

---

# 13. GOVERNMENT

---

## 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 superimposed 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 Jordanian 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, and has repeatedly made use of this 'right' during the current Intifada.
- ◆ In **Area B** (23.8%), the PA has civil authority and responsibility for public order, while Israel maintains a security presence and 'overriding security responsibility'.
- ◆ The remaining 59% of the West Bank, **Area C**, is still under total Israeli occupation.



**The WBGS remain occupied territory under International Law.**

### ► Local Government

Following the arrival of the PA, the WBGS were divided into **16 Governorates** (11 in the WB: Jenin, Tubas, Tulkarem, Qalqilya, Salfit, Nablus, Ramallah, Jerusalem, Jericho, Bethlehem, Hebron and 5 in the GS: Jabalya, Gaza City, Deir Al-Balah, Khan Younis and Rafah). Each of these 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. Prior to the most recent rounds of local elections (from Dec. 2004 – Sept. 2005), the last municipal elections were held in Gaza in 1946, in the West Bank in 1976, and in Jerusalem in 1965. Since the arrival of the PA, the municipal and village councils took over administrative responsibilities (incl. water, electricity, waste disposal, schools, planning and building control, road construction and maintenance, control of public markets).

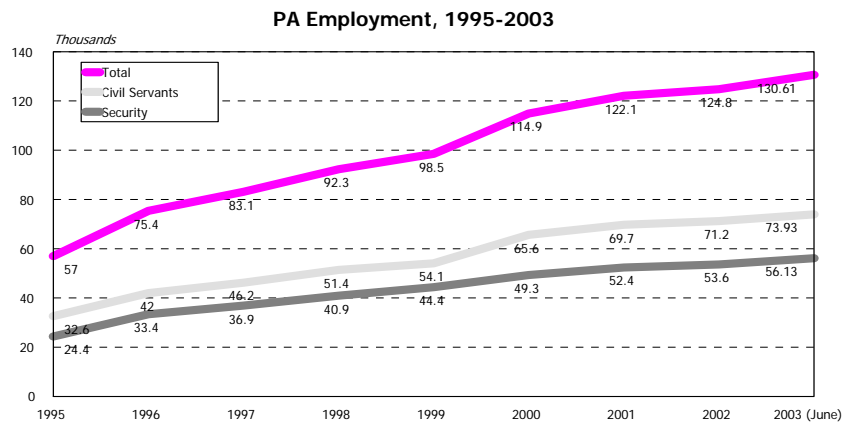
As of 2005, there are **521 local authorities** throughout the WBGS (491 in the West Bank and 30 in the Gaza Strip). Of these, 107 are **municipalities**, 11 **local councils**, 374 **village councils** or project committees, and 29 **refugee camp directors**. (PCBS, *Local Community Survey*, 2005).

The total number of **local authority members** was 3,517 in 2005, of which 273 were female (243 in the West Bank and 30 in Gaza). (PCBS, *Local Community Survey*, 2005).

### ► Public Sector and Reforms

- Since 2000 the PA has launched several **reform agendas**, incl. the Economic Policy Framework (2000); the 100-Day Plan of the Palestinian Government (June 2002); the One-Year Reform Action Plan (Sept. 2004); and the PA Cabinet's 100-Day Work Plan (March 2005).
- The public sector has served as the main provider of new **employment** for WBGS Palestinians since the Intifada began. As of Oct. 2005, over 150,000 people were employed by the PA.



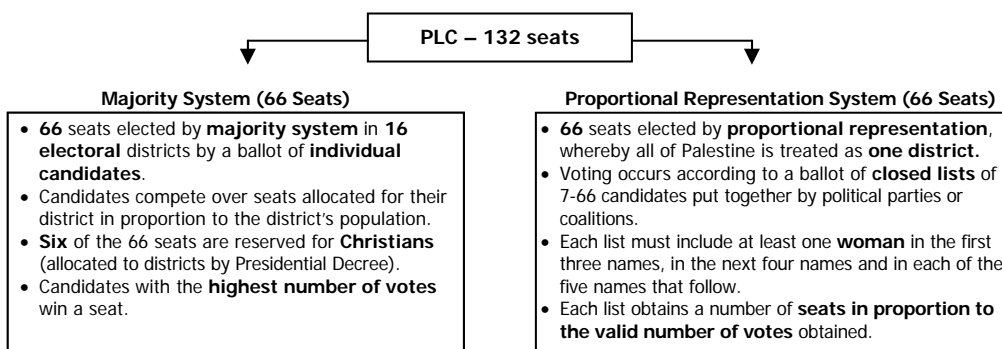


Source: IMF, *Economic Performance and Reforms under Conflict Conditions*, 2003.

- In 2004, **public administration and defense** contributed 15.8% to the **GDP**, making it the second largest contributor (after 'Other services' with 25.9%; in comparison, manufacturing contributed 14.2% (PCBS, *National Accounts Statistics*, 2005).

## 13.2 ELECTIONS

- Eligible voters** are Palestinian WBGs residents incl. Jerusalem, who are 18 years old or older on polling day, registered in the voters' list of one of the 16 district electoral offices, while **eligible candidates** must be 30 (PLC) or 35 years (President). Presidential candidates must submit a list of 5,000 eligible voters supporting him/her, PLC candidates a list of 500 eligible voters.
- In accordance with the **1996 Election Law**, voting occurred in 16 districts according to the **majority system** (1 ballot) on **2 Jan. 1996**. The PLC was dominated by Fateh with 49 out of the original **88 seats**, followed by Fateh-affiliated Independents (15), Islamic-affiliated Independents (4), Independents (17), and others (3). Six seats were reserved for Christians.
- New elections are scheduled to be held on **25 Jan. 2006**; the Election Law was amended on 18 June 2005 and now foresees a **mixed electoral system** (majority and proportional systems), according to which a total of **132 PLC seats** will be elected as follows:



- Campaigning** will start on 3 Jan. 2006, last for 22 days and must end 24 hours before Election Day, which is on 25 Jan. 2006.
- For the upcoming **PLC elections** in Jan. 2006, the Central Elections Commission has registered **1,268,721 eligible voters** (of which 52.87% are male and 47.12% female): 775,640 in the West Bank and 493,081 in Gaza.
- In the **Presidential elections** held in Jan. 2005, **1,092,299 eligible voters** had been registered by the Central Elections Commission (53.5% male and 46.5% female). Of those, 802,777 actually voted (58.07% male, 41.93% female).



### 13.3 THE RULE OF LAW

#### ► Legislation

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, 30 laws had 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). On **28 May 2002**, Pres. Arafat, under pressure from inside and outside forces, finally signed the Basic Law, which the PLC had passed already in 1997. The Law, which came into force on **7 July 2002** is to serve as basis for a constitution (for a draft of the **Palestinian Constitution** see <http://www.mopic.gov.ps/constitution/index.asp>).

#### ► Crimes

In 2003, 1,164 **offenders** were convicted and imprisoned; the major **criminal offense** perpetrated by those was financial obligation (565), followed by theft (234), assault (98), immoral offenses (39), murder (33), drug crimes (32), and forgery/fraud (32). The **monthly average number of persons in custody was 97** (26 in the West Bank and 71 in Gaza). **Court matters** totaled 191,279 (113,544 carried from the last year and 77,735 newly submitted), of which 75,403 were decided, and the remainder in various stages of proceedings. (PCBS, *Crime and Victimization Statistics*).

#### ► Human Rights Violations

- It should be noted that elements within the PA have been responsible for **violating the rights of civilians**, sometimes 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.
- B'Tselem data suggests that since the beginning of the Al-Aqsa Intifada and up to 15 Oct. 2004, 99 **Palestinians** were **killed** by Palestinian civilians on suspicion of collaborating with Israel, incl. 19 while held in PA custody. In addition, some 29 Palestinian were killed by members of the PA security forces (of which 9 were killed while in PA custody, 2 were executed after being convicted of collaboration with Israel and 1 after being convicted of criminal charges).
- According to the PHRMG, since the beginning of the Intifada and up to 31 Oct. 2004, 100 **Palestinians** were **killed** by Palestinians on suspicion of collaborating with Israel, incl. 6 while held in PA custody. In addition, some 24 Palestinian were killed by members of the PA security forces.
- Since 1995, the PA has issued 63 death sentences, of which 13 have been executed (five of them during 2005). (B'Tselem)

### 13.4 NEGOTIATIONS

The **DoP** of 13 Sept. 1993 stipulated that negotiations would be conducted in two phases: a first 'transitional' or 'interim' 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 to conclude a 'final status' agreement.' With the arrival of this target date (4 May 1999), however, a permanent settlement was far from being reached. (For a summary of the signed agreements and Israel's violations of them see <http://www.nad-plo.org/nsummery.php>).

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 talks, without success. To overcome the post-Camp David deadlock, the US came with yet another '**Bridging Proposal**' in Nov. 2000, proposing Israeli withdrawal from 90% of the West Bank to make way for a Palestinian state, and several solutions for the problems of settlements, refugees, and Jerusalem. Based on these ideas, Israelis and Palestinians conducted talks in Jan. 2001 in **Taba**, but given the circumstances and time constraints (Intifada, Israeli elections) they failed to come to an agreement.

In Feb. 2002, Saudi Crown Prince Abdullah announced his proposal of "normal relations" with Israel for a full withdrawal of Israeli troops from the OPT, recognition of a Palestinian state and the refugees' right to return. The **Saudi initiative** was adopted by the Arab League at their March 2002 meeting in Beirut and welcomed by the international community as well as by the Palestinian leadership (for the full text of the Saudi plan see <http://www.mideastweb.org/saudipeace.htm>).

In Dec. 2002, a draft of a new Middle East peace plan formulated by the so-called Quartet of mediators - the US, the UN, the EU and Russia - was presented to Israel and the Palestinians (also known as "**road map**"). The plan (in full: Performance-based and Goal-driven Road Map) was only officially issued on 30 April 2003 after Mahmoud Abbas was sworn in as first Palestinian PM. The road map aims at a "final and comprehensive settlement of the Israel-Palestinian conflict by 2005," based on a full two-state solution, starting with an end to Palestinian terrorism and a freeze on Israeli settlements and other steps to normalize conditions." The plan has no timetable but includes "clear phases, timelines, target dates, and benchmarks aiming at progress through reciprocal steps by the two parties in the political, security, economic, humanitarian and institution-building fields," and has monitoring groups under the auspices of the Quartet. (For a full text of the road map see <http://www.mideastweb.org/quartetrm3.htm>; for a road map status report see <http://www.nad-plo.org>).



The last initiative to restart negotiations was the so called **Geneva Accord** in late 2003, an alternative peace proposal drafted by Israeli and Palestinian politicians and activists, led by Yossi Beilin and Yasser Abed Rabbo, which was publicized in Amman on 12 Oct. 2003. Main points include that Israel will withdraw to the 1967 borders, except for certain territorial exchanges, Palestinians will concede the right of return, recognize Israel as the state of the Jewish people and pledge to prevent terror and incitement, Jerusalem will be divided (Arab parts of East Jerusalem become part of the Palestinian state, Jewish settlements, as well as the West Bank suburbs of Givat Ze'ev, Ma'ale Adumim and part of Gush Etzion become part of Israel), Haram Ash-Sharif will be Palestinian, while the Western Wall will remain under Jewish sovereignty, Ariel, Efrat and Har Homa settlement will be part of the Palestinian state, which will be demilitarized, and border crossings will be supervised by an international force.

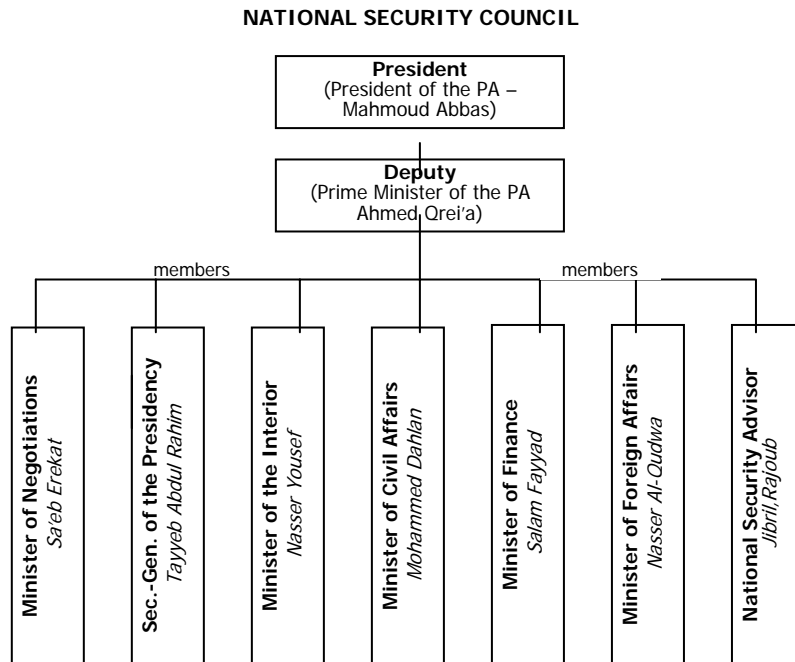
### 13.5 POLICE & SECURITY

The structure of the PA security apparatus was stipulated in the **Cairo Agreement** (4 May 1994), where it is defined as a "strong police" that would exist for five years, by which time a final status would supposedly have been negotiated. The **number** of this police force was set at 9,000, of which 7,000 were recruited from the Palestine Liberation Army (Diaspora) and 2,000 from the WBGs. All personnel required Israeli authorization and the PA police force was allowed to be equipped with a maximum of 7,000 personal firearms, 120 medium and heavy machine guns, and 45 armored vehicles.

According to the PA Finance Ministry's **Budget** for 2004, some US\$423,501,000 were allocated for Public Security and Order, making up 32.41% of the overall budget. In 2003, an IMF report suggested that the number of security forces receiving wages from the PA stood at 56,128 (see also graph above, p. 311).

After much internal strife about security positions within the PA, Pres. Arafat established by a presidential decree the **Palestinian National Security Council** in 2003 to oversee all the PA's security mechanisms. On 8 Nov. 2003, PM Qre'i'a and Pres. Arafat reached a deal on how to divide PA security authority between the govt. and the National Security Council, with the latter (headed by the Pres. of the PA) being responsible for security affairs while the Interior Min. would be in charge of administrative and civilian affairs.

The current Council was formed by Pres. Mahmoud Abbas on 25 Sept. 2005 and is organized as follows:



## 13.6 STATE OF PALESTINE

Since its proclamation by the PNC meeting in Algiers on 15 Nov. 1988, 94 countries have recognized the State of Palestine; these are: Afghanistan, Albania, Algeria, Angola, Austria, Bahrain, Bangladesh, Belarus, Benin, Bhutan, Botswana, Brunei, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, China (People's R.), Comoros, Congo (Brazzaville), Congo (Kinshasa), Cuba, Cyprus, Czech Republic, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Hungary, India, Indonesia, Iran, Iraq, Jordan, Korea (Dem. People's R.), Kuwait, Laos, Lebanon, Libya, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Philippines, Poland, Qatar, Romania, Russia, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Somalia, Sri Lanka, Sudan, Swaziland, Tanzania, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, Vanuatu, Vatican, Vietnam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Belgium, France, Germany, Greece, Italy, Netherlands, Portugal, Spain, and the UK did not formally recognize the State of Palestine but have granted a **specific diplomatic status** to a Palestinian representation, while Brazil and Switzerland allow a PLO representation protected by the immunity of another Arab Mission.

### Recommended Research Sources:

<http://www.pna.gov.ps/> (PA official site) <http://www.pal-plc.org/> (Palestinian Legislative Council)  
<http://www.minfo.gov.ps/> (PA Ministry of Information) <http://www.nad-plo.org/> (Negotiations Dept.)  
<http://www.mofa.gov.ps/> (Foreign Affairs Ministry) <http://www.mop.gov.ps/> (Planning Min.)  
<http://lawcenter.birzeit.edu/> (BZU, Law Center) <http://www.sis.gov.ps/english/index.html> (State Information System)  
<http://www.elections.ps/english/english.php>  
<http://www.arts.mcgill.ca/programs/polisci/faculty/rexb/unsco-ruleoflaw/>

**Cohen, Amnon.** *Palestine in the 18th Century: Patterns of Government and Administration.* Jerusalem: Magnes Press, 1973.

**Corbin, Jane.** *Gaza First.* London: Bloomsbury, 1994.

**Groth, Allon.** *The PLO's Road to Peace: Processes of Decision-Making.* London: RUSI Whitehall Paper Series, 1995.

*Independent Task Force Report: Strengthening Palestinian Public Institutions.* Sponsored by the Council on Foreign Relations. Released 28 June 1999. (<http://www.foreignrelations.org/public/resource.cgi?pub!3185>).

Institute for the Study and Development of Legal Systems. *Palestinian Legal Study: Solutions to Contemporary Problems in the Palestinian Civil and Criminal Justice Systems.* June 1996.

**King, John.** *Handshake in Washington: The Beginning of Middle East Peace?* London: Ithaca Press, 1994.

**Lindholm Schulz, H.** *One Year into Self-Government: Perceptions of the Palestinian Political Elite.* Jerusalem: PASSIA, 1995.

**Makovsky, D.** *Making Peace with the PLO - The Rabin Government's Road to the Oslo Accord.* Boulder: Westview, 1996.

**Playfair, Emma.** *International Law and the Administration of Occupied Territories: Two Decades of Israeli Occupation of the West Bank and Gaza Strip.* Oxford: Clarendon Press, 1992.

**Robinson, Glenn E.,** *Building a Palestinian State - The Incomplete Revolution.* Bloomington: Indiana University Press, 1997.

**Said, Edward,** *The Politics of Dispossession - The Struggle for Palestinian Self-Determination, 1964-94.* London: Vintage, 1994.

**UNSCO,** *Rule of Law Development in the West Bank and Gaza Strip - Survey and State of the Development Effort.* May 1999.

**Wagner, Victoria,** *Palestinian Judiciary and the Rule of Law in the Autonomous Areas - An Introduction.* Jerusalem: PASSIA, 2000.

