bus belonging to the Palestinian Bible Society. A similar attack on the school took place on February 21, 2008, by unidentified men.

Sixth

Human rights defenders and lost immunity

The relationship between the Palestinian National Authority and its security and civil organs, on the one hand, and human rights organizations, on the other, has not always been smooth. At many stages, the relation was tense, especially as these forces would commit violations from time to time, met with responses from human rights organizations. This has cast a shadow on the civil society organizations which were listed as offensive parties.

During the past few years, countries of the region have witnessed direct offensives against human rights defenders. Many of them were imprisoned, some were subjected to slander and attacks. Human rights defenders working in territories under the Palestinian National Authority were not an exception.

With the outbreak of the conflict between Fateh and Hamas, the burden on human rights organizations has increased. Not only did they now have to report on war crimes committed against the Palestinians and their property by the Israeli occupation forces, but also to monitor and document violations arising from the internal conflict. These organizations have sometimes caught in the middle and in other times accused of bias towards one party against the other.

Each party in the conflict accused human rights organizations of bias, claiming that these organizations overlooked violations committed in places under the control of this or that party. Examination of the material produced by human rights organizations shows clearly that these accusations are not valid. Human rights organizations have reported all violations they were able to verify. In many instances, victims of violations would not have the courage to report on violations committed against them. In many instances, human rights organizations would explain the difficulties they had to face convincing victims to give their testimonies, the request of victims not to publish violations committed against them and their request not to mention their names. There was always the fear that victims will be threatened by security forces if their names were made known by human rights organizations.

When Sheikh Majd al-Barghouthi passed away, Fahmi al-Za'arir, official spokesman of the Fateh movement read a statement on Ma'an News Agency, on February 24, 2008, blaming civil society organizations active in the field of human rights, saying: "These organizations are active where it is easy to do so. They are active in the West Bank, while they retreat in Gaza Strip where there are huge violations. When they

face any danger in any place, they stand still.”

“This behavior has become obvious in Gaza before and after the decisive military solution. I am sensing cowardice in the behavior of civil society organizations when it comes to the dignity and wellbeing of the Palestinian citizens,” he said, adding that he would not remind these organizations of the long list of martyrs who died in Gaza Strip in detention centers or those who were put in places where Israel could easily target them, like in the case of “Abdallah Qatsheh from Rafah, and especially the detention center of Hamas gangs overlooking the sea.”

The case cited by al-Za’arir was among those taken seriously by human rights organizations in Gaza Strip. Active organizations in the strip took courageous stances blaming the deposed government for the death of Qatsheh. Moreover, these organizations issued very courageous statements regarding the interference of the deposed government in the work of the judicial authority and with regard to other violations committed against Fateh members and other groups.

In Gaza Strip, on April 6, 2008, the Ministry of Interior of the deposed government criticized the Independent Palestinian Citizens’ Rights Commission, accusing it of being biased in its report on human rights violations in the West Bank and Gaza Strip. It demanded an apology from the commission, for what it described as misleading information in the report. It also demanded from the commission to name its sources of information “if it wants to be considered neutral and objective”. The ministry added that “the report has neglected the continued detention of tens of the West Bank citizens in the prisons of the security forces and torture practiced against them, which has required their transfer to hospitals and medical centers”.

The Palestinian National Liberation Movement (Fateh) in al-Najah National University challenged the credibility and independence of the Palestinian Independent Commission for Citizen’s Rights and its members in the wake of the issuing of a publication on the results of investigations related to the events that have occurred in Najah National University on 24/7/2007 between the Islamic bloc affiliated with Hamas movement and the Students’ Youth Movement affiliated with Fateh movement, resulting in the death of one student. The statement called the commission to “apology for its report and to acknowledge that it is not an independent entity and that it is incapable of producing reports with integrity; it needs to be taught the meaning of independence...” The statement was concluded by threatening words “wa qad u’thira man anthar – “don’t blame someone who has already given you a warning”.

After the decisive military solution in Gaza Strip, cooperation between human rights organizations and Palestinian security forces dropped to the lowest possible level, notwithstanding the political authority of these forces. It became difficult for human rights organization to visit detainees; they were allowed to do so very few times. In

some instances, visits by human rights defenders were facilitated in order to verify claims made by one party or another, as was the case of detainee Bani Audeh who Hamas had said died under torture in the prisons of the authority in Nablus. Security forces allowed human rights defenders to visit Junaid prison and to see Bani Audeh in order to refute Hamas claims.

In Gaza Strip, on January 16, 2008, internal security forces of the deposed government did not allow Ibrahim al-Sourani, a lawyer for the Palestinian Center for Human Rights, to meet his client, 49-year-old Jamal Muhammad Mahmoud al-Kayed, (the former chief of the national security forces in Gaza), but was allowed to visit four other clients detained by the same forces at their premises in Gaza City. The center said that “its lawyer went to meet Kayed in order to check on his condition and to collect information on his detention. The center was authorized to do so by the family of the prisoner. However, the legal consultant of the internal security forces of al-Mashtal told the lawyer that Kayed was at the time meeting the chief of the forces in his office and he would not be able to visit him”.

In a statement issued on April 20, 2008, the Palestinian Center for Human Rights expressed deep concern about the continued ban on the center’s lawyers to visit their clients held by the Palestinian security forces of the deposed government in Gaza. The center said that for two months, its lawyers had not been able to see their clients detained in prisons and detention centers in Gaza Strip. Lawyers of the legal unit of the center reported 30 cases of interdiction to see clients despite prior coordination of these visits with concerned bodies and despite the many visits made to these prisons and detention centers. Each time lawyers faced many obstacles preventing them from seeing their clients; among the excuses were “the absence of the security chief in charge”, or “the place is not equipped for such a visit”. The last visit to clients was on February 20, 008, after which no visit was allowed.

In Gaza Strip, Dr. Ahmed Abu Khader al-Tawaheen, Director of Gaza Community Mental Health Programme, in Deir al-Balah town in the central Gaza Strip, was attacked on March 2, 2008, by unknown gunmen. An armed group blocked his way, attacking and beating him. Two bullets were fired near his head to terrorize him. Another bullet targeted the car tires, after which gunmen left the place.

On April 3, 2008, police officers of the deposed government stopped 45-year-old Walid Zaqout, field researcher at the Palestinian Center for Human Rights, while he was filming the statue of the English cemetery built after the First World War in memory of British soldiers in al-Zawayda town, in the center of the strip, which had been bombed the day before. The center said that the researcher went to the English cemetery to report on the explosion in the early morning hours. He listened to the testimony of the guard who lives near the cemetery and took pictures of the place. On his way back, a policeman stopped him and asked him if he took

pictures. When he answered by yes, the police officer confiscated the camera and its memory card, writing down the name of the researcher and asking him to go to Deir al-Balah police station. At noon time, Zaqout, accompanied by Sharif Abu Nassar, one of the center's lawyers, went to Deir al-Balah police station to reclaim the memory card, but policemen told them that the file was sent to the public prosecutor. At the public prosecutor's office, one of the public prosecutors called the police chief who said that the two have to go back to the police station to get the card back.

On May 14, 2008, the Executive Force of the deposed government Ministry of Interior abducted the presidency legal consultant, lawyer Basheer Abu Hatab in front of his house in Khan Younis city. Abu Hatab is one of the lawyers known in the field of human rights and in defending prisoners held in occupation prisons.

Results and Recommendations

Results

■ **The violation of the right to life and physical integrity:**

- The parties to the conflict in the West Bank and Gaza Strip, continued to violate the principle of the right to life and physical integrity. It is worthwhile mentioning that acts of killings that took place in Gaza Strip outnumbered those that took place in the West Bank.
- The report documented a number of torture, ill-treatment and medical neglect cases against the right of detainees held by the Palestinian security services.
- The report highlights the continued use of death penalty in the Palestinian judicial system.

■ **arbitrary arrests, abduction and ill-treatment:**

- Arbitrary arrests in the West Bank, and acts of arbitrary abduction in the Gaza Strip were of a retaliatory nature.
- Dozens of Palestinian citizens were arrested and in contravention of the law.
- Arrests and the denial of the exercise of freedom crimes were accompanied by torture.
- Dozens of arrested people were not referred to the judicial authority.
- Perpetrators of crimes of torture were not tried or questioned.

■ **Violation of the right to freedom of opinion and expression**

- The right to freedom of opinion and expression was seriously violated as reflected in the arrests targeting journalists, preventing others from work, and the storming and closure of press organizations, preventing the distribution of newspapers, preventing radio and television broadcasting and deliberate shooting targeting Journalists.
- Such practices constitute a flagrant violation of the right to freedom of opinion and expression, the Basic Law of the Palestinian National Authority and treaties and international human rights conventions.
- There have been numerous attempts to force journalists to take part in the conflict between the two movements (Fateh) and (Hamas).

■ **Violation of the right to peaceful assembly:**

- During the period covered by this report there were serious violations of the right

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- to peaceful assembly, particularly in Gaza Strip.
 - The parties to the conflict issued resolutions and instructions directly affecting the right of peaceful assembly, contrary to Law No. (12) of 1998 regarding public meetings, considered as a reference for holding public meetings and organizing peaceful marches.
 - The use of force was excessive in many cases to disperse peaceful demonstrations.
 - Security forces of the two parties to the conflict imposed a condition of obtaining a prior permission before planning any activity related to peaceful assembly violating the provisions of 1998 Law No. (12) on public meetings.
 - Many peaceful gatherings in closed places, such as lounges and clubs were banned.
 - Many political and social leaders in several peaceful marches were beaten.

■ **Attacks on public and private institutions and charities:**

- The report has documented many attacks on public and private institutions and charities;
- Most of the attacks have targeted institutions affiliated with one party to the conflict or to the other;
- Many attacks on civil and private institutions were reported committed by illegal/unofficial armed groups.

Recommendations

■ **the right to life and physical integrity :**

- Both parties to the conflict should desist from violating the principle of the right to life and should prohibit all forms of killing, regardless of their reasons and justifications.
- Prohibition of all forms of torture and ill-treatment of prisoners and detainees held by Palestinian security forces.
- Abolishing death penalty that poses a flagrant violation of all norms and international human rights conventions and particularly the Universal Declaration of Human Rights issued in 1948, the International Covenant on Civil and Political Rights issued in 1966, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment issued in 1984.
- Reviewing of Palestinian legislation and laws related to this penalty (especially the Penal Code No. 74 of 1936, in force in Gaza Strip and the Jordanian Penal Code No. (16) of 1960, in force in the West Bank) in order to enact a penal code consistent with the spirit of modern international human rights conventions and treaties, including those on the abolition of death penalty.

■ Arbitrary arrests, abduction and ill-treatment :

- To desist from pursuing arbitrary detention policy against political opponents;
- The public prosecution should take its responsibility in monitoring prisons and official detention centers. It should examine legal procedures related to every detainee, releasing those detained in violation to the law, ordering the closure of all informal detention centers and prisons, because arrest operations are organized by the Palestinian law and falls within the jurisdiction of the judicial enforcement clerks, namely the civil police, taking its orders directly from public prosecutor and falling under his direct supervision.
- RCHRS reiterates its strong condemnation of above mentioned arrests and practices of torture crimes and demands immediate investigation in these acts bringing perpetrators to justice, and taking necessary action to stop them and stop their recurrence.

■ The principle of the right to freedom of opinion and expression

- To desist any violations of the principle of the right to freedom of opinion and expression.
- To stop the arrest of journalists and the storming and closure of press institutions.
- To desist from manipulating journalists, urging them to assist in mitigating the severity of the conflict and to call for dialogue;
- Reopening of closed media and press institutions and offices.
- Re-allowing opposition media to broadcast and to re-distribute their newspapers in the West Bank and in Gaza.
- Investigate into attacks, holding those responsible for them accountable for their acts in order to prevent such future violations.

■ The right to peaceful assembly

- Stress that the right to peaceful assembly is protected under the Basic Law of the Palestinian National Authority, and according international human rights conventions and treaties.
- Demand the caretaker government in the West Bank and the deposed government in the Gaza Strip to drop the requirement of obtaining a prior permission to organize public meetings.
- Investigate into attacks and hold those responsible accountable for their acts in order to prevent such future violations.

■ Attacks on public and private institutions and charities

- The right to establish associations is a fundamental human right guaranteed under the Palestinian Basic Law.

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- Safeguard Palestinian civil society institutions and the preserve the independence of organizations and societies and the continuity of their work.
 - Emphasize the important and vital role played by civil society organizations in the current crisis conditions, particularly in providing humanitarian services, relief and medical and other services to Palestinian civilians.
 - Investigate into attacks and hold those responsible accountable for their acts in order to prevent such future violations.

