

# PCHR

Palestinian Centre  
for Human Rights  
**Annual Report**



2012





## Introduction

This report documents the outcome of the activities carried out by the Palestinian Centre for Human Rights (PCHR) in 2012. PCHR has been publishing Annual Reports since 1997.

The 2012 PCHR Annual Report is divided into two sections:

- **Part One** provides a comprehensive picture of the human rights situation in the occupied Palestinian territory (oPt) from 1 January to 31 December 2012. It is divided into two subsections:
  1. Violations of human rights and international humanitarian law perpetrated by the Israeli forces in the oPt; and
  2. Human rights violations perpetrated by the Palestinian National Authority (PNA), and obstacles to democratic reform in the PNA.
- **Part Two** documents all of PCHR's activities from 1 January to 31 December 2012. It includes activities by PCHR and its Units at both the local and international levels.

The 2012 PCHR Financial Report, which is prepared by an independent, professional auditing institution, will be published as a separate document.

PCHR hopes that this report, like previous reports, will contribute to the struggle for human rights by



providing a comprehensive picture of the human rights situation in the oPt. We also hope that the relevant parties will follow the recommendations set out in this report, especially the recommendations which are meant specifically for the international community and the PNA.

This report serves as a guide for PCHR's future work. It reflects PCHR's strong belief in the importance of transparency for a non-profit, non-governmental organisation which provides services to the community. This report also serves as a call to Palestinian victims of human rights violations to approach PCHR for advice and assistance.

## Summary

**The internal Palestinian political situation took a positive turn in the last weeks of 2012, which saw major developments in the context of efforts to achieve national reconciliation.**

At the end of December 2012, the ruling Hamas movement in the Gaza Strip reversed its ban on public gatherings by its rival Fatah, allowing the party to celebrate its 48<sup>th</sup> anniversary. The Fatah celebration in Al-Saraya Square in the centre of Gaza City was the movement's first since 2007. A month earlier, the Fatah movement was also allowed to organise large-scale demonstrations throughout the Gaza Strip in support of President Mahmoud Abbas's efforts to obtain recognition for Palestine as a non-member observer State at the United Nations General Assembly.

Similarly, in December 2012 in the West Bank, the ruling Fatah movement allowed Hamas to celebrate its anniversary for the first time since the 2007 political split between the two factions. The Hamas movement organised events in Hebron, Ramallah, and Nablus. Notably, the Fatah movement participated in the Hamas-organised anniversary celebration in Gaza for the first time as well. Fatah's yellow flags were raised alongside Hamas' green flags.

At the end of November 2012, the Hamas government in Gaza granted amnesty to suspects and prisoners in cases related to the internal conflict with Fatah. Hamas established a committee to implement this decision, which marked a new stage of the internal Palestinian reconciliation.

These steps towards ending the six-year political split between the Fatah and Hamas movements occurred in the context of an overall atmosphere of reconciliation within the oPt following the Israeli offensive on the Gaza Strip in November 2012. PCHR welcomes these positive developments, which have created opportunities for achieving national reconciliation. We hope that 2013 will usher in the national unity



necessary to restore to power the three branches of the Palestinian government – the executive, the legislative and the judicial – which will, in turn, enable the struggle for the right to self-determination and the establishment of an independent Palestinian state to continue.

In 2012, the oPt was affected by two major developments: the Israeli military offensive on the Gaza Strip from 14 to 21 November, and the recognition of Palestine as a non-member observer State in the United Nations General Assembly on 29 November.

In the period from 14 to 21 November 2012, Israeli forces launched a large-scale offensive on the Gaza Strip, during which they committed war crimes against Palestinian civilians and their property. Bombardment from land, sea, and air targeted hundreds of civilians in densely-populated areas throughout the Gaza Strip.

The Israeli offensive involved systematic violations of international humanitarian law and human rights law. Israel would not have dared to commit multiple crimes against Palestinian civilians and their property on such a large scale had the international community not consistently failed to enforce international law and put an end to Israeli war crimes over the years. The impunity Israel enjoys and its lack of international accountability for crimes committed have always been the major factors encouraging it to commit yet more crimes against Palestinian civilians.

During the final drafting of this report, Israeli parliamentary elections were held on 22 January 2013. Right-wing parties won the majority of the seats in the Israeli parliament. This means it is likely that the next Israeli government will be right-wing with an agenda that will include:

- » Escalating settlement activities in the West Bank, and furthering measures aimed at creating a Jewish majority in Jerusalem;
- » Subjecting Palestinian civilians and their property to

more crimes; and

- » Institutionalising the closure of the Gaza Strip, with some slight improvements at the humanitarian level aimed at creating the false impression that the closure has been lifted.

The other major development was the General Assembly's vote on 29 November 2012 to recognise Palestine as a non-member State in the UN. The significant support for the State of Palestine in the General Assembly has led to important strategic gains, which must be utilised to confront Israeli war crimes and hold suspected Israeli war criminals accountable. Recognition of statehood has given the State of Palestine, and its citizens, access to the International Criminal Court and other international legal institutions.

The Palestinian leadership must immediately accede to the Rome Statute of the International Criminal Court, and to all international human rights instruments. In fact, it is obligated to do so, according to Article 10(1) of the Palestinian Basic Law which stipulates: "The PNA shall work without delay to become a party to regional and international declarations and covenants that protect human rights." In particular, the Palestinian leadership is obliged to accede to the following:

- » Rome Statute of the International Criminal Court of 1998;
- » Geneva Conventions of 1949 and Additional Protocols of 1977;
- » International Covenant on Civil and Political Rights of 1966 and the Additional Protocols of 1966 and 1989;
- » International Covenant on Economic, Social and Cultural Rights of 1966;
- » Convention on the Elimination of All Forms of Discrimination against Women of 1977;
- » Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984;
- » Convention on the Rights of the Child of 1989;

**and**



- » Convention on the Rights of Persons with Disabilities of 2006.

PCHR welcomes the admission of Palestine to the United Nations as a non-member observer State. The move is a crucial step in the struggle for justice and accountability in relation to Israeli violations of international humanitarian and human rights laws in the oPt throughout decades of occupation.

The human rights situation in the oPt has continued to deteriorate over the last six years. Three major factors have interacted to create this scenario:

The first factor is the grave breaches of international humanitarian law, many of which amount to war crimes, perpetrated on a large scale by Israel and its occupation forces against Palestinian civilians. These breaches will be detailed later in this report.

The second factor is the silence of international governments in reaction to these breaches of international humanitarian law and war crimes. Such silence encourages Israel to continue to challenge international law and to act as if it is above the law.

The third factor is the internal Palestinian division due to the conflict between Fatah and Hamas, which has persisted for more than six years. While the positive turn of events at the end of 2012 and the signing of the reconciliation agreement in Cairo on 4 May 2011 are signs of progress, there is still a long way to go before national reconciliation becomes reality.

Israeli violations of international humanitarian and human rights law

In 2012, Israeli forces continued to commit violations of international human rights and humanitarian law against Palestinian civilians and their property throughout the oPt.

The clearest example in the Gaza Strip is the closure of all its border crossings which has been ongoing for more than five years; in the West Bank, including East Jerusalem, human rights violations are most clearly manifested in the form of persistent, and often violent, settlement activities and attacks by Israeli forces. Israeli forces have committed crimes of wilful killing and violations of the right to life. They have also continued to arrest Palestinians and subject them to torture and degrading treatment. PCHR has documented many cases of destruction of civilian property, including houses. Israeli forces have also continued the construction of the annexation wall inside the West Bank.

### **1. Wilful killings and other violations of the right to life and personal security**

In 2012, Israeli forces committed more crimes and violations of the right to life and personal security against Palestinian civilians in the oPt. The most egregious crimes were carried out from 14 to 21 November when Israeli forces launched a large-scale offensive on the Gaza Strip, code-named 'Pillar of Defense'. During the eight-day offensive, Israeli forces carried out thousands of airstrikes, attacks by gunboats, and artillery shelling.

Missiles with warheads weighing more than 1,000 kilograms were used in attacks on residential areas, flattening multi-storey homes and killing residents within the buildings. The extensive attacks targeted civilian facilities throughout the Gaza Strip, including civilian governmental institutions located in densely-populated areas. The impact of these attacks on property and victims, especially women and children, increased manifold, due to the targeting of civilian areas. Hundreds of airstrikes were launched at open spaces in residential areas to terrify civilians. In the last three days of the offensive, a marked increase in attacks on civilian places led to a corresponding increase in the proportion of civilians among the victims.

171 Palestinians were killed during the eight-day offensive.



Of the victims, 102 were civilians, comprising 60% of the total number of victims. 35 of the civilian victims, or 34%, were children, while 14 of the civilian victims, of 14%, were women. The total number of people wounded was 648.<sup>1</sup> Of the wounded, 625 were civilians, including 214 children and 93 women. Among the wounded civilians were 16 people with various disabilities.

Throughout the oPt in 2012, PCHR documented the killing by Israeli forces and Israeli settlers of a total of 265 Palestinians, including 141 civilians (53%). The majority of the victims were killed in the Gaza Strip (129 people or 91%), while 12 civilians were killed in the West Bank (9%). Of the civilians killed, 44 were children (31% of all civilians killed), including 42 in the Gaza Strip and three in the West Bank. In 2012, 14 women were killed in the oPt (10% of all civilians killed), all of whom were killed in the Gaza Strip. Another 1,207 people were wounded in oPt, the majority of whom were civilians, including 1,006 in the Gaza Strip (83%) and 201 in the West Bank (7%).

Taking into account the 2012 casualties, the number of people killed since 2000 by Israeli forces and Israeli settlers rose to 6,986, of which 5,314 were civilians, comprising 76% of the victims. Of the people killed, 3,544 were in the Gaza Strip and 1,770 in the West Bank. The civilian victims included 1,304 children (25%), of whom 958 were in the Gaza Strip and 346 in the West Bank. Among those killed were 300 women (6%), of whom 231 were in the Gaza Strip and 69 in the West Bank. Tens of thousands were wounded during the Second Intifada, the majority of whom were civilians; hundreds of the wounded were left with permanent disabilities.

1: According to PCHR's investigations, more than 1,250 Palestinians were injured during 'Operation Pillar of Defence'; out of those, 648 sustained moderate to severe injuries.

which were located in densely-populated areas. As a result, many civilians were killed. Furthermore, Israeli forces have killed civilians near or within the Israeli-imposed 'buffer zone', along the eastern and northern borders of the Gaza Strip, and at sea, to which Palestinians are denied access. Israeli forces have also killed civilians when shelling the tunnels under the border between the Gaza Strip and Egypt.

In the West Bank, crimes carried out by Israeli forces and Israeli settlers vary. Civilians were killed during incursions by Israeli forces into Palestinian communities. Other civilians were killed when Israeli forces used excessive force against peaceful demonstrators as they were protesting against the construction of the annexation wall in the West Bank. More civilians were killed when Israeli forces carried out extra-judicial killings of militants belonging to Palestinian armed groups. Additionally, a number of civilians were killed by Israeli settlers.

Investigations conducted by PCHR, testimonies of eyewitnesses, and evidence have proven that Israeli forces used excessive and disproportionate force against Palestinian civilians, who are protected under international humanitarian law. Israeli forces did not take the necessary precautions to distinguish between civilian and military targets, nor did they respond proportionately when using military force. It is also clear that Israeli forces carried out acts of reprisal against Palestinian civilians, who were killed in circumstances that did not pose any threat to the lives of Israeli soldiers.

## **2. Ongoing policy of closure and violations of the right to freedom of movement**

In 2012, Israeli forces continued to impose prolonged border closures on the oPt, especially the Gaza Strip. This is the sixth consecutive year that Israeli forces have continued to impose a tight closure of the Gaza Strip, cutting it off from the West Bank and East Jerusalem.



Several months have passed since Israeli forces announced an alleged easing of the closure on the Gaza Strip and the increased facilitation of the entry of goods and commodities, yet the civilian people in the Gaza Strip have not experienced any significant improvements. Israeli forces have continued to impose a ban on strategic goods, especially construction materials and raw materials needed for production. In addition, Israeli forces have continued to impose a ban on agricultural and industrial exports from the Gaza Strip. It is evident that the announcement of a so-called easing of measures by Israeli forces with regard to the entry of goods into the Gaza Strip is no more than an attempt to delude the international community into believing that restrictions have been eased.

The ceasefire agreement, which was concluded following the latest Israeli offensive on the Gaza Strip, came into effect on the evening of 21 November 2012. Since the implementation of the agreement, data collected by PCHR demonstrates that the Israeli-imposed closure of the Gaza Strip has continued at the same rate as before the offensive, including all movement at the crossing points. Statistics also show that the amount and nature of goods allowed to enter the Gaza Strip has not changed. The exception was the slight easing of the ban on exports from the Gaza Strip, but this was limited to a very small amount of agricultural products.

Throughout 2012, PCHR has expressed concerns, via its publications (such as the monthly 'State of the Border Crossings' updates), regarding the institutionalisation of the closure of the Gaza Strip. PCHR is concerned that inadvertent legitimisation by the international community may push the Gaza Strip into another stage of closure that would become internationally accepted. Palestinians in the Gaza Strip may not suffer from the lack of certain goods, yet their economic dependency and social, cultural, and academic isolation continue.

PCHR calls for a fundamental change in Israeli policies, which are currently causing the continued deterioration of humanitarian conditions in the Gaza Strip. These policies

have seriously impacted the food security of the civilian people, especially children. Israel's longstanding policies and practices have drastically affected the economic and social rights of the civilian population in the Gaza Strip, undermining any real opportunities for the recovery of the Gaza Strip's economy. These systematic policies have consistently violated the right to an adequate standard of living, the right to adequate housing, education, and social security, and the right to the highest attainable standard of mental and physical health. PCHR asserts that Israel's alleged measures to ease the closure do not deal with the essence of the crisis. PCHR stresses that the crisis can be ended only with the immediate lifting of the closure, the removal of the restrictions on movement to and from the Gaza Strip, and the reversal of the ban on exports.

In the West Bank, Israeli forces have continued to restrict the movement of civilians between cities as well as at international crossing points. Israel has continued its practice of closing off occupied East Jerusalem to Palestinian civilians from elsewhere in the oPt; entry to East Jerusalem is banned for Palestinians from the West Bank and the Gaza Strip. As a result, Palestinians have been denied access to advanced medical care, their right to meet with family members, and access to education, work, and religious sites in East Jerusalem, in particular, the al-Aqsa Mosque.

The construction of the annexation wall around East Jerusalem further establishes a permanent barrier to Palestinians wishing to enter occupied East Jerusalem. The continued isolation of East Jerusalem, along with the establishment of new checkpoints and the construction of new sections of the annexation wall around the city, causes grave harm to the social life of the city. This is especially so for families living within East Jerusalem's municipal borders and its suburbs.

At the al-Karama ('Allenby') International Crossing Point on the Jordanian border with the West Bank, Israeli forces subject Palestinian civilians to humiliation and cruel inter-



rogation. Israeli forces prohibit thousands of Palestinians from travelling, and those who attempt to cross the border are usually subjected to body searches and humiliation. Palestinians who are denied travel include patients, women, journalists, political activists, students, members of the Palestinian Legislative Council (PLC), and employees of international organisations.

Israel implements a discriminatory policy that curtails the freedom of Palestinian civilians to use public roads. There are about 500 kilometres of restricted roads across the West Bank, which are accessible only to Israeli settlers. Palestinians suffer as a result, as they are forced to use alternative roads that are unsuitable and add considerable time to their journeys. In addition, approximately one third of the West Bank, including occupied East Jerusalem, is inaccessible to Palestinians unless they have a permit issued by Israeli forces. These permits are extremely difficult to obtain. At least 200,000 Palestinians living in 70 villages are forced to use alternative roads that are longer, resulting in additional financial burdens.

Military checkpoints are an obstacle to the movement of cargo. This increases the cost of transportation, which is consequently reflected in the prices of goods, and adds to the financial hardship of consumers. The policy of closure, as well as restrictions on the freedom of movement of Palestinian civilians, has had a serious impact on their economic, social and cultural rights as well as their civil and political rights. The Palestinian people are experiencing a severe economic crisis that is affecting various economic sectors, including trade, manufacturing, agriculture, labour, tourism, transportation, investment, and development. The policy of closure affects the lives of every individual in the oPt by violating the right to work, to health, to education and to appropriate living conditions. Israel has also created a new system of discrimination in the oPt, whereby Palestinians live in geographically-isolated cantons and are deprived of the right to freedom of movement.

The construction of the annexation wall has brought about new restrictions on the freedom of movement of Palestinians who live near the route of the wall. These new restrictions come on top of the widespread restrictions that have been in place since the outbreak of the Second Intifada in 2000. Farming is a primary source of income in the Palestinian communities located along the route of the wall. However, thousands of Palestinians have experienced difficulties accessing their fields and marketing their produce in other areas of the West Bank.

### **3. Arrests, detention, torture, and other forms of cruel, inhuman, and degrading treatment**

At least 4,600 Palestinians are in Israeli custody in prisons and detention facilities, most of which are inside Israel. They are being held under inhuman conditions, despite many assurances that their living conditions would be improved, as was guaranteed as part of the prisoner exchange deal between Palestinian armed groups and Israel in late 2011.

The detention conditions of Palestinian prisoners had seriously deteriorated following the June 2006 capture of Israeli soldier Gilad Shalit in the Gaza Strip. Palestinian prisoners from the Gaza Strip and the West Bank have been denied family visitation rights. Even when family visits are allowed, family members are subjected to strip searches. Palestinian prisoners have also been subjected to solitary confinement and medical negligence.

To protest against the continuous deterioration in living conditions and the severe restrictions imposed by Israeli forces, Palestinian prisoners began open-ended hunger strikes in the hope of improving their living conditions and regaining the rights for which they have struggled for years. The prisoners' demands were as follows:

1. Improve the living conditions of prisoners in Israeli jails and provide for their basic needs, such as access to proper healthcare and medical treatment,



- education, and television and newspapers;
2. Allow family visits for prisoners from the Gaza Strip, who have been denied family visits due to political decisions and unjust laws, such as the so-called "Shalit Law";
  3. End the use of administrative detention and solitary confinement. Some Palestinians have been imprisoned for more than ten consecutive years in solitary cells that lack basic facilities;
  4. Allow prisoners to receive an education; and
  5. End the Israeli Prison Service (IPS) policy of humiliating Palestinian prisoners and their families via strip searches, collective punishment, and night raids.

Approximately 1,500 Palestinian prisoners in Israeli jails began an open-ended hunger strike on 17 April 2012. The mass strike was preceded by individual hunger strikes by a number of administrative detainees. The Palestinian prisoners ended their mass hunger strike on 14 May 2012, after reaching an agreement with the IPS, which stated that Israel would cease the use of solitary confinement for all prisoners and allow around 440 prisoners from the Gaza Strip to receive family visits.

In the West Bank, Israeli forces arrested hundreds of Palestinians during Israeli incursions, arrest campaigns at checkpoints, and campaigns conducted to arrest wanted people. In the Gaza Strip, Israeli forces continued to arrest more Palestinians in the 'buffer zone' along the eastern and northern borders of the Gaza Strip, at sea, and at the Beit Hanoun ('Erez') crossing point, in the north of the Gaza Strip. PCHR documented the arrest of 1,202 Palestinians by Israeli forces in 2012, the vast majority of whom were from the West Bank. 1,085 Palestinians were arrested in the West Bank, and 117 were arrested in the Gaza Strip.

In 2012, 14 members of the PLC were imprisoned in Israeli jails. Most of the PLC members were from the 'Change and Reform' bloc, which is affiliated with Hamas, two were from Fatah, one was from the Popular Front for the Liberation of

Palestine (PFLP), and three were former ministers.

By the end of 2012, at least 185 Palestinians were still in custody under administrative detention orders issued by Israeli forces. Israel has adopted the use of the policy of administrative detention against thousands of Palestinians since 1967, when Israel occupied the West Bank and the Gaza Strip. The use of administrative detention violates the Fourth Geneva Convention of 1949, particularly Article 78 which prohibits the use of this measure as a form of punishment, calling it an exceptional measure confined to use for “imperative reasons of security”.

Palestinian prisoners in Israeli jails are subjected to various forms of torture and inhuman and degrading treatment. They suffer violent beatings and insults, and endure various forms of torture during interrogation, including physical ill-treatment, sleep deprivation, denial of visitation rights and proper health care, and denial of their right to meet with their lawyers and receive legal counselling.

#### **4. Attacks on journalists**

In 2012, Israeli forces continued to attack journalists, disregarding the protection extended to journalists under international law. It is evident that attacks on journalists by Israeli forces, which violate the right of journalists to personal security as they carry out their work, are part of a campaign to isolate the oPt from the rest of the world and prevent the media from covering crimes committed against civilians by Israeli forces.

Most egregiously, Israeli forces were responsible for the killing of four journalists during the large-scale Israeli offensive on the Gaza Strip, from 14 to 21 November 2012. Israeli forces also attacked media offices and wounded other journalists in Gaza City.

PCHR has documented other attacks on journalists during 2012, the most prominent of which were in the West Bank. The types of attacks included: firing at journalists; beating



and other forms of cruel, inhuman, and degrading treatment; detention of journalists; denying journalists access to certain areas; confiscation of and/or damaging journalistic equipment; and raids on media offices and the homes of journalists.

## **5. Destruction of civilian property**

In 2012, Israeli forces continued to systematically demolish Palestinian civilian property in the oPt, especially in East Jerusalem. The rate of these attacks escalated significantly during the latest Israeli offensive on the Gaza Strip, which took place from 14 to 21 November 2012.

In the Gaza Strip, Israeli forces targeted 371 buildings, of which 126 were completely demolished. Those 126 buildings contained 191 residential units that housed 1,229 people, including 710 children. 243 more buildings were severely damaged. These included 463 residential units that housed 2,683 people, including 1,169 children. Israeli forces targeted 667 civilian establishments, 233 (35%) of which were targeted during the large-scale offensive on the Gaza Strip.

Israeli naval forces continued their attacks on Palestinian fishermen in the Gaza Strip in 2012. During the large-scale Israeli offensive on the Gaza Strip in November, these attacks escalated significantly. Since the beginning of 2012, the fishing sector has been subjected to intense Israeli attacks that resulted in killings, injuries, arrests, and the confiscation and destruction of fishing equipment. Israeli naval forces detained 26 fishing boats and destroyed 13 fishing boats, along with other fishing equipment.

Israeli forces continued to demolish Palestinian houses in 'Area C', which is under full Israeli control in accordance with the Oslo Accords, for the purpose of settlement expansion. In 2012, this policy affected houses throughout the West Bank, but demolitions were focused largely in occupied East Jerusalem. Demolitions in the Gaza Strip were

largely carried out in aerial attacks without prior warning, while those in the West Bank were carried out under the pretext that the building owners lacked the required building licenses from the Planning and Building Department of the Israeli Civil Administration in the 'Beit El' settlement or, for houses in occupied East Jerusalem, the Israeli municipality in Jerusalem.

In 2012, Israeli forces demolished 304 houses in the West Bank, including 68 in East Jerusalem. 14 Palestinian civilians in East Jerusalem were forced to demolish their own homes. These civilians, under duress from Israeli forces, often demolish their homes themselves in order to avoid having to pay the extremely high costs that would be imposed if the demolition is carried out by Israeli forces.

## **6. Settlement activities and settler attacks**

The Israeli government, its occupation forces, and settlers living on Palestinian land in violation of international law have continued the expansion of settlements in the West Bank. Armed Israeli settlers, protected by Israeli forces, have also continued to commit crimes against Palestinian civilians and property. In 2012, Israeli settlers escalated their attacks against Palestinian civilians and property. The settlers and Israeli forces also launched joint attacks against Palestinian civilians.

Israeli forces have continued to confiscate civilian property belonging to Palestinians to facilitate the expansion of settlements. This is in violation of international humanitarian law, which prohibits changing the nature of an occupied territory unless there is military necessity in the narrow sense of the term – a condition that is not fulfilled in this case. In 2012, Israeli forces confiscated and/or levelled at least 28,000 dunums (2,800 hectares) of land across the West Bank. Of the confiscated land, 20% is in occupied East Jerusalem. Part of the confiscated land was annexed by Israeli settlers.



In 2012, approximately 37,000 agricultural trees were uprooted, burned, water-logged, and/or cut down, of which 31,000 were olive trees. In Nablus alone, 10,260 trees were damaged. In Hebron, 5,600 trees were damaged, and in Jerusalem, 500.

In 2012, Israeli forces, under the instructions of the Municipality of Jerusalem, continued to demolish Palestinian houses throughout the city and its suburbs, citing unlicensed construction as the reason for demolition. The municipality continued to impose lengthy and complicated procedures on Palestinian civilians who attempted to obtain construction licenses. Thus, many Palestinians, under pressure to build new houses or expand existing homes due to natural population growth, do so without obtaining licenses. Meanwhile, Israel, through the Municipality of Jerusalem, the Ministry of Housing, the Ministry of Interior and settlement associations, approved the construction of thousands of housing units for Israeli settlers inside and around Jerusalem. PCHR stresses that such practices in Jerusalem are illegal and condemns the Municipality of Jerusalem's discriminatory approach to issuing building licenses to the Palestinian population.

Israeli forces have continued imposing harsh restrictions on the activities of Palestinian non-governmental organisations (NGOs) in Jerusalem, claiming that these NGOs are linked to the Palestine Liberation Organisation (PLO) and/or the PNA, even though the identity and activities of the NGOs indicate otherwise. Measures by Israeli forces include raiding the offices of NGOs, as well as prohibiting or shutting down official and public meetings, even if they are of a social nature, claiming that such activities are linked to the agendas of the PLO or the PNA.

Israeli forces have continued to violate the right to freedom of religion of Palestinians by denying them access to religious sites in Jerusalem, as well as by continuing excavations in the vicinity of the al-Aqsa Mosque, endangering the site and subjecting it to the threat of demolition.

The most worrying development in terms of settlement expansion is the E1 Plan to expand settlements in the E1 area. On 30 November 2012, the day after Palestine was voted a non-member observer State of the United Nations, the Cabinet of Israel decided to proceed with the planning of thousands of apartments near the settlement of 'Ma'ale Adumim', in the area connecting the settlement to Jerusalem. Implementation of the E1 Plan would further isolate Jerusalem from the West Bank, while cutting the northern West Bank off from its southern reaches.

Attacks by Israeli settlers against Palestinian civilians and property continued in 2012, and became more systematic. In many instances, Israeli settlers wrote the phrase "Price tag" on the mosques, houses, and cars that they attacked.

PCHR fieldworkers reported 219 assaults by settlers on Palestinians in 2012. The vast majority of these attacks occurred in Hebron and Nablus. This statistic does not represent the true number of settler attacks, reflecting only the attacks that PCHR fieldworkers were able to document.

Two Palestinian civilians were killed in settler attacks, increasing the number of Palestinians killed by settlers since the outbreak of the al-Aqsa Intifada in September 2000 to 63, including 14 children and one woman.

The nature of settler attacks were as follows: 12 attacks on houses; 96 attacks on farmers, shepherds, and their property; six shooting incidents; 11 attacks on religious buildings; 30 attacks on vehicles; 64 other attacks, such as riots, highway robbery, and throwing of stones at Palestinian civilian vehicles.

## **7. The annexation wall in the West Bank**

In 2012, Israeli forces continued to confiscate Palestinian lands in order to continue construction work on the annexation wall. On 8 July 2012, Israeli forces issued a military order, confiscating 567.5 dunums of land from Sourif



village, northwest of Hebron. The notice (No. T/15/12) was issued by the Israeli military and was signed by GOC Central Command, Nitzan Alon. Attached to the notice were a number of maps showing the lands to be confiscated and the route of the wall, which runs through confiscated lands in the village. The notice stated, "I announce herein that these lands have been confiscated for security purposes, i.e. for the construction of the annexation wall".

The Israeli judiciary continues to serve the policies of the Israeli occupation authorities. In this context, the Israeli High Court has rejected a number of petitions submitted by Palestinian civilians against the confiscation of their lands. In very rare cases, the court has ordered slight changes to the route of the wall, such as in relation to the lands in the Kherbat Jabara area, south of Tulkarm.

The construction of the wall has brought about new restrictions on the movement of Palestinians who live near the route of the wall. These restrictions are in addition to the widespread restrictions that have been in place since the outbreak of the Second Intifada. Farming is a primary source of income in the Palestinian communities located along the route of the wall. However, thousands of Palestinians have experienced difficulties accessing their fields and marketing their produce in other areas of the West Bank. This has a drastic impact on the economic prospects of the residents – whose economic situation is already very difficult – and drives many families into poverty.

The impact of restrictions on the movement of Palestinians living near the wall has not been limited to the agricultural sector, but includes numerous other aspects of life. Access to medical care, education, and relatives living in other parts of the oPt has been restricted. Palestinians are required to obtain permits to move through the gates which are built into the wall, and which are operated under a strict security system. Israeli forces often close these gates for no apparent reason.

In 2012, the Palestinian Ministry of Education in Ramallah issued a report, 'The effect of the annexation wall on the educational process', which discusses the major obstacles to the educational process in communities that are isolated by the wall. The most significant problem highlighted in the report is the suffering of teachers who have to cross to the other side of the wall to reach communities where there are no schools. These teachers are subjected to humiliation by Israeli forces on a daily basis. On most days, they are denied access under a variety of pretexts. Teachers attempting to pass through the checkpoint in the annexation wall near the entrance of Barta'a village in Jenin are regularly denied permission to cross. Teachers are regularly delayed at checkpoint gates for hours before being denied access to the village, during which time they are subjected to profane language and body searches, especially on female teachers. Students of Ras Teira and al-Dab'a villages in Qalqilya, and the female teachers of Barta'a School for Girls, are regularly subjected to such treatment. Israeli soldiers also prohibit employees of the Ministry of Education from accessing the schools which have been cut off by the wall, which decreases the level of coordination between the schools and the offices of the Ministry of Education, and disrupts the educational process in general.

## **8. The absence of justice in the Israeli legal system**

In 2012, Palestinians continued to be denied the right to justice and compensation by the Israeli legal system, which also shielded Israeli war criminals from being held responsible or prosecuted for committing crimes.

An amendment to the legislation, Amendment No. 8, which applies retroactively from 2000 onwards, exempts the State of Israel of any liability arising from damages caused to a resident of an enemy territory during a 'combat action' or 'military operation'. This amendment disregards the vital question of the legality of these attacks. It also ignores the damage caused to the victims as a result of such attacks, potentially violating rules governing the conduct of armed forces during military operations, as prescribed



under international humanitarian law. Amendment No. 8 directly contravenes the norms of customary international law, which hold that a State is responsible for all acts committed by persons who are operating as part of its armed forces. The Israeli legal system is used to shield suspected Israeli war criminals from justice. No senior Israeli officials have ever been questioned or prosecuted, despite the large number of reports issued by United Nations agencies and international investigation committees. The Goldstone Report was one of the most significant of these reports, and in which the UN Fact Finding Mission on the Gaza Conflict documented the crimes committed by Israeli forces during the 23-day offensive on the Gaza Strip, 'Operation Cast Lead', which took place from 27 December 2008 to 18 January 2009. The report described them as serious crimes.

Based on our long-term experience of dealing with the Israeli justice system, PCHR is of the opinion that that it is a system which completely disregards justice for Palestinians while deliberately imposing barriers that deny them the opportunity to access the courts in their efforts to obtain justice. In her fourth report, the UN High Commissioner for Human Rights, Navi Pillay, emphasised the absence of accountability for crimes committed in the Gaza Strip. She also wrote about the monetary and physical obstacles which deprive the people of the Gaza Strip of access to justice. She called on Israel to conduct investigations which comply with due process, compensate victims, and halt discriminatory practices that deny Palestinians access to justice. The UN Committee on the Elimination of Racial Discrimination (CERD) expressed concern about the obstacles faced by Palestinians seeking access to justice, particularly the victims of 'Operation Cast Lead'. On 15 and 16 February 2012, in its 80th session, the Committee carried out a review of Israel's record, and emphasised the discriminatory nature of Israel's policy of creating monetary and physical obstacles which deny Palestinians access to justice. PCHR often turns to the Israeli court system to seek redress for victims via a civil case, which must be filed within two years of the date of the incident. In 2012, PCHR lawyers

were faced with the newly-passed Amendment No. 8 to the 1952 Israeli Torts Law (State Liability). In effect, this amendment grants full impunity to Israeli soldiers against claims for damages. It absolves Israel of liability for damages caused during military operations, denying the victims of such damages the right to compensation. Furthermore, the Israeli justice system lacks impartiality and integrity, and has repeatedly denied Israeli forces' responsibility for the deaths of Palestinian civilians. PCHR has followed up on 100 cases of Palestinians seeking compensation for the crimes committed during 'Operation Cast Lead'. Four years have passed since the offensive, yet PCHR has been able to obtain compensation for only two cases to date. In both cases, no judicial sentence was issued. Compensation was agreed upon only on the basis of a settlement with the Military Prosecutor's Office of the MAG.

PCHR's efforts to prosecute Israeli war criminals before third country courts, under the principle of international jurisdiction, have resulted in self-imposed international travel restrictions for the accused. PCHR hopes that Palestine's admission as a non-member observer State to the UN will provide new momentum for our efforts to seek justice for victims at the international level. Palestine's new status offers the Palestinian leadership the opportunity to join the International Criminal Court (ICC), providing a new avenue for victims of Israeli violations to seek justice. Joining the ICC will also represent a very important step toward ending Israeli impunity against prosecution under the international law. PCHR calls upon the Palestinian leadership to join the ICC, the international conventions, and other human rights and international humanitarian law conventions without delay.



## ***Violations of human rights by Palestinian authorities and obstacles to democratic reform***

For the sixth consecutive year, the internal Palestinian political division, in addition to the physical separation of the West Bank from the Gaza Strip, have caused the human rights situation to further deteriorate. The political division has negatively impacted all aspects of the Palestinian political system and of life in Palestinian society. Although the atmosphere surrounding the internal Palestinian political situation was positive in the wake of the Israeli offensive in November, no serious steps were taken to end the political division. PCHR looks forward to serious and effective steps being taken on the ground to accelerate Palestinian national reconciliation.

### **1. Violations of the right to life and personal security**

In 2012, there were continued violations of the right to life and personal security due to the misuse of weapons, as well as violations of the rule of the law in the oPt. PCHR recorded the killing of at least 54 people (43 in the Gaza Strip and 11 in the West Bank), including five children and three women. More than 115 people were wounded.

Particularly serious were the extra-judicial killings of seven people by masked gunmen during the Israeli offensive in November. One of the men had been arrested by the Internal Security Service (ISS). The additional six men had been convicted by the military judiciary in the Gaza Strip of collaboration with hostile security services, namely the Israeli forces, and sentenced to death.

Other incidents related to the misuse or mishandling of weapons in the oPt included the use of weapons in personal and familial disputes, murders motivated by “family honour”, and the extra-judicial killing of civilians on grounds of collaboration with the Israeli forces.

## **2. Arrests, detention, torture, and other forms of cruel, inhuman, or degrading treatment**

Following the Israeli offensive in November, the internal Palestinian political situation took a positive turn. Relations between the two rival movements, Fatah and Hamas, improved significantly. Respective media statements called for a push towards reconciliation and an end to the political division.

On 25 November 2012, the Hamas government in Gaza issued a press release after their weekly government meeting, granting an amnesty to people accused of criminal charges in relation to the 2006 Palestinian internal conflict. A special committee was formed to implement the government's decision and to pave the way for a new era of Palestinian reconciliation. In a press release, PCHR welcomed the government's decision, and expressed the hope that this decision will advance Palestinian reconciliation talks, marking the end of the six-year long political division.

The security services of both the Ramallah and Gaza governments continued to subject Palestinian civilians to illegal arrests, torture, and other forms of cruel, inhuman and degrading treatment in 2012. Such practices were carried out in prisons and detention centres of Palestinian police and security services in the Gaza Strip and the West Bank. The use of torture can be attributed to the ongoing political division, criminal behaviour, and disputes arising between detainees and security officers. Torture methods include: insults; beating using batons, sharp tools, feet and hands; tying of detainees' feet and hands to a chair and beating with batons or wires; among others. Detainees were also held in cells or small rooms, placed in solitary confinement, and forced to stand for long hours in the cold or under the sun.

In 2012, PCHR recorded four incidents in which the circumstances surrounding the death of a detainee raised suspicions that he might have been subjected to torture by the security services in Gaza or the West Bank.



### **3. Continued disruption of the legislature**

The disruption of the PLC entered its sixth year in 2012. The complete absence of a mandated PLC, which is the legislative and monitoring authority of the PNA, is a result of actions taken against PLC members by Israel, and the fragmentation of the Palestinian executive which is ongoing since 2007.

The most recent measure by the Israeli government which targeted PLC members was the addition of the Hamas-affiliated 'Change and Reform' bloc to the list of terrorist entities. In July 2012, the Israeli Army Commander issued a decision that all Islamist blocs would be considered as "banned unions". The decision made reference to Article 84 (1) (b) of the Defense Regulations (State of Emergency) which were issued in 1945. The intention of the July decision was to legalise Israel's systematic oppression of PLC members from the 'Change and Reform' bloc in the West Bank, including occupied East Jerusalem. The decision also indicates that Israeli actions against PLC members from the 'Change and Reform' bloc will continue, in particular, arrests, shutting down of parliamentary offices, and harassment of anyone affiliated with these individuals.

Israeli forces adopted its policy against the PLC in 2006 after rejecting the results of the Palestinian parliamentary elections, which Hamas had won by a large percentage. Israel categorises Hamas as a terrorist organisation due to the role of the Al Qassam Brigades, the military wing of the Hamas movement, in resisting the Israeli occupation of Palestine. After the Palestinian elections, Israel decided to shut down the Palestinian government formed by the 'Change and Reform' parliamentary bloc. The Israeli government declared the 'Change and Reform' bloc to be a banned union in July 2009, forcing the bloc to change its name in the West Bank and Jerusalem to the 'Islamists Parliament Members' bloc. As outlined above, Israel responded by banning all Islamist blocs. These measures are part of an Israeli policy aimed at stifling Palestinian democratic development.

By the end of 2012, 14 PLC members remained in detention, including 11 members of the 'Change and Reform' bloc, two members of the Fatah bloc, and one member of the 'Abu Ali Mustafa' bloc, which is affiliated with the Popular Front for the Liberation of Palestine.

The Palestinian legislature continues to be in a state of chaos. In Ramallah, Palestinian President Mahmoud Abbas issues presidential decrees which are enforced only in the West Bank. In the Gaza Strip, the 'Change and Reform' bloc issues laws on behalf of the PLC, and these are enforced solely in the Gaza Strip. The PLC's inability to convene has meant that it has not been able to fulfil its legislative role of monitoring and holding to account the executive authorities in the West Bank and the Gaza Strip.

Both the 'Change and Reform' bloc in Gaza and the Palestinian President in the West Bank are issuing laws unlawfully and in violation of the Palestinian Basic Law. In 2012, the 'Change and Reform' bloc debated, ratified, and issued four laws, without ratification by the President of the PNA. The bloc has issued a total of 32 laws on behalf of the PLC since the internal political division began. These laws, published in the Gaza Strip in the Palestinian Gazette, include 18 new laws, 10 amendments to former laws, and four laws relating to general budget approval. The 32 laws were issued on behalf of the PLC despite the lack of a quorum during their discussion or issuance, and without ratification by the President of the PNA.

Palestinian President Mahmoud Abbas has issued decrees that have the power of law without presenting them to the PLC. In 2012, the President issued nine decrees, bringing the number of decrees he has issued since the beginning of the internal political division to 68. These decrees consist of 23 new laws, 23 amendments or cancellation of former laws, seven related to general budget approval, and 15 decrees in the form of laws that fall under the specific mandate of the PLC. These decrees, which have the power of law, are in violation of Article 43 of the Palestinian Basic Law.



#### **4. Erosion of the authority of the judiciary**

In 2012, the PNA further abused its executive authority in its domination of the judiciary. This violates the principle of the separation of powers, as provided for in Article 2 of the Basic Palestinian Law. The political division and conflict within the PNA since June 2007 have affected the judiciary, as two separate judicial systems are currently enforced in the West Bank and the Gaza Strip. In violation of the Palestinian Basic Law, the government in Gaza established a separate judicial system, to which the people of the Gaza Strip are subject. The judicial system in the West Bank applies only to those who live there. PCHR has repeatedly appealed to the concerned parties in Ramallah and Gaza to ensure the independence of the judiciary, despite the ongoing internal political division. PCHR has demanded that these parties take the necessary steps to preserve the independence of the judiciary, and refrain from politicising the judicial system in the interests of protecting the people. Regrettably, these pleas and warnings have not been heeded. The judiciary has been drawn into the conflict through a series of measures and decisions taken by the governments in Ramallah and Gaza.

##### ***The judiciary in the Gaza Strip***

In the days following the Hamas takeover of the Gaza Strip in mid-June 2007, several hasty measures were taken which resulted in the obstruction of the judiciary's work, especially in the Gaza Strip. The most notable development was the decision of the Chief of Police to suspend the work of the civilian police force in the Gaza Strip. Simultaneously, the Attorney General suspended his work in the Gaza Strip. The Attorney General is responsible for public prosecution, receiving claims, investigating crimes, and filing criminal charges.

In 2012, the Gaza government made a number of appointments and changes to the judiciary. Judge 'Adel Khalifa was appointed as President of the Higher Judicial Council

on 25 September 2012, succeeding Judge 'Abdul Ra'ouf al-Halabi, who was in turn appointed President of the Fatwa and Legislation Department in Gaza. The government appointed a number of judges. The most important appointment was that of Ahmed 'Attallah as a Higher Court Judge. PCHR reiterates that these appointments to the so-called 'Higher Judicial Council' raise concerns about the independence of the council, notwithstanding the fact that the council itself is an unconstitutional and illegal body. PCHR confirms that, as long as the internal political division persists, all appointments to the judiciary are illegal. Judges, prosecutors, and the Attorney General must be appointed by the President, based on nominations by the Higher Judicial Council, in accordance with Articles 18 and 63 of the Judiciary Law of 2002. These Articles lay out the requirements for the organisation of the judiciary in accordance with the Amended Basic Law of 2003. Thus, PCHR considers the Gaza judiciary to be a de facto authority.

### ***The judiciary in the West Bank***

In the West Bank, the Palestinian President continued to use legislative tools to control the judiciary, particularly when the government chose not to execute some of the rulings of the Ramallah Higher Court. President Mahmoud Abbas has continued to issue presidential decrees that have the force of law. This is in violation of Article 43 of the Palestinian Basic Law of 2003, which states, "The President of the National Authority shall have the right, in cases of necessity that cannot be delayed, and when the Legislative Council is not in session, to issue decrees that have the power of law. These decrees shall be presented to the Legislative Council in the first session convened after their issuance; otherwise they will cease to have the power of law. If these decrees are presented to the Legislative Council, as mentioned above, but are not approved by the latter, then they shall cease to have the power of law." However, in 2012, the President issued two decrees related to the technical work of the judiciary: Presidential Decree with the Power of Law No. 3 (2012) on the Shari'a Judiciary;



and Presidential Decree with the Power of Law (2012), on amending the Constitutional Court Act of 2006.

## **5. Obstruction of general and local elections**

The fragmentation of the Palestinian executive continues to be the main obstacle to democratic reform. Presidential and legislative elections to renew the legitimacy of the Palestinian people's representatives, who were elected in 2005 and 2006 respectively, have been obstructed. At the end of 2012, three years had passed since the expiration of the legal terms in office of the Palestinian President and the PLC. The PNA remains unable to hold general elections.

The PNA held local elections only in the West Bank, but not in the Gaza Strip. PCHR criticises the holding of elections, as long as the internal political division persists. We demand that the Gaza and Ramallah governments provide an atmosphere conducive to the organisation of transparent and fair elections. This will allow people to freely choose their public representatives, who will be subject to accountability in the West Bank and the Gaza Strip. Most importantly, such an atmosphere will ensure protection for public freedoms and a respect for constitutionally-guaranteed human rights, including political rights, and the lifting of bans on different political factions. The legal term of the Gaza Strip's local councils, which were elected in December 2005, expired three years ago. Elections must be held to renew the legitimacy of all local councils.

After the Cairo talks in late 2011, as well as the agreement to organise general (presidential and legislative) elections in the first half of 2012, relations between the rival Hamas and Fatah parties improved. A number of media statements indicated that reconciliation was not far off, especially in the wake of the Israeli offensive in November 2012. On the ground, however, nothing has been implemented.

By the end of 2012, there was still no progress in terms of holding or setting a date for the presidential and leg-

islative elections in the oPt. According to Palestinian law, the Palestinian President must call for legislative elections three months prior to holding them. This did not happen.

The holding of local elections in the villages and cities of the West Bank on 20 October 2012 was the most significant development in terms of elections since the Palestinian political division began in 2007. PCHR considers that these unilateral elections by the Fatah-dominated government in the West Bank represent a setback to efforts at reaching national reconciliation. Local elections were not held in the Gaza Strip, and the Hamas government continued to appoint Hamas-affiliated individuals to the local councils.

## **6. Violations of the right to freedom of opinion and expression**

In 2012, the two governments in Ramallah and Gaza, and the executive services in their respective areas of control, violated the right to freedom of opinion and expression and the freedom of the press. The Gaza and Ramallah governments committed violations of the rights of journalists, various media workers, editors, and others, who challenged mainstream opinions. The security services in the Gaza Strip continued to summon Fatah activists, detaining many of them for long periods of time. The security services in the West Bank continued to arrest and detain Hamas activists for long periods of time. The Gaza government has banned the distribution of West Bank-based newspapers, al-Quds, al-Hayat al-Jadeeda and al-Ayyam, while the West Bank government has banned the distribution and printing of Gaza-based newspapers, Palestine and al-Risala.

In the Gaza Strip, common violations of the right to freedom of opinion and expression included: summoning, detaining and arresting journalists; assaulting journalists by members of the security services; preventing journalists from carrying out their work; the detention of journalists/citizens by the al-Qassam Brigades for submission to the security services; and summoning, detaining and arresting



citizens for their political opinions.

In the West Bank, common violations of the right to freedom of opinion and expression include: arresting journalists/citizens for their political opinions; summoning, detaining, and arresting journalists, many of whom were assaulted; the assault of journalists by security services members; preventing journalists and media from carrying out their work; attacking journalists who were covering peaceful demonstrations; summoning, detaining, and arresting citizens for their political opinions; and blocking certain websites in the West Bank. Violations by unidentified persons in the West Bank have also continued, though the incidence of such violations has declined relative to the violations committed by the authorities.

## **7. Violations of the right to peaceful assembly**

In the last weeks of 2012, there were important and positive developments with respect to the right to freedom of peaceful assembly. These developments occurred in the context of the positive attitude towards national reconciliation. At the end of 2012, the Fatah movement prepared to celebrate its 48th anniversary in al-Saraya Square, in Gaza City. It was the first time since 2007 that the Fatah movement was permitted by the Hamas government to commemorate its anniversary in the Gaza Strip. The Fatah movement was also permitted to organise rallies in various cities and governorates in the Gaza Strip in support of President Mahmoud Abbas' efforts to obtain recognition of Palestine as a non-member observer State of the United Nations.

In the West Bank, the Hamas movement was permitted, for the first time since the beginning of the Palestinian division in 2007, to commemorate its anniversary in Ramallah, Nablus, and Hebron. For the first time, the Fatah movement participated in the main rally organised by the Hamas movement in the Gaza Strip. PCHR welcomes these positive developments as opportunities for internal recon-

ciliation. PCHR looks forward to an end to the restrictions imposed by the Ramallah and Gaza governments and their security services on the right to freedom of peaceful assembly.

Before these developments, the situation in 2012 was characterised by restrictions imposed on the right to peaceful assembly by the two governments and their security services in the Gaza Strip and the West Bank. The most significant violations of the right to freedom of peaceful assembly are outlined in the following paragraphs.

In the Gaza Strip, security services continued to enforce bans on public meetings, dispersing a number of public gatherings throughout the year. The most egregious violations were committed by security services during the weekly women's sit-in, which called for Palestinian reconciliation, and during peaceful protests, which called for a resolution to the electricity crisis in the Gaza Strip. A number of participants were beaten and detained by the security services, during dispersal of the protests. The security services imposed additional measures restricting the right of citizens to organise public meetings. Most of these measures targeted Fatah activists, including during events organised to celebrate the 48th anniversary of the Fatah movement in January 2012 and the anniversary of Yasser 'Arafat on 11 November. These measures were applied inappropriately and beyond their original scope, affecting private meetings, which are conducted in closed places and not required by law to give notification to competent official bodies. The distinction is noted under Item 5, Article (26) of the 2003 Amended Basic Law: "[C]onducting private meetings without the presence of police members, and conducting public meetings, gatherings and processions, within the limits of the law."

The government in the West Bank and its security services continued to violate the right of citizens to peaceful assembly, particularly those who participated in gatherings which contradicted mainstream opinion. The worst exam-



ple took place during a peaceful demonstration in Ramallah, which was organised to protest the visit of Shaoul Mofaz, the Israeli Vice Prime Minister at the time, to the Office of the President (al-Mokat'aa). Participants and journalists were subjected to beatings and arrests. On the other hand, PCHR documented a number of gatherings protesting the high cost of living, which were supported by the Fatah movement in the West Bank. From 3 to 11 September, protests and demonstrations in different cities in the West Bank were held in response to the Ramallah government's decision to raise fuel prices. Although some of these protests deviated from their originally-peaceful nature, their participants were not attacked by the security services. In 2012, the Hamas movement was reluctant to commemorate its anniversary in the West Bank, as its members had been subjected to arrests and summons in previous years.

## **8. Violations of the right to freedom of association**

The governments in Gaza and Ramallah continued to violate the right to freedom of association in 2012. More restrictions were imposed on civil society organisations. These restrictions are in violation of the PNA's obligation to respect, protect, and guarantee this right in accordance with the relevant international standards.

In the Gaza Strip, more violations of the right to form associations were reported. The Ministry of Interior increasingly intervened in the affairs of associations in attempts to control these associations. The Associations Registration Office at the Ministry of the Interior abused its authority by granting licences based on arbitrary standards, which is in clear violation of the law. The Ministry of Interior continued to shut down associations without any legal justification by withdrawing their licenses. It also prevented NGOs from holding activities and events.

The government in Gaza continued to develop administrative procedures and issue decisions which furthered the restrictions already imposed on the work of associations. Among these was a decision, issued on 31 May 2011, by

the Council of Ministers in Gaza to amend the 2003 Executive Bill of Charitable Associations and Community Organisations. The amendment strengthened the authority of the Ministry of Interior with regard to the monitoring of associations, making its role equal to that of the relevant ministry. This clearly constitutes a violation of the Law of Charitable Associations and Community Organisations. In a press release, published on 11 August 2011,<sup>2</sup> PCHR highlighted the invalidity and unconstitutionality of the amendment and called on the Council of Ministers in Gaza to reconsider its decision. Due to the lack of response from the Council of Ministers, PCHR filed a petition on 7 June 2012, challenging the constitutionality of the decision. The petition was submitted to the Supreme Court in Gaza, calling on it to rule in its capacity as the constitutional court. On 18 June 2012, the Court declined to consider the petition, claiming that it did not have the necessary competence to consider the case.

Violations of the right to freedom of association persisted in the West Bank. Restrictions imposed on the right remained in effect, including those resulting from presidential decrees issued by the Palestinian President, Mahmoud Abbas. Common violations in the West Bank included: the raiding and searching of the offices of associations; the appointing of new boards affiliated to the government or Fatah movement; and the refusal to issue new licenses to associations that are affiliated to Hamas.

Measures were taken as a prelude to dissolving legally-licensed civil society organisations, and restricting their work during the state of emergency declared in the oPt. The government in Ramallah refused to reconsider its decision to dissolve 103 societies with close affiliations to



2: PCHR, "PCHR Calls for Reconsideration of Decision to Make Amendments to the Executive Bill of Charitable Associations and Community Organisations Law No. 1/2000", 11 August 2011.



Hamas, despite demands by civil society organisations.

The PNA has also failed to implement the Palestinian courts' decisions regarding a number of associations in the West Bank.

### **9. Continued application of the death penalty**

The Palestinian courts issued six death sentences in 2012. All of the death sentences were issued in the Gaza Strip. Four were issued by the military courts, while the remaining two were issued by civil courts. PCHR documented two instances of civilians being tried in military courts, in violation of the law. The number of death sentences issued by the Palestinian courts since the establishment of the PNA has risen to 131.

There was a significant increase in the implementation of death sentences in 2012. Six people were put to death in the Gaza Strip, one of whom had been sentenced to death by a military court. The total number of death sentences carried out in the Gaza Strip since the Hamas' takeover in 2007 has increased to 14. No death sentence has been executed in the West Bank.

In this context, PCHR highly appreciates the fact that the Palestinian President has not ratified any death sentences since 2005. We hope that he will continue to abstain from ratifying death sentences, and continue to move towards the abolition of the death penalty.

### **10. Impact of political division on economic and social rights in the Gaza Strip**

The political crisis within the PNA, and the conflict between the two governments in Gaza and Ramallah, has negatively impacted the already difficult economic and social conditions of the Palestinian people in the Gaza Strip. Measures taken by the two governments, in addition to the closure of the Gaza Strip by Israeli forces, have severely

impacted people's living conditions and undermined their ability to provide for themselves and their families. In 2012, thousands of public service employees and their families suffered cuts to their salaries, which the Ramallah government initiated following the political division in 2007. Employees of the public and security services who receive salaries from the PNA, particularly those affiliated with the Fatah movement, are constantly monitored and harassed by the government in Gaza and its security services.

In 2012, all services provided to the people of the Gaza Strip were negatively affected by the ongoing political and power struggle between the two governments in Ramallah and Gaza. Health conditions deteriorated, as all public health facilities in the Gaza Strip suffered from acute shortages of medicines and medical necessities. In addition, the severe financial crisis in the PNA meant that hundreds of patients, including those with chronic diseases, psychological conditions, and financial problems, were no longer able to afford their medicine. The Ministry of Health in Ramallah prevented many patients, for whom medical treatment was not available in the Gaza Strip, from travelling abroad by refusing to renew their passports or allow passports to be issued in Gaza. The Ministry of Interior in Gaza also prevented many people, especially members of the Fatah movement, from travelling abroad either through the Rafah International Crossing Point or Beit Hanoun ('Erez') crossing.

The electricity crisis in the Gaza Strip is one of the most critical challenges, as a reliable electricity supply is crucial for various basic services. Finding a means of alternative energy has become a key concern for the people of Gaza. The use of power generators or candles to compensate for the shortage of electric services has caused many accidents, and resulted in a number of deaths.

PCHR has warned of the serious consequences of the total shutdown of the Gaza power plant, and the resulting impact on the ability of 1.8 million Palestinians in the Gaza Strip to access vital services.



## > Recommendations

In light of continued violations by the Israeli forces of the rights of Palestinian civilians, and the continued Palestinian political division, PCHR presents the following recommendations to the international community.

### Recommendations to the international community

PCHR draws attention to the position of the international community that the Gaza Strip and the West Bank, including East Jerusalem, are still under Israeli occupation, despite the 2005 “disengagement” of the Israeli military from the Gaza Strip. Israeli forces have continued to impose collective punishment on the people of the Gaza Strip. Such punishment escalated after the 2006 Palestinian parliamentary elections, in which Hamas won the majority of seats in the PLC. PCHR stresses that, as the Occupying Power, Israel has an obligation to respect international human rights instruments and international humanitarian law, especially the Hague Regulations on the Laws and Customs of War on Land and the Geneva Conventions, an obligation which is internationally recognised. Israel is obliged to apply international human rights law and international humanitarian law, reciprocally or in parallel, in order to achieve the best protection for civilians and remedy for victims.

PCHR notes the continued arbitrary measures, land confiscation, and settlement activities in the West Bank, as well as the continued aggression against civilians in the Gaza Strip, especially the during the Israeli offensive in November. PCHR, therefore, calls upon the international community, particularly the United Nations, the High Contracting Parties to the Geneva Convention, and the European Union - given their natural obligation to respect and enforce international law – to cooperate and act on the following recommendations:

1. PCHR calls upon the international community and the United Nations to use all available means to facilitate



the Palestinian people to realise their right to self-determination through the establishment of an independent Palestinian State, which has been recognised by the vast majority of members of the UN General Assembly, and to use all international legal mechanisms, including sanctions, to end the occupation of the State of Palestine.

2. PCHR calls upon the United Nations to provide international protection to Palestinians in the oPt, and to ensure the non-recurrence of aggression against the oPt, especially in the Gaza Strip.
3. PCHR calls upon the High Contracting Parties to the Geneva Conventions to compel Israel, as a High Contracting Party to the Conventions, to apply the Conventions in the oPt.
4. PCHR calls upon the parties to international human rights instruments, especially the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, to put pressure on Israel to comply with their obligations in the oPt, and to compel Israel to incorporate the human rights situation in the oPt into the reports it submits to the concerned committees.
5. PCHR calls upon the High Contracting Parties to the Geneva Conventions to fulfil their obligation to ensure the application of the Conventions, including extending the scope of their jurisdiction to prosecute suspected war criminals, regardless of the nationality of the perpetrator and the place of crime, and to pave the way for prosecuting suspected Israeli war criminals and end the longstanding impunity they have enjoyed.
6. PCHR calls upon States that apply the principle of universal jurisdiction and not to surrender to Israeli pressure to limit universal jurisdiction, which would perpetuate the impunity enjoyed by suspected Israeli war criminals.
7. PCHR calls upon the international community to put an end to all Israeli settlement expansion activities in the oPt by imposing sanctions on Israeli settlements and criminalising trade with them.
8. PCHR calls upon the UN General Assembly to transfer

the Goldstone Report to the UN Security Council for referral to the International Criminal Court in accordance with Article 13(b) of the Rome Statute.

9. PCHR calls upon the United Nations to confirm that holding war criminals responsible for their actions in the Palestinian-Israeli conflict is a precondition to achieving stability and peace in the region, and that peace cannot be built at the expense of human rights and justice for victims.
10. PCHR calls upon the UN General Assembly and Human Rights Council to explicitly declare that the Israeli policy of closure of the Gaza Strip and the annexation wall in the West Bank are illegal, and to refer both issues to the UN Security Council so that sanctions can be imposed on Israel to compel it to lift the closure and remove the wall.
11. PCHR calls upon the international community, in light of its failure to stop aggression against the Palestinian people, to at least fulfil its obligation to reconstruct the Gaza Strip following the repeated hostilities launched by Israel, which often directly target civilian infrastructure.
12. PCHR calls upon the United Nations and the European Union to express a clear position on the annexation wall, based on international recognition of the State of Palestine along the 1967 borders, since the annexation wall seizes large parts of the State of Palestine.
13. PCHR calls upon the European Union to activate Article 2 of the EU-Israel Association Agreement, which provides that both sides must respect human rights as a precondition for economic cooperation between the EU states and Israel. We reiterate that the EU must not ignore Israeli violation and crimes against Palestinian civilians.
14. PCHR calls upon the international community, especially the United Nations, to encourage the State of Palestine to accede to international human rights and humanitarian law instruments.
15. PCHR calls upon the international community to support efforts to achieve Palestinian national reconciliation by exerting political pressure on Hamas and Fatah



to work towards reconciliation. The international community should accept the results of reconciliation, in order to avoid the recurrence of penal sanctions which were adopted by the international community against the first Palestinian national unity government.

16. PCHR calls upon the European Union and international human rights bodies to put pressure on Israeli forces to put an end to attacks on Palestinian fishermen and allow them to fish freely, as fishing is a major component of the economic sector in the Gaza Strip.

### ***Recommendations to the PNA***

In 2012, the ongoing political division led to the deterioration of rights and liberties in PNA-controlled areas. The PLC could not fulfil its legislative and monitoring role. The rival political parties continued to involve the judiciary in the internal conflict, undermining the independence of the judiciary. In light of these facts, PCHR calls upon the Palestinian leadership to cooperate and jointly implement the following recommendations:

1. In light of Palestine's admission as a non-member observer State to the United Nations, PCHR calls upon the Palestinian President to ensure that Palestine accedes to all international human rights and humanitarian law instruments. PCHR calls for the immediate signing and ratification of the following instruments:
  - » Rome Statute of the International Criminal Court of 1998;
  - » Geneva Conventions of 1949 and Additional Protocols of 1977;
  - » International Covenant on Civil and Political Rights of 1996 and the two Optional Protocols of 1966 and 1989;
  - » International Covenant on Economic, Social and Cultural Rights of 1966;
  - » Convention on the Elimination of All Forms of Discrimination against Women of 1979;
  - » Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- of 1984;
  - » Convention of the Rights of the Child of 1989; and
  - » Convention on the Rights of Persons with Disabilities of 2006.
2. PCHR calls upon the Fatah and Hamas movements to take immediate, practical steps on the ground to implement the national reconciliation agreement that was signed in Cairo on 4 May 2011.
  3. PCHR calls upon Fatah and Hamas to make information related to their efforts to achieve reconciliation available to the public, ensuring transparency and accountability.
  4. PCHR calls on the PNA to immediately begin preparations for Palestinian parliamentary and presidential elections, given that the legal terms in office of the PNA and the PLC expired in January 2009 and 2010 respectively. PCHR calls for elections to be held in an atmosphere of respect for all rights and liberties, especially the right to freedom of opinion and expression and the right to peaceful assembly.
  5. PCHR calls upon the Palestinian President to comply with the conditions for issuing presidential decrees that have the power of law as prescribed by Article 43 of the Palestinian Basic Law, including by exercising the right only in cases of necessity that cannot be delayed.
  6. PCHR calls upon the Palestinian President to immediately reverse the presidential decree which he issued in November 2006, amending the Law on the Supreme Constitutional Court of 2006.
  7. PCHR calls upon the 'Change and Reform' bloc to stop holding sessions in the name of the PLC, and to abstain from enacting any laws while the political division is ongoing.
  8. PCHR calls upon the Council of Ministers in Gaza to reverse its unconstitutional decision of 2011, which amended the Executive Bill of 2003 of the Law of Charitable Associations and Community Organisations.
  9. PCHR calls upon Hamas and Fatah to present all laws enacted during the political division to the Supreme



Constitutional Court, once it is established, as it is the only body that has the authority to decide on the constitutionality of laws.

10. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to take effective measures to end the state of lawlessness plaguing the oPt, and abstain from providing political cover to those who have caused this state of lawlessness.
11. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to put an end to all violations of the right to freedom of opinion and expression and the right to peaceful assembly, and to hold the perpetrators of such violations accountable via appropriate legal means.
12. PCHR calls upon the Ministries of Interior in the West Bank and the Gaza Strip to put an end to political arrests. PCHR emphasises that all victims have the right to claim compensation if it is proven that they were arrested illegally.
13. PCHR calls upon the Public Prosecutor to put an end to the practice of summoning people via security services without warrants, and confirms that the Public Prosecutor is the only body authorised to summon people.
14. PCHR calls upon the administrations of prisons and detention facilities to release all persons who were illegally detained, and confirms that directors of prisons and detention facilities have the authority, and even the duty, to release such persons; otherwise, they will be legally liable.
15. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to immediately put to the use of torture in prisons and detention facilities, and hold suspected perpetrators accountable for their crimes, which remain punishable at all times according to the Palestinian Basic Law.
16. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to stop intervening in the activities and affairs of associations beyond the limits of the Law of Charitable Associations and Community Organisations.

17. PCHR calls upon the Higher Judiciary Council to reunite the judiciary in the West Bank and the Gaza Strip, and to ensure its independence and impartiality.
18. PCHR calls upon the Palestinian President to refer without delay to the UN General Assembly to seek the referral of the Goldstone Report to the UN Security Council.
19. PCHR calls upon the Hamas government in Gaza and the Palestinian President to stop applying the death penalty, and to abstain from implementing death sentences that have been issued to date until such time as the death penalty is abolished in Palestinian law. In this context, PCHR emphasises that death sentences implemented in the Gaza Strip since 2007 constitute extrajudicial killings because they were implemented without the Palestinian President's ratification, as required under the Palestinian Basic Law and Penal Code.
20. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to take strict measures against those who are involved in violations of public liberties.
21. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to ensure the transparency of the PNA and allow access to information about public affairs, especially through the websites of ministries and various governmental bodies.
22. PCHR calls upon the Hamas government in Gaza to make serious efforts to solve the electricity crisis in the Gaza Strip and to make all information related to the crisis available to the public.
23. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to implement the Palestinian Disability Law No. 4 of 1999, especially by providing adequate facilities to people with disabilities and guaranteeing their right to work.
24. PCHR calls upon the Fatah government in the West Bank and the Hamas government in the Gaza Strip to respect the right to freedom of movement, and emphasises that restrictions of this right are possible only by judicial order, according to the Palestinian Basic Law.

