



## 13. GOVERNMENT & ADMINISTRATION

### 13.1 ADMINISTRATION

#### ► HISTORICAL BACKGROUND

**Ottoman Period (until 1917):** Since the early 16<sup>th</sup> Century, Ottoman laws and legal system applied. By the mid-19<sup>th</sup> Century, some laws begin to be influenced by legal developments in Europe (e.g., the Land Code of 1857, Civil Code). Few laws dating back to the Ottoman period are still in force.

**British Mandate (1918-48):** In 1918, the British military administration assumed full responsibility for all laws, legislation and orders. In 1922, when Britain obtained the mandate over Palestine from the League of Nations, British Common Law and judicial structures were introduced in most legal areas. From 1923-48, the British legal system was super-imposed on existing structures; some of the laws from this period are still in force.

**1948-1967:** Following the War of 1948, the WB (incl. East Jerusalem) became part of Jordan and the GS was under Egyptian rule. In the WB, laws that did not contradict the Jordanian Defense Law remained in effect; in 1950, when the WB was united with the East Bank some laws applied to both banks and others to only one side. From 1950-1967 the common parliament passed much legislation, most of which is still in force. In the GS, most Ottoman and British laws remained in force with only few reforms introduced; in 1955, Egypt issued a Basic Law for Gaza, and in 1962, a Constitutional Order.

**1967-1993:** In the course of the June War of 1967, Israel occupied the WBGS, annexed 70 km<sup>2</sup> (mainly East Jerusalem area), abolished the West Bank court system, assumed legislative, executive and judicial powers, imposed its military administration, and introduced over 2,000 military orders, amending, changing or repealing virtually every piece of existing legislation. Until the 1988 disengagement the West Bank remained partly under Jordanian administration.

**Since Oslo:** The Oslo agreements divided the WB into three zones: Areas A, B and C:

- ◆ In **Area A** (17.2% of the West Bank as of Oct. 2000), the PA has sole jurisdiction and security control, but Israel still retains authority over movement into and out of these areas.
- ◆ In **Area B** (23.8%), the PA has civil authority and responsibility for public order, while
- ◆ The remaining 59% of the West Bank, **Area C**, is still under total Israeli occupation.

The WBGS remain occupied territory under International Law, even after the 1996 elections for the PLC and PA presidency.

#### ► LOCAL GOVERNMENT

Following the arrival of the PA, the WBGS were divided into **16 Governorates** (11 in the WB: Jenin, Tubas, Tulkarm, Qalqilya, Salfit, Nablus, Ramallah, Jerusalem, Jericho, Bethlehem, Hebron and 5 in the GS: Gaza North, Gaza City, Deir Al-Balah, Khan Yunis and Rafah). Each governorate is headed by a governor appointed by Pres. Arafat. The governorates are subordinate to the Min. of Local Government and cooperate with the mayors and heads of village councils in their respective districts.



Municipal and village councils have existed in Palestine since the British Mandate. In June 1967, the Israeli occupation authorities limited their powers and solidified their control over policies and budgets; the Arab Jerusalem Municipality Council was completely dissolved. In Gaza, the last municipal elections were held in 1946, in the West Bank in 1976, and in Jerusalem in 1965. Since the arrival of the PA, the municipal and village councils carry out their administrative functions (incl. responsibility for water, electricity, waste disposal, establishment and maintenance of schools, planning and building control, road construction and maintenance, control of public markets and other facilities). Currently, there are **105 municipalities** (89 in the WB and 16 in Gaza). In addition, there are **424 local councils** throughout the WBGS. The local government council employ over 9,000 people.

### ► PA & CIVIL SERVANTS

The latest cabinet shuffle took place on 6 Aug. 1998, including the appointment of ten additional ministers. The PA Cabinet currently totals 32 ministers (incl. eight state ministers and one minister without portfolio).

Since the PA was established in 1994, the number of public sector employees has grown substantially, with an estimated 100,000 civil servants currently employed by the PA. The public sector provides employment for 23% of the Palestinian labor force working in the WBGS. The highest increase in hiring still occurs in the police sector and the 14 security services. In 1999, PA employment accounted for 29.35% of all new jobs created in the WBGS that year (1998: for 36%). (UNSCO Report, Spring 2000).

## 13.2 THE RULE OF LAW

Since the PLC elections in 1996, the development of a legal infrastructure and judicial system - devastated by decades of neglect under occupation, the lack of regulatory frameworks and a confusing mixture of Ottoman, British Mandate, Egyptian, and Jordanian laws as well as Israeli military orders - has been a priority. As of **Sept. 2000**, the following 30 laws have been passed, signed and published in the Official Gazette (others have been submitted to the President, are pending in their readings or reviews by the PLC, or are being drafted):

### STATUS OF PALESTINIAN LEGISLATION (as of Sept. 2000)

LAW	ISSUANCE	LAW	ISSUANCE
Elections of Palestinian Local Missions Councils	16/12/1996	Natural Resources	24/1/1999
Palestinian Local Missions	12/10/1997	Civil Status	08/06/1999
Palestinian Monetary Authority	16/12/1997	Regulating the Legal Profession	24/6/1999
Encouragement of Investment in Palestine	22/4/1998	Rights of the Disabled	09/08/1999
Firearms and Ammunition	20/5/1998	Amendment of the Law of Regulating the Legal Profession	28/12/1999
Civil Service	28/5/1998	Environment	28/12/1999
Supervision of Stamp of Gold and Precious Metals	28/5/1998	Bids for Governmental Projects	28/12/1999
Civil Defense	28/5/1998	Benevolent Societies and Charitable Organizations	16/1/2000
Prisons Reform & Rehabilitation Centers	28/5/1998	Regulation of Commercial Agents and Representatives	16/1/2000
Public Budget Legislation	03/08/1998	Arbitration Law	05/01/2000
Animal Quarantine	02/11/1998	Labor	20/4/2000



Higher Education in Palestine	02/11/1998	Amendment of the Law of Supervision of Stamp of Gold and Precious Metals	27/9/1999
Industrial Zones and Free Markets	02/11/1998	General Census	08/07/2000
Public Requisites	02/11/1998	Standards and Measurements	12/09/2000
Public Meetings	28/12/1998	Transportation	17/9/2000

<b>Public Budgets (endorsed and confirmed by the PA)</b>	
<b>Law</b>	<b>Confirmation</b>
Budget 1997	27/5/1997
Budget 1998	29/6/1998
Budget 1999	12/08/1999
Budget 2000	pending

*(Source: Al-Haq, Information Sheet, Nov.2000.)*

► **HUMAN RIGHTS VIOLATIONS**

It should be noted that elements within the PA have been responsible for violating the rights of civilians, though often in response to strong pressure by Israel and the US to clamp down on opponents of the peace process. The insufficient conduct of legal proceedings, arbitrary raids and arrests, violation of the right to freedom of expression, as well as the torture of detainees have become regular complaints. In 1999, the number of prisoners in Palestinian jails was estimated at around 1,100. As of Oct./Nov. 2000, 110 of the prisoners in PA jails are being held without trial, and between 120 (Addameer) and 160 are political prisoners (Al-Haq). By Nov. 2000, the PA Military and State Security Courts had passed 32 individual death sentences, three of which have been executed, one in 1998 and two in 1999 (Law, Nov. 2000); the others have not yet been put into effect, or, in at least one case, were reduced to life imprisonment. In addition, since the establishment of the PA and as of 6 June 2000, 23 prisoners have died while in PA custody (PHRMG, Human Rights Monitor, Aug. 2000). In none of these cases were autopsy reports released. Another problem is the abuse and misuse of weapons, which has to date led to the death of over 20 civilians or security personnel.

**13.3 NEGOTIATIONS**

The DoP of 13 Sept. 1993 stipulated that negotiations would be conducted in two phases: a first period during which time Israel would gradually withdraw from Palestinian areas in the WBGS in return for Palestinian guarantees, particularly on security-related issues, and a second phase for this (4 May 1999), however, peace and a permanent settlement between the two sides were still not in sight.

In July 2000, the US called for a three-way summit with the intention of reaching an Israeli-Palestinian agreement on final status issues. However, the Camp David Summit ended on 26 July 2000, after 15 days of intensive negotiations, without success.

► **The Understandings of Camp David II**

<b>ISRAEL</b>	<b>PALESTINIANS</b>
<b>Demands, proposals (or agreement to US proposals)</b>	<b>Demands, proposals (or agreement to US proposals)</b>



<b>JERUSALEM</b>	<p>Claims all of Jerusalem as its eternal and undivided capital under Israeli sovereignty</p> <ul style="list-style-type: none"> <li>• Expansion of municipal Jerusalem to include settlements just over the Green</li> <li>• maintenance of Israeli sovereignty while providing for various levels of Palestinian control of parts of an expanded Jerusalem: full sovereignty over Palestinian villages on the outskirts of the current municipal boundaries and admin. control over other areas of the city with Arab population;</li> <li>• possible greater municipal autonomy for Arab residents of the city.</li> <li>•</li> <li>• Palestinians and a safe passage to the Christian Quarters.</li> </ul>	<p>Demands East Jerusalem as the capital of a Palestinian state</p> <ul style="list-style-type: none"> <li>• Full Palestinian sovereignty over East Jerusalem and the Old City, excl. the Jewish Quarter, for which, together with Al-Buraq (Wailing) Wall, Israeli administration would be considered;</li> <li>• refusal to consider Israeli suggestions of limited sovereignty or jurisdiction over different areas of the city;</li> <li>• refusal to share in any way the Haram Ash-Sharif and insistence on maintenance and respecting the status quo with regard to the holy places;</li> <li>• dismissal of the American proposal to put the issue of Jerusalem off for the future and sign an agreement on all other final status issues now.</li> </ul>
<b>BORDERS, SECURITY &amp; SETTLEMENTS</b>	<p>General Israeli-Palestinian agreement on the major principles on borders, security and settlements</p>	
	<ul style="list-style-type: none"> <li>• Prepared to make further territorial total of 88-95%) and to leave almost all of Gaza, but no return to the pre-1967 borders;</li> <li>• on settlements: annexing 5% of the West Bank (where the large settlement blocs are and at least 80% of the settlers live); special security arrangements for the settlements remaining under the PA;</li> <li>• Gaza: considering evacuation of settlements</li> <li>• no militarized Palestinian entity.</li> </ul>	<ul style="list-style-type: none"> <li>• Israeli redeployment to pre-1967 borders (i.e., implementation of UN Res. 242) and the establishment of a Palestinian state within those borders;</li> <li>• Acceptance of Israeli annexation of the large settlement blocs in exchange for territory in the Triangle area inside the Green Line - and to guaranteeing security for the remaining settlements;</li> <li>• principally agreeing to Israeli security proposals in the border area, incl. Israeli military presence in the Jordan Valley, early warning stations in the West Bank, and other emergency military needs (further details to be discussed).</li> </ul>
<b>REFUGEES</b>	<ul style="list-style-type: none"> <li>• Acceptance of a one- - reunifica -</li> <li>• Palestinian refugees;</li> <li>• agreeing to establish an international body to serve as a fund to compensate refugees and oversee compensation and resettlement issues.</li> </ul>	<ul style="list-style-type: none"> <li>•   Palestinian refugees, including to inside Israeli borders (i.e., implementation of UN Res. 194).</li> </ul>



▶ **Principles of the American Proposal At Camp David**  
(as reported in *Ha'aretz*, 21 July 2000)

- A Palestinian state will be established within borders agreed by the Palestinians and Israel.
- An "end to the conflict" will not now be declared.
- Israeli withdrawal from 95% of the West Bank; annexation to Israel of the remainder in an exchange of territory.
- A safe passage route between the West Bank and Gaza Strip will be created by an elevated bridge.
- A road from Bethlehem to Ramallah will enable free passage for Palestinians.
- In the Old City and nearby neighborhoods Palestinians will exercise broad civilian autonomy while Israel will retain security control. The holy places in the Old City will enjoy independent religious administration.
- In the more distant Palestinian neighborhoods in East Jerusalem, Palestinians will exercise even greater civil and administrative autonomy, in return for which Ma'ale Adumim and Givat Ze'ev will be annexed to Jerusalem.
- Palestinians will have a free passage route to the Haram Ash-
- Israelis will have free movement along routes to settlements.
- Religious administration will be exercised for the holy places.
- The Palestinian state will not field an army with heavy weapons or an air force.
- Israel will exercise freedom of flight over the skies of the Palestinian state.
- The IDF can deploy forces in the Jordan Valley in the event of a military threat from the east. Israel will operate warning stations along the mountain ridge (west of the Jordan Valley).
- framework of family unification.
- One-half million refugees will be assimilated in stages into the Palestinian state.
- An international organization will be established for compensation and rehabilitation of refugees in their current locations; Israel will participate in its financing.

▶ **Main Points of the American Bridging Proposal, Nov. 2000**  
(as reported in , 17 Nov. 2000)

- Withdrawal from 90% of the West Bank to make way for a Palestinian state.
- Settlement blocs under Israeli sovereignty, in three separate groupings: Ariel, Gush Etzion and Jerusalem surroundings.
- Three IDF bases on the Jordan River. Mountain-top early-warning radar systems.
- Jerusalem: The Muslim and Christian Quarters under Palestinian sovereignty, the Jewish and Armenian quarters under Israeli sovereignty.
- The Temple Mount: Palestinian sovereignty aboveground, Israeli sovereignty underground (where the temple remnants are located); a prohibition on digging of any kind.
- Refugees: No right of return to Israel (other than in humanitarian cases), creation of an international aid network, compensation for refugees, limited right of return to Palestine.