

**THE RIGHT TO FREEDOM OF EXPRESSION AND THE  
RIGHT TO PEACEFUL ASSEMBLY UNDER THE  
PALESTINIAN NATIONAL AUTHORITY**

The Case of the Gaza Strip (May 1994-December 1998)

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## Introduction

Since the establishment of the Palestinian National Authority in May 1994, work on building a civil society based on the principles of pluralism and democracy immediately attracted the attention of many Palestinian politicians, intellectuals, human rights activists and public opinion. The issues of the right for freedom of expression and opinion and the right to peaceful assembly became the most important issues, as these constitute the foundation for efforts towards a democratic political system and a Palestinian civil society. The current debate focuses on the extent to which the PA is capable of providing protection in law and in practice for the right of freedom of expression and opinion, and the right to peaceful assembly. Also, the extent to which this meets with the relevant international standards, represented in particular by the international Bill of human rights<sup>1</sup>.

This study aims at highlighting the status of the right for freedom of expression and the right to peaceful assembly under the Palestinian National Authority during the period May 1994 to December 1998. The study will be followed by later studies related to the right for freedom of expression and the right to peaceful assembly, in one of the years after 1998. The study relies essentially on the monitoring and documentation of the field research unit at the Palestinian Center for Human Rights. Since most of the documentation of the center is focused in the Gaza Strip, the study concentrates on geographical area under the PNA jurisdiction in the Gaza Strip.

The Study is divided into three main parts. The first part defines the concept of the right of freedom of opinion and expression, and its relation to the right to peaceful assembly. Later, it discusses the importance of these rights in democratic societies and systems. Moreover, it reviews the international standards that deal with freedom of expression and the right to peaceful assembly.

The second part focuses on the legal frameworks that were inherited by the Palestinian National Authority from the British Mandate over Palestine,

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<sup>1</sup> The international Bill of human rights consists of the universal Declaration of Human Rights (1948), and the International Convention on Economic, Social and Cultural Rights (1966), the International Convention on Civil and Political Rights (1966) and the first optional protocol attached to it.

which imposed tight restrictions on the exercise of the right of freedom of expression and the right to peaceful assembly.

The third part deals mainly with the status of these rights under the PNA during the period between May 1996 and December 1998. Within the context of the study, the pertaining laws and presidential decrees will be mentioned, in addition to the study and analysis of PNA practices towards citizens on the basis of exercising these rights.

## **The Right to Freedom of Expression and the Right to Peaceful Assembly**

One can trace the beginnings of the idea of freedom of expression to the Declaration of the French Human Rights in 1789. The declaration stipulated "the concept of respecting the freedom of opinion, belief, speech and press<sup>2</sup>". Later, as gradual democratic transformations took place in the countries of western Europe, the concept began to have a different meaning and spirit. It was viewed as one of the most significant and basic human rights, a fundamental indicator of any democratic system, and necessary for reinforcing the principles of a free civil society. It carried the following meaning, *"the right of every human being to formulate his ideas and beliefs freely and publicly and in the manner he deems appropriate, whether by speech, or through writing articles and books, or through organizing demonstrations and marches, or holding popular meetings and all forms of protest, in addition to the free self-expression through arts, music and other forms. Freedom of expression also means that the human being is free in listening to the opinions of others; it also includes the right of the human being in keeping silent and not to express his opinion unless he is willing to do that"*<sup>3</sup>. Thus, the right to peaceful assembly is a basic mechanism, which dramatizes the freedom of expression and opinion. Without such a mechanism, this freedom becomes incomplete. This also includes the rights of citizens to participate in public meetings to discuss issues that concern them, or dealing with public affairs and the exchange of ideas and opinions freely. It also covers the rights of citizens to organize peaceful assemblies in the form of demonstrations and marches and other forms of self-expression, for the purpose of affecting the opinions of other citizens, or in protest against specific issues related to public affairs.

Talking about the right of freedom of expression and opinion implies tackling other related freedoms, other than the right to peaceful assembly. These freedoms are necessary for exercising this right. Among the most significant of these freedoms is the freedom to access knowledge. It is impossible to exercise the right of freedom of expression and opinion without having free access to all kinds of information, and the freedom to research and investigate the validity of such information. Without accurate

<sup>2</sup> Ismail Sabri Abdallah, "The Economic and Social Requirements for Democracy in the Arab World" at the Center of Arab Unity Studies, Democracy and Human Rights in the Arab World, Beirut: Center of Inter-Arab Unity Studies, Series of Arab Future Books (4), 1983, p. 109.

<sup>3</sup> Nabil al-Saleh, Freedom of Expression, Ramallah: The Palestinian Institute for Studying Democracy (Muwaten), Series of Principles of Democracy (5), 1996, p. 6.

and available information, citizens cannot formulate their own opinions and make their own decisions. Without guaranteeing the right of citizens to publish and convey their opinions, there will be no chance of conveying such information to other citizens in order to gain their support or for persuasion purposes.

Freedom of expression and opinion is not limited to political issues but also extends to economic, social, cultural, scientific, ethical and other issues. It is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as matter of indifference, but also those that offend shock or disturb the state or any sector of the population. These information and ideas can be conveyed through calm means or through vigorous protest, providing this remains within the limits of public conduct and ethics. The basic idea of the freedom of expression and opinion is that it is not only one right; it is a group of rights that focus around the freedom of expression and listening to the opinions of others without restriction. This requires the provision of several means and mechanisms that must be used and protected as part of the freedom of expression<sup>4</sup>. Among these means are the press, television, radio and other mass media, in addition to public meetings and peaceful assemblies.

### ***The Right to Freedom of Expression and Opinion and the Right to Peaceful Assembly in the Democratic Systems***

The right of freedom of expression and opinion and the right to peaceful assembly are protected constitutionally in a democratic political system. They are considered amongst the basic rights granted by the constitution. Despite the fact that states should be allowed to impose restrictions on the practice of these rights under specific conditions, these restrictions should be temporary, and legally justified. States will not be allowed to confiscate, and abolish these rights as long as there is no legal justification to do so.

The democratic system is based on the fact that the people are the source of authority, and that they have the right to account and monitor those who exercise this authority on their behalf. The people usually exercise their rights in accountability and monitoring through several means, with elections being one of the fundamental tools to elect the people's representatives. This illustrates the importance of exercising the right of freedom of expression and opinion as a basic means through which the people can shape their opinion and take decisions regarding their representatives. This also shows the importance of the right to peaceful

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<sup>4</sup> Ibid. P.7.

assembly, whether through holding public or closed meetings, or through organizing peaceful marches and demonstrations. Without reserving these rights, the elections lose their reason for existence, and lose their legitimacy as the representatives of the people.

The right for freedom of expression and opinion and the right to peaceful assembly are also fundamental for renewing the effectiveness and vitality of the democratic system, in addition to their power as driving forces towards political and intellectual pluralism. Citizens exercising the right of freedom of expression and opinion and the right to peaceful assembly will assist the political system in determining new beliefs and opinions, and help it in defining the issues that concern the citizens. The right to peaceful assembly offers citizens an opportunity to exchange ideas and opinions. This right, as expressed in the form of marches and demonstrations, is one of the means available to the citizen to participate in political life, and to exercise peaceful pressure on rulers in order to achieve certain demands. This will help the political system to formulate policies that reflect people's interest, which in turn will create a state of harmony between public opinion and the decision-makers.

The right for freedom of expression and opinion is considered a means to reinforce the principles of social reconciliation. This right is based on the fact that individuals are equal and they have equal rights to express their opinions. This principle also implies the ratification of pluralism, and the difference of opinions and the readiness to listen to the opinion of others.

Therefore, the exercise of the right of freedom of expression holds central importance in democratic systems. It is the necessary condition for the principle of political participation, the basis of democratic principles and practice. Political participation presupposes that citizens have the right to instruct the public affairs of the country. In order to achieve this, the freedom of self-expression must be available so that they can express their opinions and beliefs. The right of the majority to exercise authority is sacred in the same way that the right of the minority to oppose is too. The minority has the right to promote its beliefs to gain the opinion of the majority, and to exert efforts to reach power. This is the principle of authority rotation, which is considered one of the basic features of any democratic system<sup>5</sup>.

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<sup>5</sup> Freedom of Expression and the Right for Political Participation, Human Rights in the Arab World. The Arab Organization for Human Rights in Britain, the Second Intellectual Forum, London. August 1993.



Despite the special importance granted by the democratic system to the right of freedom of expression and opinion and the right to peaceful assembly, the abuse of those rights by individuals in a manner that might lead to a violation of the basic freedoms of others, or the destabilization of the democratic system itself, is absolutely forbidden. Thus, many democratic systems which set up laws to ensure the right of freedom of expression and opinion and the right to peaceful assembly, also set restrictions on exercising these rights.

***The Right to Freedom of opinion and Expression and the Right to Peaceful Assembly in International standard and Regional Human Rights Conventions***

The international and regional charters and agreements include clear text that assert on the right of freedom of expression and opinion, and the right to peaceful assembly as basic human rights, without which no other rights can be achieved. Article (19) of the Universal Declaration of Human Rights (1948) provides that, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Article (19) of the International Covenant on Civil and Political Rights stipulated, "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

The UN General Assembly affirmed in its resolution no. 50 (d-1), on December 14, 1946, that "the freedom of press is one of the basic human rights and a criteria through which all freedoms that the UN work for are measured".

It is clear from the texts of articles pertaining to the right to freedom of expression and opinion in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the UN General Assembly resolution, that the right of freedom of expression and opinion does not recognize borders between countries. The citizen has the right to have access to all information and events, whether at the local or international level. The state holds a significant responsibility to provide the means to make knowledge accessible. This responsibility also includes creating the appropriate environment to exercise this right, through

reducing as much as possible the restrictions imposed on the exercise of this right. It must ensure that the citizen has access to information, whether through the radio, magazine, newspapers, television and other means. The right to information, as stipulated in the above-mentioned texts, is considered basic and a precondition towards exercising this right.

Moreover, regional Human Rights Conventions emphasize the right to freedom of expression and opinion. The European Convention on Human Rights<sup>6</sup> stresses in its article 10 (1) that, "Every one has the right to freedom of expression. This right shall include freedom to hold opinion and to receive and impart information and ideas without interference by public authority, and regardless of frontiers. This article shall not prevent state from requiring the licensing of broadcasting, television or cinema"<sup>7</sup>. The American Convention on Human Rights<sup>8</sup>, article 13, and the African Charter on Human Rights and Peoples' rights<sup>9</sup> (article nine) stipulated the right of freedom of expression and opinion. Both of these charters stressed the right of the human being to access information and express and publish opinions<sup>10</sup>.

Although these rights were affirmed as basic rights of individuals, most of the international and regional conventions and treaties agree that they should be subject to some restrictions. Article 19 (3) of the International Covenant on Civil and Political Rights stipulated that the exercise of the right of freedom of expression and opinion entails a number of commitments and responsibilities. The right of freedom of expression and opinion may be subjected to some restrictions, provided these restrictions are specified by the law and considered necessary for respecting the rights and reputations of others and to protect the national security, public order or ethics.

According to article 13 (2) of the American Convention on Human Rights, no preset monitoring can be imposed on the exercise of the right of freedom of expression and opinion unless they are to secure the following:

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<sup>6</sup> This convention was ratified by the majority of the European countries in Rome in 1950 and entered into force on September 1953.

<sup>7</sup> Francies Jacobs, and Robin C.A. White, The European Convention on Human Rights, Oxford: Clarendon Press, 1996, p. 222.

<sup>8</sup> This convention was signed by the American countries Costa Rica conference held in November 1969. The convention entered into force in July 1978.

<sup>9</sup> This Charter was ratified by the member states in the African Unity Organization in July 1979 and became effective in 1981.

<sup>10</sup> Amir Musa, Human Rights: An Approach towards Legal Awareness, Center for Unity Studies, Series of National culture (24), 1994, p. 173-174.

“a- respect and reputation of others; b- protecting the national security or public order, health or ethics”. In addition, the Proposed Arab charter on human rights affirmed the inadmissibility of imposing restrictions on freedom of belief, thought or opinion, unless otherwise stated by the law<sup>11</sup>.

The international conventions prohibit the publication of any information that constitute incitement to discrimination, hostility or violence. Article 20 of the International Covenant on Civil and Political Rights provides: “1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitute incitement to discrimination, hostility or violence shall be prohibited by law.” Article seven of the Declaration of Principles of International Cultural Cooperation stipulated that the environment supporting creativity, development and peace among peoples can only be achieved through the exchange of ideas and cultures without barriers. The Article provides, “1. Broad dissemination of ideas and knowledge, based on freest exchange and discussion, is essential to creative activity, the pursuit of truth and the development of personality”. Moreover, the article provides:” in cultural cooperation, stress shall be laid on ideas and values conduct to the creation of a climate of friendship and peace. Any mark of hostility in attitude and in expression of opinion shall be avoided. Every effort shall be made, in presenting and disseminating information, to ensure its authenticity”.<sup>12</sup>

Besides affirming the right of freedom of expression as a human right and banning hostile propaganda, the international and regional treaties and conventions stressed the right to peaceful assembly as another human right. Article 20 of the Universal Declaration of Human Rights stipulates, “Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.” Article 21 of the International Covenant on Civil and Political Rights stressed the right to peaceful assembly as a human right, outlining the restrictions that may be imposed when exercising this right. “ The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*order public*), the protection of public health or morals, or the protection of the rights and freedoms of others.”

The regional treaties and conventions did not ignore this as an important human right and necessary for the exercise of other rights. Article 11 (1) of

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<sup>11</sup> Ibid. p. 147.

<sup>12</sup> Ibid.

the European Convention on Human Rights stipulated "Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests." The second paragraph of the same article outlined the restrictions that may be imposed, "no restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restriction on the exercise of these rights by members of the armed forces, of police or of the administration of the state<sup>13</sup>." In addition to that, the American on Human Rights (articles 15 and 16) and the African Charter on Human Rights and Peoples' Rights (articles 10 and 11) stipulate the right to freedom of assembly and the restrictions to be imposed on this right, including the necessary restrictions to be outlined by the law, especially those related to national security and the safety and health of others, and public morals<sup>14</sup>.

In brief, after reviewing the international and regional treaties and conventions, it is notable that these conventions affirm these two rights as basic human rights that can be subject to restrictions in only two cases. First: if exercising this right brings about negative effects on the national security of that state. Second: if exercising such a right impacts negatively on public morals. The problem in these two cases is that the terms "national security" and "public morals" are very flexible concepts and could be interpreted in various forms. This flexibility might give some political systems room to use the same articles as a basis for violation through formulating special interpretations and definitions to those concepts. This could be in a manner that gives absolute right in defining the extent of interference to restrict the exercise of those rights, and outlining the margin through which the citizens can exercise these rights. Therefore, in order to avoid this dilemma, the UN Human Rights Committee affirmed in the International Covenant on Civil and Political Rights that the restrictions on those rights by any political system must be stipulated in the constitution, and are to be imposed only in utmost emergency cases, such as the case of war<sup>15</sup>. Based on the above, any restrictions set on those rights and not mentioned in the constitution are considered void and non-binding. In all

<sup>13</sup> Francies Jacobs, and Robin C.A White. The European Convention on Human Rights, Clarendon Press, Oxford, 1996, p. 237.

<sup>14</sup> Amir Musa, Human Rights: An Approach towards Legal Awareness, Center for Unity Studies, Series of National culture (24), 1994, p. 179-180.

<sup>15</sup> INTERDOC NO. 1 The NADESAN CENTER, Third Edition, December 1995, p. 35.

cases, the issue of allowing the exercise of those rights is the norm, and restricting the exercise of those rights is the exception. It is necessary that political systems work on creating the appropriate environment to allow the exercise of those rights with as much freedom as possible and with the least restrictions.

## **The Legal Framework of the Right to Freedom of Expression and Opinion and the right to Peaceful Assembly in Palestine prior to the establishment of the PNA**

Palestinian legal system is a unique model since the process of, legislation, drafting and issuing laws in this part of the world, was, historically, subjected to the control of mostly foreign non-national forces. This began with the Ottoman Rule, and then the British Mandate, the Egyptian administration in the Gaza Strip, and the Jordanian rule in the West Bank. It culminated in the Israeli occupation of the West Bank and Gaza Strip in 1967. The accumulation of foreign control over Palestine in its legal context has given rise to a very complicated status that contradicts with the wishes and aspirations of the Palestinian people. The laws that were issued served the needs of the invading forces, and operated as tools through which they tightened their control and hegemony over the region. These laws hindered the political, economic, social, literary, and artistic development of Palestinians. The basic aim was to keep Palestinians under control, and to prevent any national aspiration. Moreover, The laws served as mechanisms to withheld basic human rights, including the right to freedom of expression and the right to peaceful assembly. The following sections will introduce the legal effects of each era on the Human Rights of Palestinians, particularly the right to freedom of expression and opinion.

### ***The Ottoman Empire Era***

In 1517 the Ottoman army entered Palestine, including the Gaza Strip, and from that time the Ottoman Empire's rule become applicable on Palestine. The Ottoman rule in Palestine endured until 1917 when the British army entered the region during the First World War. At the beginning, the legal system under the Ottoman Rule was based on Islamic teachings as a source of legislation. Later on, due to the developments which took place in the Palestinian society, the Ottoman authority realized that it was necessary to set up new civil laws to structure the lives of citizens and their relationship with the existing authority. The Ottoman authority therefore established what was known as "The Judicial Provisions Gazette" in 1286 Hijri<sup>16</sup>. This Gazette comprised of 16 books consisting of 1851 articles. These laws secured a wide scope for the Ottoman Authorities for controlling the society, including the right of freedom of expression and the

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See The Legal System in Gaza Strip, The Palestinian Center for Human Rights, Series of Studies (9), Second edition, May 1999, p. 6.

right to peaceful assembly. As such, when the British entered Palestine in 1917 there was no legal heritage that enabled the exercise of these rights. The British Mandate, as we will see later, further played a major role in restricting the freedom of citizens to exercise those rights.

### ***The British Mandate Era***

During the British Mandate over Palestine between 1920 and 1948, Britain worked hard to provide the necessary climate and support for implementing the Zionist plan. This was in honor of a promise made by Britain in 1917 to the Zionist Movement to assist in the establishment of a national homeland for Jews in Palestine. Amongst other measures, the British Higher Commissioner in Palestine issued the legislation which are necessary to execute the British-Zionist scheme, despite the absolute opposition of the people in Palestine. A certain portion of the laws were devoted to confiscate the public freedom of Palestinians and depriving them of their basic human rights, in particular the right to freedom of expression and the right to peaceful assembly.

In January 19, 1933, the “Law of Publications” was issued to amend and co-ordinate legislation related to the printing and publishing newspapers and other publications, and to organize and register books and printing houses. This law constituted the first legal basis to control publications and imposed tight restrictions on what was allowed. The Higher Commissioner was granted expansive authority to punish violators of the law. For example, according to Article 19, the Higher Commissioner had the right to issue a decree suspending a newspaper if it published “material that might endanger public order, according to the Higher Commissioner”. Also, if it “publishes false news or rumors that are deemed by the Higher Commissioner as causing panic”. Article 20 granted the Higher Commissioner authority to “ban the entry of any newspaper published outside Palestine for the period he deems necessary if he believes that distributing this newspaper in Palestine might endanger the public order”<sup>17</sup>.

The British Mandate entrenched its control and power through the inclusion of several articles pertaining to the issue of publications and printing, in the Penal Law of 1936. These articles in particular added additional leverage

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Law No. 3 for the year 1933 and it was published in Chapter 116 in the second volume of the Palestine Laws Series (Dighton) and was amended by laws: 30/1934, 1/1937, 23/1939, 24/1939 and 19/1943. See Mazen Sisalem and others (Prepared and compiled), Palestinian Laws Series, Volume 20, Jerusalem: Arab Sharq Printing House, 1982.

for banning publishing and for restricting freedom of expression, and for the tightening of penalties generally. For example, article 59 of that law states that, “any person who transmits, publishes or distributes a publication containing bad intentions” or “any person who imports any publication with bad intentions” or “any person who is seized with such material”, will be committing an offense. Article 60 defined the “bad intention” as the “intention of creating hatred, contempt or instigating against the person of the King or the Mandated State or the Higher Commissioner in his official capacity or the existing government of Palestine by law”. Also, “the intention to incite the residents of Palestine to attempt any change to the status quo in Palestine through illegal means”, or “through causing a split between the residents of Palestine or causing hostility among the various sectors of the people in Palestine”<sup>18</sup>.

The “emergency regulations” of 1945 were the ultimate persecution by the British Mandate in Palestine concerning publications, because it included tight restrictions and granted wide powers to the mandate authorities to increase their control and censoring over publications, and also the exchange and circulation of ideas and information. Article 87 allows the censor, who is appointed by the Higher Commissioner to that capacity, to issue an order “banning in general or in particular any material that he deems as damaging or with potential damage to the defense of Palestine or public safety or order”. Article 88 empowers the censor “to ban the import, export, publication or distributing of any publication” under the same pretext. Article 94 reiterates the inadmissibility of publishing any newspaper without getting a prior license from the governor of the district, who has the authority “to grant the license or deny it without the need to give any reason”. The governor has the right to “link the license with any conditions and to cancel the license he grants or change its conditions mentioned in the above-mentioned text at any time”. Article 96 bans “the printing of any advertisement, board, publication, letter or any other document of the kind that contains a political material” without getting the prior approval of the governor<sup>19</sup>.

The British Mandate authorities included additional restrictions relating to the right to peaceful assembly. Article 79 (1+3) of the penal code considered any assembly of more than three persons, that aims to commit a criminal act or to achieve a common goal in those meeting in a manner

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Penal Code no. 74 for the year 1936 and it was published in annex no. 1 in the excellent edition of Palestinian Gazette dated on December 14, 1936. See Mazen Sisalem and others, *Palestinian Laws Series*, vol. 12, 1978.

The Defense System (Emergency) for the year 1945.



that might negatively impact the public security and order, as “an illegal assembly” that is punishable by the law. Article 82 of the law granted the absolute authority to any governor of any district, or their deputy, or any police officer with the rank of inspector, to define the concept of riot, and to make a decision as to when an assembly becomes a threat to public order. It stipulated “If any governor of a district or his deputy or magistrate governor deem that three persons gather for the purpose of causing riots, he has the right to warn the gatherers to disperse”<sup>20</sup>. Not abiding by this warning was considered a crime with a sentence of two years in prison.

### ***The Egyptian Administration of Gaza Strip***

The Gaza Strip was placed under the Egyptian Administration following the entry of the Egyptian army into Palestine in May 1948. This continued until the occupation by Israel, following the Arab-Israeli war in June 1967. On June 1, 1948, the Egyptian administrative governor issued order no. 6 which announced that “all kinds of courts in the territories shall continue to be subject in their works to the censoring of the Egyptian troops in Palestine according to the laws and instructions effective prior to May 1948”<sup>21</sup>. Thus the laws of the mandate, including those relating to the right of freedom of expression and the right to peaceful assembly, continued to be effective. On June 21 of the same year, order no. 22 was issued, which dealt with censoring. The first article imposed censoring on “all incoming and outgoing writings, publications, photos and packages and items circulated inside the country, in addition to all telegrams, news and information.” The third article authorized the general censor amongst other things, “to obstruct newspapers and periodicals permanently or temporarily”. It also enabled the censor to “seize all kinds of publications, printing machines, tools and places used in matters that violate the provisions of the censoring”<sup>22</sup>.

Article 6 of the Basic Law of Gaza Strip that was issued by the Egyptian government in May 1955 under the title “The Basic Law of the territory under censoring of Egyptian troops in Palestine”, stipulated “freedom of thought is granted and every human being has the right to express his own

Mazen Sisalem and others, *Palestinian Laws Series*, vol. 12, third edition December 1994.

Order No. 6, *Palestinian Gazette*, *The Official Gazette of Gaza Strip*, volume 1 (December 31, 1949), p. 9.

Order No. 6, *Palestinian Gazette*, *The Official Gazette of Gaza Strip*, volume 2 (March 31, 1950), p. 39-40.

ideas". However, this was subject to the condition that this occurs "in a manner that does not violate the public order, and within the jurisdictions mentioned by the law". Article 45 of the same law affirmed the continuity of the former legal status since the mandate era. This meant "All laws, orders and instructions that were issued by the war minister, administrative governor, general commander of the armed forces or any authorized party in that territory since the entry of the Egyptian troops on May 15, 1948, in addition to the existing Palestinian laws on that date"<sup>23</sup>.

The constitutional system of the Gaza Strip, issued in May 1962, did not add anything new to the basic law. Article 12 granted the freedom of expression whereby "every human being has the right to express his opinion by speech, writing, or through photographs or any other means", provided that this is within the limits of the law. Article 69 stipulated that "all matters decided by Palestinian laws, legislation and orders remain in effect, in addition to all laws and orders issued by the war minister, or general commander of the armed force or any authorized party in that territory since the entry of the Egyptian troops."<sup>24</sup>

Regarding restrictions imposed on the right to peaceful assembly, order 21 issued in May 1948 stated that an "assembly of at least five persons is prohibited in the territory under the censoring of the Egyptian troops in Palestine". The same order defined the penalty for violating the order as a sentence not exceeding one year in prison or a fine not exceeding fifty pounds<sup>25</sup>. Order no. 47 issued on September 30, 1948, stipulated the "banning of any demonstrations, chanting of slogans or the use of expressions and terms that cause disorder and riot and create hatred and hostility among the various sectors of the people, or incite the committing such acts"<sup>26</sup>.

The previous paragraphs show that the Egyptian Administration did not introduce any substantial additions in law relating to the right to freedom of

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Law no. 255 for the year 1955 "The Basic Law of the territory under the censoring of the Egyptian troops in Palestine". Palestinian Gazette, the Official Gazette of Gaza Strip, special edition (February 25, 1958).

See The Declaration of the Constitutional System in Gaza Strip issued on March 12, 1962, Palestinian Gazette, the Official Gazette of Gaza Strip, special edition, March 29, 1962.

Order no. 21, Palestinian Gazette, the Official Gazette of Gaza Strip, volume 2 (March 31, 1950) p. 38.

Order no. 47, *ibid.*, p. 64.

expression and the right to peaceful assembly, and that the mandate laws remained as the legal foundation on these issues.

### ***The Jordanian Rule in the West Bank***

In 1948, the West Bank came under Jordanian rule. The Egyptian government deemed it adequate to administer the Gaza Strip and to maintain its status as an indispensable part of Palestine. However, the West Bank was annexed to the Hashemite Crown in 1950 and became part of the Jordanian Hashemite Kingdom, falling within its legal jurisdiction. In 1955, law no. 16 was issued that dealt with publications, imposing tight restrictions on the freedom of expression. In February 1967, the law of press and publications was issued. Article 72 of that law decreed “the canceling of law no. 16 for the year 1955 and all Jordanian and Palestinian legislation that contradicts with its provisions. The new law is the basic reference that controls the work of the press and organizes publications in the Kingdom, including the West Bank.” Article 25 of the law granted authority to the cabinet to abolish the issuing of licenses for press publications, or to suspend these if found that it “adopts a line that threatens the national entity, endangers the safety of the state, violates the constitutional basis of the Kingdom, or abuses national feeling or public morals”. Article 32 allowed the Minister of Information to ban the entry and confiscation of any foreign publication if it is found that “it harms security or violates national feeling or contradicts with public morals”. Article 38 banned among other things the publication of “news pertaining to the King and the Royal family unless they are allowed to be published”<sup>27</sup>.

The Jordanian rule also imposed similar restrictions on the right to peaceful assembly. Article 164 of the Jordanian Penal Code considered any assembly of more than seven persons for the aim of achieving a common goal or committing a crime that might disrupt the public order as an illegal assembly punishable by law. Article 165 (1) of the same law defined the punishment of participating in illegal assembly. Any person participating in such an assembly “is to be punished with a prison sentence not exceeding one year or a fine not exceeding 25 Jordanian Dinars, or both penalties together”.

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See the Law of Press and Publications for the year 1967 issued in Jordan on February 1, 1967.

### ***The Era of Israeli Occupation of the West Bank and Gaza Strip***

On June 5, 1967, the Israeli army occupied the West Bank and Gaza strip, taking complete control of all matters. On June 7, two military leaflets were issued granting jurisdictions for rule, legislation, appointment and administration to the commanders of the Israeli army in the West Bank and Gaza Strip. The leaflets stated that all laws in existence prior to June 6 remain effective if they do not contradict with Israeli military orders.<sup>28</sup>

Israel was not satisfied with the legal system of the West Bank and Gaza Strip, including the Law of Emergency for the year 1945, as a mechanism for oppressing the Palestinian population. Changes were made to the existing laws through military orders in a manner that served the Israeli rule in controlling the Palestinian territories and subjugating the Palestinian people, and eliminating their national identity. This entailed confiscating the right to all forms of freedom of expression and the imposition of strict censoring and tight restrictions on publications, including academic, literary and scholastic books.

As the existing laws relating to publications granted the utmost degree of control, Israel did not impose additional legislation, unlike the other fields. This was clear through the military orders issued which did not include any qualitative augmentation. In August 1967, military order no. 50 was issued by the Israeli army command in the West Bank; this was followed by order no. 51 from the Israeli army command in Gaza Strip. Both orders stipulated the prohibition of printing or bringing to the territory any publication or newspaper without a license. Those in authority were also granted power to confiscate any newspaper printed or brought to the territory, or published without license<sup>29</sup>.

The occupation appointed an Israeli military censor on the Palestinian daily newspapers issued in East Jerusalem. There were detailed censorship lists and daily censoring on all material published, including advertisements and notifications of deaths. This censor's tool is still working effectively on a

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See military leaflet no. 2, Leaflets, Orders and Notices issued by the Israeli Defense Forces in Gaza Strip and North Sinai, edition 1 (September 14, 1967). See also similar military leaflet no. 2 issued in edition 1 (August 11, 1967) from the similar group of orders issued by the Israeli army command in the West Bank.

Military Order no. 51, Leaflets, Orders and Notices issued by the Israeli Defense Forces in Gaza Strip and North Sinai, edition 2 (November 1, 1967). See also similar military order no. 50 issued by the Israeli army command in the West Bank.

daily basis. No daily newspaper is published in its final form until it passes through the Israeli military censor and until approved. Israeli newspapers are subject to general censorship, along with other Arab newspapers. An example of the difference in the censorship can be seen when Arab newspapers publish what has been banned by the Israeli military censor after it has published in the Israeli newspapers, through translating the Hebrew version into Arabic and republishing it.

Based on the “emergency Regulations” of the year 1945, Israeli military leaders banned a list of books issued mainly outside the occupied homeland, including around 6,000 books mentioned in the censorship list.<sup>30</sup>

The Israeli occupation during the same year issued military order no. 62 restricting the right to peaceful assembly. This order granted the military commander the authority to issue an order banning any assembly consisting of more than ten persons for the purpose of hearing a speech or to discuss an important political topic. Any incidents of non-abiding to this order are considered legal violations punishable by law, with ten years imprisonment or a fine of 1,000 Israeli Liras, or both penalties<sup>31</sup>.

This review of the various rules that have governed the Palestinian people illustrates clearly that there has been no real historical legal framework for exercising the right of freedom of expression and the right to peaceful assembly. The various legislation adopted by the ruling systems worked to restrict and to confiscate these rights. This situation weakened the capacity of the Palestinian people to realize the importance of these as basic human rights, which are necessary in order to exercise other rights. Therefore, the questions that arise are the following: What is the status of the right of freedom of expression and the right to peaceful assembly within the new authority, that was established in the occupied territories following the signing of the peace agreements between the PLO and the government of Israel as the first Palestinian national authority? Has the national authority been able to formulate legal frameworks that can protect and ensure these rights in harmony with the rules of international law? Can Palestinians

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See for example non-numbered military order pertaining to banned publications issued by the Israeli army command in Gaza Strip on September 28, 1967, Leaflets, orders and notices..., edition 5 (February 8, 1968). See also order issued on February 6, 1985 and its amendments mentioned in the orders dated on June 26, 1986; July 8, 1986; August 6, 1986; August 10, 1986; July 25, 1987; September 17, 1987; January 4, 1988; January 21, 1988; July 1, 1988. It should be noted that similar orders were issued by the Israeli army command in the West Bank.

Leaflets, Orders and Notices issued by the Israeli Defense Forces in Gaza Strip and North Sinai, September 14, 1967, pp. 189-191.

exercise these rights freely without any interference by the authority? We will try to answer these questions in third section of this study.

### **The right to freedom of expression and the right to peaceful assembly under the Palestinian national authority**

This section assesses the status of the exercising of the right of freedom of expression and the right to peaceful assembly during the rule of the national authority. This covers the period since the establishment of the Palestinian national authority in May 1994, until the end of 1998. In doing so, the section analyzes the relevant laws and legislation that were issued by the national authority during that period, and finds out the extent of change in the legal restrictions imposed on the right to freedom of expression and the right to peaceful assembly. After that, the section reviews the most important human rights violations under the national authority, in order to provide some background on the exercising of the right of freedom to expression and publication, and the right to peaceful assembly.

### ***The right to freedom of expression in the Palestinian-Israeli peace agreements***

On September 13, 1993, the PLO and the government of Israel signed the Declaration of Principles, based on which the two interim-phase agreements were signed between Israel and the PLO in May 1994 and in September 1995. These agreements were considered the as the basis for Israeli occupation troops redeployment and the establishment of the national authority in parts of the occupied territories. They were also viewed as a start to a new era of relations between both sides based on the principles of mutual cooperation and respect. In further confirmation to this fact, the agreements mentioned the measures needed to be taken by both sides to reinforce these principles, especially those that relate to supporting the environment of peace, peaceful coexistence, banning instigation and terrorism and any form of media wars against any party. The Cairo Agreement signed by the Palestinian and Israeli sides on May 4, 1994 over the Gaza Strip and Jericho region stressed in its 12<sup>th</sup> article that Israel and the national authority will seek to ban instigation, hostile propaganda and terrorism. The Israeli-Palestinian interim agreement on the West Bank and the Gaza Strip (the Taba Agreement), signed in Washington on September 28, 1995 included text confirming this. According to article XXII (1) of this

agreement, provides “ Israel and the council shall seek to foster mutual understanding and tolerance and shall accordingly abstain from incitement, including hostile propaganda, against each other, without derogating from the principle of freedom of expression, shall take legal measures to prevent such incitement by any organization, groups or individuals within their jurisdictions”. As the Taba agreement is the more comprehensive, the articles relevant to banning instigation and terrorism will be used, namely the above-mentioned article XXII. In line with this, we need to highlight the following:

- 1- It is clear that the previous paragraph was set in general terms, leaving the door open to interpretation. For example, the paragraph did not specify the kinds of activities that could be listed under the item “hostile propaganda” or an “instigating activity”. Will a political position criticizing or opposing the peace agreement be as considered hostile propaganda? And if so, who has the authority to decide this? Are there agreed upon criteria by both sides to define the activities that are enlisted under hostile propaganda? If so, to what extent do these criteria conform with international conventions and norms that talk about the right of freedom of expression?
- 2- Vagueness also engulfs the concept of the right of freedom of expression and its boundaries. Does this mean only the freedom of expression for opinions supporting the peace agreements, or does it extend to include the opposing opinions too, including utilizing the mass media to express these views?
- 3- Paragraph 2 of the same article stipulates that Israel and the interim phase government will ensure “Israel and the council will ensure that their respective educational systems contribute to the peace between the Israeli and Palestinian systems contribute to the peace between the Israeli and Palestinian people and to the peace in the entire region, and will refrain from the introduction of any motifs that could adversely affect the process of reconciliation”<sup>32</sup>. Taking into consideration the text of paragraph (1) of the same article, it is possible to understand the text of paragraph (2) as restricting the nature of curricula and methods of teaching that can be adopted by the Palestinian side. As understood by the text of the two paragraphs, these curricula must be in harmony with the signed peace agreements; any curricula or teaching methods that

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The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Washington DC, September 28, 1995.

express an opposing viewpoint will be considered a form of unacceptable hostile instigation and propaganda.

- 4- Therefore, any legislation ratified by the interim government relating to the right of freedom of expression must meet the provision of article 22 of the Taba Agreement.

***The right to freedom of expression in the Law of Publications issued by the national authority in 1995***

On June 26, 1995, the Palestinian Law of Publications 1995 was issued. The study and analysis of this law and its role in reinforcing or restricting the principle of freedom of expression in Palestinian society is a very important task, particularly as it is considered as the first relevant law issued by the Palestinian national authority<sup>33</sup>.

The law includes 51 articles dealing with all matters of publications, including organizing the journalistic work and licensing of newspapers and publications, and imposes restrictions on what is published and other relevant matters. According to article 33, "the owner or manager of a printing house must submit to the Department of Publications four copies of any non-periodical publications printed in his place prior to distributing them".

Comments on this article:

- 1- It is understood from the text of the article that the submitting of copies of each publication to the Department of Publications implies that the distribution of these publications is conditioned by the prior approval of that department. It is possible then that some parties issuing a publication must wait for a response from that department. The purpose of submitting copies, even in the Law of Publications for the year 1933, was to keep the copies in the archives and not censorship reasons. It is therefore strange to see the law, which was issued in 1995 including this condition.
- 2- When examining the cliché of the law, one cannot discover whether it describes a non-periodical publication, which reflects a structural problem in the law. Not having a clear definition of the concept "non-periodical publication" makes it so flexible that it can allow any kind of

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See: The Palestinian Center for Human Rights, Critique of the Press Law 1995 issued by the Palestinian Authority, Series of Studies, no. 1, Gaza, 1995.



interpretation, thus allowing the censorship parties to implement the provisions of the law even on publications that are not listed under non-periodical publications.

Article 37 (a-1) states, "the publication is prohibited from publishing any secret information on the police, public security forces, their weapons, equipment, locations and their movements". This raises questions about this type of prohibition as all matters pertaining to the Palestinian security services are conducted in agreement and coordination with the Israeli side. Therefore, for example, the type of weapons that the Palestinian security services use are not secret. We cannot understand what is meant by secrecy and who is banned from having access to such information.

The same article (clause 3) states that the publication is banned from publishing "articles that might harm national unity or instigate the committing of crimes or that cause hatred, repulsion and the raising of conflicts among the members of society". This article conforms completely with the provisions of article (19) of the Universal Declaration of Human Rights, and article (20) of the International Covenant on Civil and political Rights, which is excellent. However, we have to add that there is a norm widely used by Arab regimes that uses the slogan of national unity as a justification to oppress citizens from exercising their right for freedom of expression. This must not happen and we must realize that there is no contradiction between exercising the right of freedom of expression (with freedom to publish as one of its forms) and national unity. This must remain existent and constant in our daily political practices.

The same article (paragraph b) mentioned that "it is banned to bring in publications from abroad if they include what is banned in publishing according to the provisions of this law". It is clear that this paragraph reflects a mentality that does not cope with the developments of this era. With the huge development witnessed in the world, especially in relation to transfer of information and the technology, it is impossible and unthinkable to ban the transfer of information. In addition, the implementation of the provisions of this article deprives the Palestinian citizen of an essential component of the right to freedom of speech, which is the right to have access to information and to listen to the opinions of others without restrictions.

Article (38) stipulates, "the provisions of this law relating to banned publications are not applicable to publications that are imported by government institutions, universities and centers of scientific research, provided they get the prior approval of the minister". This affects the

independence of education. Thus, this article grants an indirect authority to the minister to make decisions on the academic curricula through the approval or denial of academic publications.

Article (42-a) states, “the competent court looks into all actions that are committed in violation to the provisions of this law, and the attorney general investigates them within the jurisdictions and procedures stipulated in the effective penal laws”. This article is considered of the utmost importance because it will reduce and restrict the ability of the police or any other security service to interfere in the press and media. This reflects a positive attitude by the authority towards the freedom of press and media, although the non- definition of the “competent court” raises doubts. It is not clear which courts are being talked about; is it a civil court, a state security court, or a personal statute court? The law should have specified which competent court with authorities can investigate such cases. The vague terms used might make one think that the authority has intentions to put such cases under the authority of the state security courts. If correct, this will not contribute towards creating the appropriate climate to exercise the right of freedom of expression and publication.

The Law of Publications for 1995 included articles that reinforce the freedom of the press and publication, and other articles that have negative impact on those rights. Despite the positive articles, the law is not free from loopholes. The difficulty with this law is that the loopholes are of significant importance and negatively interpreted affect citizens' rights in terms of freedom of expression and publications.

### ***The right to freedom of expression in the Basic Law issued by the Palestinian Legislative Council***

The Palestinian Legislative Council ratified in its 19<sup>th</sup> session of the second term, held in Ramallah in the period September 30-October 2 1997, the Basic Law draft in its third reading<sup>34</sup>. Although this draft remains suspended, awaiting ratification by the President of the National Authority, it is important to pinpoint the articles that deal with the freedom of expression. The basic law consists of six chapters, with the second chapter devoted to public rights and freedoms in order to guarantee citizens basic rights. These include equality before the law, the freedom of performing

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The Minutes of the 19<sup>th</sup> session of the second term and al-Hayat newspaper on October 2, 1997.

religious rituals, freedom of movement, freedom of labor, freedom of housing, and economic freedoms, etc.

The most significant rights and freedoms stressed in the second chapter are those relating to the right of freedom of expression. Article 19 of this chapter affirms, "the freedom of expression will not be infringed; every person has the right to express their opinion and to broadcast this either through speech or writing or any other means of expression including art, provided that this is carried out within the provisions of the law"<sup>35</sup>. Articles 25 and 26 defined the mechanisms for exercising the right of freedom of expression. Article 25 referred to the right of exercising strike measures within the jurisdictions of the law. Article 26 outlines other mechanisms for exercising the freedom of expression, stating that, "Palestinians have the right to participate in political life both as individuals and as groups, with the following rights:

- Forming and joining political parties according to the law.
- Forming unions, associations, federations, leagues, clubs and grassroots institutions.
- Holding special meetings without the presence of policemen, and holding public meetings and gathering within the jurisdictions of the law."

Article 27 is devoted to right of the freedom of the press and media. It stipulates:

- 1- Establishing newspapers and other mass media is a right granted to every person by the basic law; the funding sources for such institutions must be monitored by the law.
- 2- the freedom of the mass media and the freedom of publication and transmission together with the freedom of employees working in this field is granted by the basic law and the other pertaining laws.
- 3- Censorship on the mass media is prohibited; no mass media must be sent a notice, confiscated, abolished or restricted unless this is according to the law and according to a judicial order"<sup>36</sup>.

The implementation of these constitutional texts will have a major impact on creating the legal structure that can guarantee the freedom of speech and expression in Palestine. However, as long as the President of the National Authority does not ratify the basic law, all rights mentioned in this law remain suspended. Therefore, we cannot at this stage adopt the basic

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The Basic Law of the Palestinian National Authority during the Interim Period issued by the Palestinian Legislative Council on October 2, 1997.  
ibid.

law, particularly the articles that deal with the rights of freedom of expression, press and peaceful assembly, as being in force within the areas of the national authority. The Law of Publications for 1995 and any other relevant decrees issued are the only real reference to assess the nature of the legislation and to see to what extent they meet with the international laws and charters.

### ***The Palestinian National Authority and the right to freedom of expression***

In the light of the commitments of the National Authority in the peace agreements signed with the Israeli side, especially those relating to the banning of terrorism and supporting the atmosphere of peace, the national authority developed practices that had a deep impact on citizens in terms of exercising their right to freedom of expression and the right to peaceful assembly. To understand the dimensions of those practices, we will classify them in the following manner:

#### **1- Measures relating to the freedom of press**

##### ***a- measures pertaining to interrogating, seizing and arresting journalists***

The practices by the authority in this area are the most striking between the period 1994 to the end of 1998. We will record some of these practices for each year during that period, and then conduct a comparison to discuss and explain the discrepancies in practices between those years.

##### ***In 1994***

The national authority conducted more than 12 operations of seizure and interrogation<sup>37</sup> in 1994. The first of these arrests was on May 18, the eve of the Israeli redeployment from the Palestinian territories. During that night, the security services arrested Amer Shreiteh on the basis of photographing the Palestinian security forces while they were boarding the buses for Ansar Camp.

On August 25, the authority arrested the journalist Fayez Nour eddin, who works as a photographer with the French Press Agency. He was arrested

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at least this was documented by the Palestinian Center for Human Rights, not excluding other cases that were not documented.

for several hours because he covered a women's march in front of the Saraya building in Gaza that demanded the release of Hamas detainees from the authority prisons<sup>38</sup>.

On September 27, the Palestinian security forces arrested for several hours the journalist Ahmad Jadallah Hasan Jadallah, who worked as a photographer for Reuters Press Agency, plus journalist Mohammed Ja'jouj, who worked as freelance photographer, and journalist Adel Za'noun who worked as a reporter for the French Press Agency, together with journalist Fayez Nour Eddin. This measure was taken because the journalists covered the story of a women's march in front of the Saraya building that demanded the release of detainees of the Islamic Jihad Movement<sup>39</sup>.

On October 12, the authority arrested the journalist Taher Shreiteh, who was in charge of the Reuters Office in Gaza, and detained him for several days following the distribution by his office of a videotape of the kidnapping of the Israeli soldier Vaxman. The authority re-arrested on October 11 Ahmad Jadallah and Shams Eddin Shana'a, who worked as a TV photo man for Reuters, for the same reason<sup>40</sup>. Shana'a was released on October 15. The journalist Jadallah was released on October 17. On October 26, the authority arrested Ahmad Shreiteh for several days after he was accused of distributing a statement which included threats to the Israeli PM at the time; he was later released on November 4.

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On August 25, 1998, several women gathered in front of the Saraya building in Gaza (Gaza Central Prison) carrying slogans and posters and chanting slogans demanding the release of Hamas detainees from the authority prisons, especially the Gaza Central Prison. The march was dispersed calmly without any confrontations between the security forces and the demonstrators.

On September 27, a similar women march was organized at the same place in Gaza in protest against the authority arresting several Islamic Jihad activists; the security forces prohibited the journalists from covering the event.

On April 9, 1995, a military group belonging to Izzidin Qassam Brigades – the military wing of Hamas Movement, kidnapped Nahshon Mordechai Vaxman and kept him in a house in Bir Nabala region in Jerusalem. On Friday evening of April 14, 1995, a military force from the Israeli joint staff attacked the house in an attempt to free the kidnapped soldier. There was an exchange of fire between them, leading to the killing of the Israeli soldier and the commander of the Israeli military force, in addition to the martyrdom of the members of Izzidin Qassam Brigades: Salah Jadallah, Hasan Natsheh and Abdul Karim Bader. Reuters had earlier distributed a videotape on April 12, 1995 showing the members of the Qassam group with the Israeli soldier under their captivity.

On November 5, the authority arrested the journalist Adel Abdallah Abed Rabbo Jadallah, because he covered the events at the Palestine Mosque<sup>41</sup>.

**Table no. (1) shows number of detentions and interrogations for each month of the year 1994**

<b>Month</b>	<b>Number of cases</b>
<i>May</i>	<i>1</i>
<i>June</i>	<i>-</i>
<i>July</i>	<i>-</i>
<i>August</i>	<i>1</i>
<i>September</i>	<i>5</i>
<i>October</i>	<i>4</i>
<i>November</i>	<i>1</i>
<i>December</i>	<i>-</i>
<b>Total</b>	<b>12</b>

### ***In 1995***

The year 1995 witnessed a striking escalation on the part of the authority in terms of interrogating and detaining journalists compared with year 1994. On February 8, the Palestinian security services arrested journalists Ala' Asa'd Saftawi, chief editor of Istiqlal newspaper, and Atiyye Abu Mansour, managing director at the same newspaper. Also Khaled Sadeq, manager of distribution at the newspaper, and Zakariyya Madhoun, an editor at the newspaper, with Mohammed Fayyad and Nahed Koutkout, both journalists in the newspaper. All the above were charged with instigating against the authority. They were released on May 8, 1995.

On April 5, Mohammed Taher Nounou, who worked as a reporter for al-Nahar newspaper, was arrested on charges of publishing information about the Sheikh Radwan incident<sup>42</sup>. He was released on April 26 1995. On April 9, Ala' Mashharawi, who worked at al-Quds newspaper, was arrested

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clashes took place that day between the worshipper in Palestine Mosque in Gaza and the Palestinian police and security forces, resulting in the killing of 13 citizens and injury of 200 others.

On April 3, 1995, an explosion went off in a house located in Sheikh Radwan region in Gaza; the explosion caused the martyrdom of Kamal Kheil and Hatem Hassan. It is believed that the two citizens belonged to Izzidin Qassam Brigades. An official source in the authority said the explosion took off when the two persons were attempting to prepare a bombing device to be used in suicidal operations inside the Green Line. It is believed that unknown parties assassinated the two persons.

because he had photographs of two Palestinian martyrs. He was released on April 12. On April 10, Jamal Halabi, who worked for Reuters, was arrested for several hours after he covered the incidents that occurred in the Zaytoun region in Gaza<sup>43</sup>.

On April 11, the Palestinian security forces arrested the journalist Imad Zakariyya Ifranji who heads the Watan Press Office<sup>44</sup>, and journalist Mustafa Sawwaf who was released after a few hours. Ifranji was released on April 15. The authority arrested Ghazi Ahmad Hamad, the managing editor of Watan newspaper for several hours.

In a later unprecedented development, the national authority arrested on April 13, the journalist Sayyed Salem "Abu Msameh", editor in chief of Watan newspaper. He was brought to trial before the state security court and charged with instigation, and sentenced to two years in prison<sup>45</sup>. Abu Msameh was released on December 12, 1995 following a decision by President Yasser Arafat. On April 15, the journalist Amer Ahmad Shreiteh was arrested for several hours after he photographed a Palestinian security vehicle.

June of that year witnessed the least cases of arrests and detentions conducted by the Palestinian security services towards journalists. That month one arrest case was made against Ahmad Nakhleh, the reporter of al-Nahar newspaper. The Right and Freedom magazine which is published inside the Green Line, published a report about the Palestinian police

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In the first week of April 1995, the Palestinian police raided the house of Seifi family located in Zaytoun region after receiving reports about weapons and wanted persons in that house. The family confronted the Palestinian police forces when they attempted to break into the house; the police used their weapons but no casualties were reported. The police arrested during that incident four members of the Seifi family, who were released after 43 days.

At 2:00 a.m. On that day, presidential security forces broke into the house of Imad Ifranji and confiscated 22 videotapes and Fax machine. They also took Imad to the force 17 headquarters in Jabalia after which he was transferred to Gaza Central Prison for interrogation which focused on his political affiliation and some general issues; Imad was never brought to court and was released after three days of interrogation.

A state security court was formed in February 1995 upon a decree from the Palestinian President Yasser Arafat. This decree was strongly opposed by human rights organizations because this court violates the criteria of a fair trial and sound legal procedures; this court conducts quick trials with no appropriate legal representation and without adequate prior notice on its convening.

raiding the Abu Asi family, and the police thought that Nakhleh was the source of the report<sup>46</sup>. Nakhleh was released after three days detention.

The detaining of journalists rose again in July, which witnessed four cases. On July 9, Ala' Mashhrawi, who works at al-Quds newspaper, was arrested on charges of publishing a report about the shaving of hair and beards of Hamas leaders during interrogation. He was released on July 20. On July 11, the journalist Ahmad Mashhrawi who works as a reporter in al-Quds newspaper, was arrested on the same charge, and was released on July 24. On July 12, the journalist Imad Ifranji, who works as a reporter for al-Quds newspaper and Quds Press Agency, was held on the charge of publishing a report on the murder of a female citizen in Gaza City<sup>47</sup>. He was released on July 18. On the same basis, the Palestinian security services arrested journalist Ala' Mashhrawi who was detained on July 22 and released after one week.

August witnessed five cases of arrest and interrogation. On August 17, journalist Ahmad Mashhrawi was detained and interrogated on the charge of promoting a report about the intentions of a Hamas activist to commit a suicidal operation. He was released on August 31. On August 30, journalist Mustafa Sawwaf in charge of the Nahar newspaper in Gaza, was arrested after his office received an unsigned petition about the health conditions of Hamas detainees in PNA prisons. On the same day journalists Ahmad

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On June 4, 1995, the general Investigation Intelligence in Gaza summoned journalist Ahmad Nakhleh to meet Col. Talal Abu Zeid, head of the apparatus, where he was detained because he leaked a report to the Right and Freedom Magazine which is issued inside the Green Line regarding the police breaking into the house of Abu Asi family in Zaytoun region in Gaza. The police arrested also Sami and Mohammed Abu Asi charging them with Hamas membership.

A female citizen in Gaza City committed suicide through shooting herself in mysterious conditions. Immediately following the suicide, Jordanian al-Rai newspaper quoted Quds Press Agency on July 11, 1995 a report saying that Brig. Ghazi Jabali will be transferred upon orders from President Yasser Arafat to Ramallah. Following the publishing of the report, Col. Mohammed Masri, chief of media department at the General Intelligence Apparatus, phoned journalist Imad Ifranji and summoned him to request about the source of the report. Ifranji showed up and met with Col. Masri who charged him of being the source of the report but the journalist totally denied the charge, at which point Col. Masri requested from Ifranji to fill out a form about his resume and political affiliation. Later, the journalist was transferred to a special room where he was remanded until Wednesday, July 18, 1995. He was later summoned to meet Col. Masri who asked him to sign a petition including a commitment to honor and abide by the Palestinian laws. Ifranji was released after he signed the petition. (The source: a statement by Imad Ifranji on July 21, 1995).



Nakhalleh, Fayed Abu Shamaleh and Mohammed Taher Nounou, who all worked for the same newspaper, were arrested on the same subject<sup>48</sup>.

September had one arrest case against journalists. On September 20, the criminal intelligence unit in the Palestinian police arrested journalist Yousef Ahmad, who worked for the Jerusalem Media and Communications Center, and interrogated him on his press activities and political opposition. He was also forced to show up at the unit office in the morning and stay until the evening for one whole week, after which he was allowed to resume his work normally.

**Table (2) shows the number of arrests and interrogation in each month of 1995**

<b>Month</b>	<b>Number of cases</b>
<i>January</i>	-
<i>February</i>	6
<i>March</i>	-
<i>April</i>	8
<i>May</i>	-
<i>June</i>	1
<i>July</i>	4
<i>August</i>	5
<i>September</i>	1
<i>October</i>	-
<i>November</i>	-
<i>December</i>	-
<b>Total</b>	<b>25</b>

### ***In 1996***

The year 1996 showed a decline in the number of cases of arrests and interrogation of journalists, reaching 10 cases compared with 25 cases in 1995. On February 17, the Palestinian police arrested journalist Ala' Saftawi, the chief editor of Istiqlal newspaper, for two days on charges of attacking the President of the PA. On February 27, the Palestinian security

On August 30, 1995, a force from the Palestinian Intelligence raided the house of the two above mentioned journalists and arrested them. The arrest came because their office received an unsigned petition dealing with the health conditions of Hamas detainees, especially Dr. Mahmoud Zahhar in the PNA prison. The two journalists were interrogated about the petition and the real source of the report. It should be noted that the journalists were not mistreated and were released at 4:00 p.m. on August 31, 1995.

services arrested Samir Rizeq Hitto who worked as reporter for Nahar newspaper. This was part of a wave of arrests against the supporters of Hamas and the Islamic Jihad movements<sup>49</sup>.

On April 3, the journalist Abdul Salam Shehadeh, who worked as a photographer with the Japanese TV, was arrested because he published a report about one of the citizens who attempted to commit a suicide operation against Israeli targets. Shehadeh was released on April 7. On April 18, journalists Taher Shreiteh, in charge of the Reuters Office in Gaza, and Maher Farraj, reporter of Bilad newspaper, were arrested for several hours because they covered a women's march in front of Gaza Central Prison<sup>50</sup>.

On May 4, journalist Asia Abdul Hadi, who worked at the Jerusalem Media and Communication for interrogation on the nature of her work<sup>51</sup>. On May 13, journalist Fayez Nour Eddin, who worked as a photographer for French

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A force from the preventive security apparatus in Gaza arrested journalist Samir Rizeq Hitto around 2:30 p.m. on Tuesday, February 27, 1998 from the office of Nahar Office for Documentation and Media. The force consisted of three persons wearing civilian clothes informed Hitto that they had an arrest order against and requested that he accompany them to the preventive security apparatus in Gaza. Journalist Hasan Kashef tried to talk by phone with the force about the arrest but they refused. One member of the preventive apparatus came back to the office the same day and requested the special diary book of Hitto. The arrest of Hitto was part of an arrest campaign launched by the Palestinian security services against Hamas and Islamic Jihad members during that period.

On April 18, 1996, the members of national security service arrested journalists Maher Farraj and Taher Shreiteh were arrested at Saraya building and they confiscated their cameras and films and they released them later.

At around 12:30 p.m. On May 2, 1996, a force from the Palestinian Intelligence Service raided the office of Jerusalem Media and Communications Center (JMCC) in Gaza and confiscated a computer and fax machine, in addition to several media material, papers and discs. Later, they returned the computer and fax machine to the journalist Abdul Hadi but kept the media material. (Source: journalist Asia Abdul Hadi).

Press Agency, was arrested for several hours after he was charged of instigating against the authority<sup>52</sup>.

On June 13, journalist Maher Farraj, who worked as a reporter for al-Bilad newspaper, was summoned by the preventive security apparatus because he published an article under the title One thousand shekels cost of a truck permit in Gaza<sup>53</sup>.

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At around 11:00 a.m. Monday May 13, 1996, a force consisting of three persons wearing civilian clothes and armed with automatic rifles raided the office of journalist Fayeze Nour Eddin and took him by force to the Saraya building in a Volkswagen car. On the way, he was beaten and insulted by the force. When they arrived to the building, they dragged him on the floor and continued beating him up. They put him in a corner of a room and beat him up again with his own belt. Later, he was put in solitary confinement in a 1X2 square meter cell; they put a bag over his head and ordered him to keep his arms raised with his head facing the wall. Fayeze was kept in that position until an intelligence officer came into the room and asked him to write a detailed report about his social and national struggle history. After writing the report, he was taken at around 8:00 p.m. to a room in an upper floor where he was met by three officers who started calling him names and insulting him. They also asked him about the reason why he did take photos of kids giving a donkey a bath on the Gaza seashore, accusing him of trying to distort the image of the PNA abroad. He denied their accusations by saying that taking such photos is part of his job and that there was no political motif behind the photo. Later, he was informed that they would release him after he signs a petition to abide by Palestinian laws. He did sign the petition and was released at 9:00 p.m. on May 13, 1996. The French Press Agency issued a press release on the same day denouncing what happened to Fayeze and appealed to the PNA to stop its violations against journalists. (Source: A sworn testimony by Fayeze Nour Eddin, in addition to the statement issued by the French Press Agency).

On June 13, 1996, a member of the preventive security apparatus called journalist Maher Farraj by phone and summoned him to appear before the preventive security apparatus in Gaza regarding an issue that concerns him. Farraj went to the apparatus headquarters although he received no official summoning. During the interview, the officer asked Farraj about the truck permit report and that the apparatus issued an order to form a follow-up committee on the issue. The officer requested from Farraj to reveal the source of his information to assist in the investigation. Farraj said his task is to reveal the report after which comes the role of the competent parties to reveal the facts. The officer then called the secretary of the newspaper and requested a list showing the names of truck owners. The secretary agreed to provide the officer with the list as a sign of cooperation to show the facts to citizens. (Source: al-Bilad newspaper on June 30, 1996).

On September 8, journalist Adnan Mohammed Abu Hasneh, chief editor of Istiqlal newspaper, was arrested on a security charge<sup>54</sup>. Maher Farraj was also summoned once again on September 15 on the background of publishing a paid advertisement on the Palestinian Covenant Party. On December 4, journalist Maher Farraj was summoned again because he attempted to write a report about delegates of security services.

**Table 3 shows number of arrest and summoning cases each month in 1996**

<i>Month</i>	<i>Number of cases</i>
<i>January</i>	-
<i>February</i>	
<i>March</i>	-
<i>April</i>	
<i>May</i>	
<i>June</i>	-
<i>July</i>	-
<i>August</i>	-
<i>September</i>	
<i>October</i>	-
<i>November</i>	-
<i>December</i>	
<b><i>Total</i></b>	

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At around 5:00 p.m. On Sunday September 8, 1996, a force from the preventive security went to the office of Istiqlal newspaper and arrested journalist Abu Hasneh. Later, head of the journalists union Zakariyya Talmas contacted Col. Mohammed Dahlan, head of the preventive security apparatus in Gaza, and the second man in the apparatus Col. Rashid Abu Shbak to ask them about reason for arresting Abu Hasneh. Abu Shbak told Talmas that the arrest is based on security reasons and has nothing to do with his job as a journalist. (Source: Zakariyya Talmas, head of the journalists union and Ahmad Issa, in charge of public relations in the preventive security on September 10, 1996).

### ***In 1997***

The number of arrests and summoning of journalists came down in 1997; the number reached three cases only, which is considered the least number during the period extending between 1994 and that year.

On February 16, journalist Maher Farraj was summoned on the basis of publishing a report about the arrest of Abdallah Issa, the secretary general of Covenant Party. On May 28, Ayyoub Othman, a lecturer at Azhar University, was summoned because he wrote an article in al-Bilad newspaper in which he criticized the PNA following the report from general Control Commission on the abuse of authority and corruption<sup>55</sup>. Othman was released on May 29, one day after his detention and on the next day, they summoned Maher Farraj who published the article written by Ayoub Othman regarding the General Control Commission<sup>56</sup>. Farraj was released on May 31.

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The General Control Commission was established upon resolution 22 for the year 1994 issued by the PNA. According to resolution 17 issued by the president of the national authority, the commission was formed in terms of structure, authorities, tasks and parties under its authority. The resolution said that all institutions and ministries of the PNA will be subject to financial and administrative monitoring by the commission. (See the resolution in the Palestinian Events Gazette: edition 1 and 11). It should be noted that the commission prepared in 1996 a report on administrative performance of PNA institutions; the report proved that several PNA institutions are involved in legal, administrative and financial violations. (See the first annual report of the head of the General Control Commission for the year 1996).

At around 10:00 p.m. On the night of Friday May 30, 1997, two persons dressed in civilian clothes arrived at the house of Maher Farraj in Sabra neighborhood in Gaza; one of them identified himself as an officer in the criminal investigation police; he handed Farraj a summoning order and asked him to accompany them to the passports police, where he was met by Col. Talal Abu Zeid and captain Mahmoud Saqer, in charge of political security in the police. Col. Abu Zeid questioned the journalist about the nature of his work and whether he adopts censorship on what is received at the newspaper in terms of reports and articles. Farraj said that he exercises censorship on the reports and articles if they are fit to be published and the rest of the matter is up to the newspaper itself. Farraj was released at 4:30 a.m. on Saturday May 31, 1997. (Source: A sworn testimony from journalist Farraj).

**Table 4 shows the number of arrests and detention each month in 1997**

<b>Month</b>	<b>Number of cases</b>
<i>January</i>	-
<i>February</i>	
<i>March</i>	-
<i>April</i>	-
<i>May</i>	
<i>June</i>	-
<i>July</i>	-
<i>August</i>	-
<i>September</i>	-
<i>October</i>	-
<i>November</i>	-
<i>December</i>	-
<b>Total</b>	

### ***In 1998***

The cases of arresting and interrogating journalists during the first half of year 1998 went down; the Palestinian Center for Human Rights could only document one case. On January 23, the Palestinian police summoned journalist Salah Mohammed Bardawil, the chief editor of al-Risala newspaper then, to interrogate him regarding the charges against him of instigating against the authority in an article published in the 38<sup>th</sup> edition of the newspaper<sup>57</sup>.

The second half of the year witnessed an escalation in the campaign of arrests and interrogation against journalists, especially after the signing of

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At around 1:30 a.m. Friday, January 23, a police force arrived at the house of Salah Mohammed Bardawil to arrest him. After making sure he was not home, they left him a summoning order demanding he shows up at the police station after the Friday Prayers. Bardawil went to police station where he met Col. Talal Abu Zeid who was very angry because of the content of the article. They requested the journalist to sign an affidavit not to write articles against the authority and admit that he wrote the article. The journalist refused to sign the paper; the Col. considered him detained. After some sessions between them, Bardawil agreed to sign the paper with some amendments. Later, he was released. (Source: A sworn testimony by journalist Mohammed Bardawil, chief editor at al-Risala newspaper on January 25, 1998).

the "Wye River" agreement between the Palestinian and Israeli sides<sup>58</sup>. On September 13, an anti-riot police force arrested journalist Saber Ibrahim Nour Eddin who works as a photographer for the French Press Agency on the background of covering the events that erupted during the march that was called for by the residents of the detainees in the authority prisons<sup>59</sup>.

The PNA had committed itself according to Wye River memorandum to take all measures and steps that will ensure the prevention of acts of instigation and terrorism, whether they are directed against Israelis or Palestinians residing in its areas of jurisdiction. The memo also mentioned that Israel is committed to implement the second redeployment in as much as the PNA honors its commitment in the previous condition<sup>60</sup>. As a result of that, the PNA imposed tight restrictions on the freedom of expression and presswork, especially those dealing with expressing viewpoints that oppose the Wye River memo.

ON October 23, the police arrested journalist Ahmad Theeb al-Khatib while he was on his way to conduct an interview with Sheikh Ahmad Yaseen, the spiritual leader of Hamas movement, to see the opinion of the movement regarding the Wye River memo<sup>61</sup>. On the same night, the police arrested

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On October 23, 1998, at the Conference Hall in Wye River in the US, the President of the National Authority and Israeli PM Benjamin Netanyahu and the US President Clinton signed the above-mentioned memo, in the presence of Jordanian King Hussein and several other diplomats and journalists. The understanding memo included special security arrangements in which the US will be a full partner in the phases of implementation where the national authority will participate in setting a work plan to "ensure the systemic and effective fighting against the terrorist organizations and their structures". Bilateral Palestinian-US committees and trilateral Palestinian-US-Israeli committees will be formed to discuss the measures to be taken by the authority for rectification.

At around 5:30 p.m. Saturday, September 12, 1998, an anti-riot force arrested journalist Saber Nour Eddin as he was approaching his car after he had ended taking photos of the events during the march called for by the relatives of the detainees in the Palestinian prisons. The force requested from the journalists the photos he had taken of the march and the sit-in, but he strongly rejected their request. They seized his ID card and asked him to show up at the police station to take his identity card. When he arrived at the station, they told him that Col. Talal Abu Zeid would meet him. However, the colonel did not meet with him and the journalist was taken to a room where there was an officer who detained him for 11 hours; he was then released. (Source: A sworn testimony by journalist Saber Ibrahim Nour Eddin).

See Article II of Wye River Understanding Memo, Wye River, October 23, 1998

At around 9:30 p.m. of October 23, the police intercepted the car of journalist Ahmad Theeb al-Khatib while he was on his way to conduct the meeting with Sheikh Ahmad Yaseen; they informed him that they received orders to arrest all journalists and requested that he goes with them to the police station. When he arrived to the station, he was

the following journalists: Fayez Nour Eddin, who worked as a photographer with French Press Agency; Ahmad Jadallah and his brother Saheeb Jadallah, who worked as photographer for Reuters; Shams and Abed Odallah, who worked as photographers for Reuters; Ayman Ruzze, who worked as a photographer for MBC; Talal Abu Rahmeh, who worked as a reporter for the second channel in the French TV; Najib Abul Jbein; Adel Al-Hana; Ibrahim Barzaq who worked as reporters for AP. All these journalists were arrested as they were attempting to conduct an interview with Sheikh Ahmad Yaseen regarding the Wye River agreement<sup>62</sup>

In further escalation to the tight measures by the authority against freedom of press following the signing of the Wye River agreement, the Public Information Commission in the PNA issued in November what was called the Executive Internal Chart No. 9 to Organize the Work of Foreign agencies' Reporters; this was an addition to the restrictions imposed on freedom of press. Article 4 of the Chart granted the Commission the authority to grant the accredited reporter and assistants, whether they are

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informed that he is prohibited from conducting an interview with Sheikh Yaseen; he was then released. (Source: A sworn testimony by journalist Ahmad Theeb al-Khatib).

At around 10:30 p.m. Friday October 23, 1998, a police car belonging to the criminal investigation unit stopped in front of the house of Sheikh Ahmad Yaseen, where several journalists were following up the Wye River summit and conducting interviews with Sheikh Yaseen regarding the summit. All journalists were informed that they were to report to the police station. Col. Mohammed Hindi, deputy chief of the unit, told them that they are prohibited from conducting interviews with the opposition unless they get a permit. The police arrested on the same day for the same reason Heidi Levin who worked for the US Newsweek magazine. In the morning of October 25, 1998, the journalists union held a meeting at the union headquarters in Gaza; 30 journalists and five representatives from the Information ministry attended, including Hasan al-Kashef. The meeting detained the arrest of the journalists and blamed the criminal investigation unit for the arrests. They demanded that the PNA respect the Publications Law which allows freedom of press and media. The journalists union took a series of decisions in that meeting: 1- declaring September 26 of every year a name of a friend to journalists and another date to be named as an enemy of journalists; 2- not to cover the news of the criminal investigation unit and consider it an enemy of journalists; the union also decided to stop the strike of journalists temporarily; the union had earlier declared a strike on October 24 in protest against the arrests. The union appealed to all local, Arab and international organizations to pressure the competent parties to stop the violations committed against the Palestinian journalist and respect the press freedom. The decision to stop the strike came upon an agreement between the union and Tayyeb Abdul Rahim, PNA presidential secretary, and chief of Palestinian police Ghazi Jabali who apologized to the union for the incident and promised that such incidents will not be repeated. (Source: A sworn testimony by journalists: Talal Abu Rahmeh, Ahmad Theeb and Hasan Omar Abu Rahmeh, in addition to the statement issued by the Palestinian journalists union on October 24, 1998).



local or foreigners, press cards that allow them to move freely in the PNA areas. Articles 5 and 6 stipulated that the information department in the Commission assumes responsibility of coordinating the entry of reporters or delegates in special tasks in direct contact with the competent Palestinian parties on the border crossings. The department also assumes the responsibility of arranging and coordinating the appointments of reporters with Palestinian officials. According to Article 10 of the chart, the reporter must inform the department about the arrival date of a senior reporter or the foreign media delegation 48 hours in advance. The department will offer media services to foreign mass media, including the allocation of a delegate to accompany each foreign mass media, which assigns a special mission in the occupied territories.

In fact, the chart carries a lot of negative and serious impact on the freedom of press in the PNA jurisdiction areas. The relation of the PNA with foreign mass media and their reporters is part of the responsibility of the Ministry of Information according to the Law of Publications<sup>63</sup>. Therefore, any intervention by any other part is a violation to the law, which also means that the special arrangements issued by the Public Information Commission are void and illegal<sup>64</sup>. Moreover, the new arrangements imposed by the chart fight the local journalists in his work to provide bread for his family, especially the press offices that offer logistic assistance to reporters and international news agencies. These services, according to the chart, will become part of the Public Information Commission.

As for the month of December, it witnessed 8 cases of arrests against journalists on the background of organizing a massive march that condemned the US-British bombing of Iraq and to express solidarity with the Iraqi people. The march was organized on the 18<sup>th</sup> of that month, following a licensed mass rally by the national authority, organized by the Popular Front for the Liberation of Palestine on the occasion of the its 31<sup>st</sup> anniversary. The participants at the rally, which included dozens of leading figures from national and Islamic forces and PLC members and more than

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Article 10 of the Law of Publications for the year 1995 stipulates that no journalist or person working in journalism can work with a foreign party unless it is done according to the system of foreign mass media reporters.

The Ministry of Information issued a clarification on November 3, 1998, stressing that the relation with foreign and Palestinian reporters is part of the jurisdiction of the information and that there are no official decisions stipulating otherwise. In another statement, the ministry stressed that it is the only reference with foreign press and that the system of foreign mass media work no. (1) for the year 1996 based on the Law of Publications for the year 1996 is the only system that organizes this relation and guarantees the freedom of work by journalists.

3,000 citizens, chanted slogans against the US-British bombing on Iraq and they burnt the US flag. The Palestinian police confronted the march and attacked the participants. They also arrested several reporters while covering the events: Zakaria al-Talmas, the head of the journalists union; Rashed al-Rashid, who works with the German TV; Mohammed Ja'jou' who works with the German TV; Fathi Sabbah, the Haqiqa magazine; Abdul Salam Abu Askar, who works at Gaza Center for TV transmission; Talal Abu Rahmeh, who works for the French TV Channel Two; Khaled Abu Kweik and Husam Titi, who work with AP. They were all arrested at the police station in the vice crime unit. All journalists were released three hours after their arrest. The material they collected was confiscated. The police arrested also four leading figures from the PFLP: Jamil Majdalawi, politburo member; Kayed al-Ghoul, central committee member; Rabah Mhanna and Waleed al-Ghoul, two leading figures in the Front<sup>65</sup>.

***The following table shows the number of arrests and interrogation each month in 1998***

<b><i>Month</i></b>	<b><i>Number of Cases</i></b>
<i>January</i>	
<i>February</i>	-
<i>March</i>	-
<i>April</i>	-
<i>May</i>	-
<i>June</i>	-
<i>July</i>	-
<i>August</i>	-
<i>September</i>	
<i>October</i>	
<i>November</i>	-
<i>December</i>	
<b><i>Total</i></b>	

***b- Measures pertaining to attacks against journalists***

In addition to the number of cases of arrest and interrogation, the Palestinian Center for Human Rights recorded several cases where journalists were either beaten or insulted.

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For more details see: The statement issued by the Palestinian Center for Human Rights on December 19, 1998

### ***In 1994***

After meticulous review of newspapers and information gathered by the field research unit, the center found out several cases of physical attack against journalists in 1994

### ***In 1995***

This year witnessed one attack case only. On April 13, an armed group belonging to one the Palestinian security services attacked journalist Ghazi Ahmad Mohammed Hamad, the chief editor of Watan newspaper issued in Gaza, while he was leaving the office in Wihda street in Gaza<sup>66</sup>.

### ***In 1996***

The cases of attacking journalists reached four cases during that year compared with one year in 1995. On May 13, a force belonging to the Palestinian General Intelligence Apparatus beat up journalist Fayez Nour Eddin as they were taking him to headquarters on charges of trying to distort the image and reputation of the National Authority in front of the international public opinion because he took photos of a donkey on the Gaza seashore. On July 31, a force belonging to the military intelligence

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At around 1:30 p.m. on Thursday April 13, 1995, an armed group belonging to the security services beat up journalist Ghazi Ahmad Mohammed Hamad as he was leaving his office, without any reason. Hamad was injured in both legs and back; they also broke his watch while his clothes were torn. Later, the force took the journalist to the head of the office of the general intelligence in the central prison who apologized for the incident and released the journalist after 15 minutes. As he was leaving, he met in the yard of Gaza Central prison Sheikh Sayyed Abu Msameh, Nafez Juub and Tayyeb Abdul Rahim who apologized for the incident. (Source: journalist Ghazi Ahmad Hamad on April 13, 1995).

attacked journalist Ala' Mashharawi for no reason<sup>67</sup>. On August 24, a force belonging to the Presidential Guard attacked Shams Eddin Shana'a and Sawwah Abu Seif who worked for Reuters while they were taking photos of the president's procession<sup>68</sup>.

### ***In 1997***

According to information coming from the field research unit at the Palestinian Center for Human Rights, 1997 has not witnessed any case of attack against the journalists by the authority services.

### ***In 1998***

Year 1998 witnessed one attack case only. On August 29, a force from the Palestinian police attacked journalist Munir Abu Rizeq who works as a senior editor at al-Hayat newspaper. Abu Rizeq was attacked when he entered the police directorate to cover the trial session of the special

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At around 7:00 p.m. Wednesday July 31, 1996, a military "Chevrolet" vehicle with 6 to 7 members of the police hit the car of journalist Mashharawi, causing damage to the left side of the car. The police car ran away but the journalist followed them and was able to identify the vehicle license plate; at this point, the police car stopped and the policemen got off their vehicle and told him that they belong to Brig. Musa Arafat and beat him up in the face and the chest. Citizens near the scene interfered and Mashharai was able to free himself and headed to the police station to file a report against the attackers. (Statement issued by Ala' Mashharawi on August 1, 1996 on the attack against him).

At around 9:30 a.m. August 24, 1996, and while journalists Shana'a and Sawwah Abu Seif were waiting to shoot photos of the president's procession as the president was heading to a cabinet meeting, the security officer, called "the butcher" insulted Shana'a, saying that all journalists are collaborators and spies when Shana'a asked if he could take photos of the procession. After some time, he repeated the request but the officer started beating him up. Abu Seif tried to calm the situation but he was beaten up too. The Palestinian journalists union issued on August 24, 1996 a statement of protest regarding the incident. The union announced later that they will refrain from covering the joint meeting of the cabinet and the PLO Executive Committee. Col. Faisal Abu Sharkh, chief of Force 17(Presidential security) met with the union and the problem was solved through an agreement that guarantees the dignity of the journalists while Abu Shark was committed to allocate a place for the journalists to facilitate their work. The Colonel also issued orders to arrest the "butcher". (Source: Arab Journalists League, August 26, 1996).

military court, which was looking into the case of the murderers of Mohammed and Majdi Khaldi;<sup>69</sup>

### *C- Measures pertaining to closure of licensed media institutions*

The practices and measures by the authority towards the right of freedom of expression and publication extended to include closures and banning the opening or publication of newspapers and magazines. The severity of these measures varied from one year to another, as we will see in this section of the report.

#### ***In 1994***

1994 did not witness any cases of closing newspapers or magazines. The measures were limited to cases of obstructing the distribution of newspapers and magazines. On July 28, the PNA confiscated the Jerusalemite Nahhar newspaper at Erez checkpoint and banned its distribution in the PNA areas until September 5 of the same year under the

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On Thursday August 27, 1998, Mohammed and Majdi Khaldi were shot dead by two Palestinian armed persons, one of whom worked in the military intelligence and the other person worked in border guard force. The incident took place after a family dispute between the Khaldi and Abu Sultan families in the Ein Jalout towers region in Nuseirat. Armed men from Abu Sultan family opened fire at citizen Mohammed Ibrahim Rabah Khaldi, 30, who was a student at al-Quds Open University and works in the Political and Moral Guidance. Mohammed received a fatal bullet in his chest. The armed men also shot Majdi Ibrahim Khaldi, 32, who was a major in the general intelligence and member in Fateh Movement regional commission in the central region. He also died immediately. A military court was established upon instructions from President Arafat; the court was headed by former attorney general Khaled Qidre. The trial session started on Saturday August 29, 1998, at the police directorate. Munir Abu Rizeq headed to the directorate to cover the event. He tried to enter in his car to the premises of the court building but the police stopped him. He parked the car 100 meters away and approached the gate to enter but was stopped once again by another policeman. When Abu Rizeq told him that he was a journalist and that he had a permit from Ghazi Jabali, the policeman started to curse him and called 12 others policemen who started beating him up. Then, they took him to a room inside the building and continued beating him up. Then, a policeman came and told them to stop beating Abu Rizeq and he took the journalist to the office of Brig. Abdul Mu'ti Sab'awi who asked about the incident and called Jabali by phone. Jabali expressed regret for the incident and asked Sab'awi to allow Abu Rizeq to enter the court. Abu Rizeq refused to enter the court because he was bruised and injured, where he headed to Shifa' hospital and received medical treatment. (Source: Statements issued by the Palestinian Center for Human Rights on August 27- 31, 1998 and a sworn testimony by journalist Munir Abu Rizeq on August 30, 1998).

pretext of not getting a permission to distribute the newspaper in the PNA areas.

The PNA obstructed the entry of "Jerusalem Post", "Ha'aretz", "al-Quds", "al-Nahhar", in addition to some foreign newspapers during the period between November 28 and December 2 of the same year; the above-mentioned newspapers were seized for several hours and then allowed to be distributed

### ***In 1995***

Year 1995 was characterized with an increase in the severity of measures taken by the PNA against the newspapers and magazines. The measures in 1995 escalated to reach the point of closing newspapers and magazines for various periods. The number of cases of banning distribution and closure reached seven cases. On January 28, the PNA closed Istiqlal newspaper and at a later time six of the newspaper staff were arrested<sup>70</sup>, following the publishing of articles criticizing the PNA. The newspaper remained closed until May of the same year; the journalists working in the newspaper were released in May.

On May 14 the PNA issued a decision to close the Watan newspaper for three months on charges of instigation against the authority<sup>71</sup>. The PNA re-opened the newspaper once again on June 19 of the same year. However, the newspaper apologized to its readers and until further notice in solidarity with the editor in chief Sayyed Abu Msameh who was arrested on April 13,

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See pages 33-34 of this study regarding the arrested journalists

At around 11:00 a.m. on Monday May 15, 1995, journalist Imad Falouji, owner of Watan newspaper then and currently the minister of communications, was summoned by phone to the general intelligence service in Gaza. Falouji went to the Saraya building where he met Col. Mohammed Masri. The meeting lasted one hour of discussion over the issue of the activities of Watan newspaper. Col. Masri accused the newspaper of exercising incitement against the PNA. Falouji rejected the charges and requested from the Colonel to define the articles that included instigation against the authority. Colonel Masri refused to give specific examples but stressed that the newspaper has a tendency and approach to instigate against the authority. The next day and while Falouji was heading to the newspaper, a police force seized him and took him to the police headquarters where he was met by Col. Talal Abu Zeid who informed him that the newspaper will be closed for three months because it instigates against the authority; the police also sentenced Sayyed Abu Msameh, the editor in chief of the newspaper, to two years in prison; the newspaper was closed on May 14, 1995 until June 19, 1995. (Field research unit, the Palestinian Center for Human Rights, May 17, 1995).

and was sentenced by the state security court to two years in prison on charges of inciting against the authority<sup>72</sup>.

The month of August witnessed the highest number of cases of banning distribution and closure of newspapers. On August, 3, the Minister of Information issued a decree to stop the distribution of Jordanian al-Bilad newspaper in the PNA regions. The decision of the ministry came following the distribution of only two copies of the newspaper in the PNA territories<sup>73</sup>.

On August 5, two closure decisions were issued. The first order closed Istiqlal newspaper because it published an article about corruption in Morocco and the practices of King Hasan<sup>74</sup>. The authority allowed the re-opening of the newspaper once again on August 13. The second decision dealt with closing Watan newspaper because it published an article about

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Sayyed Abu Msameh was released on December 2, 1995 without ending his prison term

The Ministry of Information issued on August 3, 1995, a decision to withdraw the temporary permit of distributing Jordanian al-Bilad newspaper in the PNA regions, including East Jerusalem and West Bank as of the date of issuing the decision. Bisan Media Institute received on the same date a letter on this issue from the ministry in Gaza since it is the party responsible for distributing the newspaper in Gaza Strip because it published a report that attacks the PNA. (Source: Field research unit, the Palestinian Center for Human Rights, October 10, 1995).

On August 5, 1995, Col. Talal Abu Zeid, chief of criminal investigation department in Gaza, summoned Ala' Saftawi, chief editor of Istiqlal, that the newspaper publishes articles that distort the reputation of the PNA, thus negatively affecting the trend of investment in the PNA areas. The next day, a decision on closing the newspaper was issued. Later, it was known that the reason for the closure was because the newspaper published an article in the newspaper on August 3, 1995, under "Mirrors" under the title "Corruption between those seeking ministerial positions and those playing games" which included strong criticism to the PNA because it considers King Hasan of Morocco the ideal for moderation; the article considered him the major symbol of systemic corruption that is exercised as an ideology aiming to have a relation of subjugation among the sectors in the political system and those benefiting from him. (Source: Field research unit, the Palestinian Center for Human Rights and Istiqlal newspaper, August 4, 1995).

Zahwa Arafat - the daughter of President Yasser Arafat - President of the PNA<sup>75</sup>. The newspaper was re-opened once again on October 13 of the same year, especially after the intervention of Ahmad Tibi, the political adviser of the PNA President, and Nimer Darweesh, one of the leading figures in the Green Line regions.

On the 19<sup>th</sup> of the same month, the PNA banned the distribution of al-Quds newspaper for one day because it published statements made by head of the PLO Political Department, Farouq Qaddumi, who criticized Oslo 2 and called on the PNA to halt negotiations with Israel<sup>76</sup>.

### ***In 1996***

Information received by the field research unit at the Palestinian Center for Human Rights confirm that there were no cases of closure or banning distribution of any newspaper during the year 1996

### ***In 1997***

Year 1997 was characterized for cases of closing intellectual and cultural centers by the authority and the banning of publishing books, in addition to

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In August Watan newspaper published a report it quoted from Independent newspaper, and broadcast by the BBC saying that the President of PNA had sold a picture of his daughter Zahwa to one of the French advertisement companies in return for an amount of money. The PNA considered this some kind of distortion to the figure of President Arafat and it shows as if the PNA suffers a financial crisis that threatens the security and stability of the region.

al-Quds newspaper published on Friday, August 18, 1995 statements made by head of the PLO Political Department, Farouq Qaddumi, who criticized Oslo 2 and called on the PNA to suspend negotiations with Israel. Qaddumi's statements came prior to the meeting held with the Secretary General of the DFLP Nayef Hawatmeh in Syria to discuss the latest political developments on the Palestinian arena. (See al-Quds newspaper on August 18, 1995, p. 3)



closing newspapers and magazines. The PNA banned in July the publishing of a biography of the life of martyr Yahya Ayyash<sup>77</sup>.

With regards to magazines and newspapers, the PNA closed the headquarters of al-Risala newspaper in Gaza on September 7 without giving any explanation<sup>78</sup>. On September 25, the PNA issued an order to close the Center of Science and Culture in Nuseirat Camp<sup>79</sup>.

On October 29, the PNA closed the headquarters of Tarabeen Families Society in Rafah city because they printed and photocopied statements inside the society following the fight between the families of Abu Dheir and Abu Samahdaneh<sup>80</sup>.

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Journalist Ghazi Hamad, the managing editor of al-Risala newspaper, submitted an application to Tawfiq Shomar, manager of publications in the information ministry, by the end of July 1997 regarding a book issued by Moslem Palestine Institute talking about the life of Martyr Yahya Ayyash, requesting permission to publish it. A few days later, Shomar told Hamad that it is prohibited to publish the book because it includes strong criticism to the PNA. The same book was published in the West Bank; however, the PNA took the copies from the market. (Source: Ghazi Hamad, managing editor of al-Risala newspaper, October 9, 1997).

Around 1:30 a.m. Friday on September 5, 1997, a force from the preventive security apparatus headed to the house of journalist Ibrahim al-Na'ami who works at al-Risala newspaper; the force requested from Ibrahim to bring the keys of the headquarters in Gaza city and accompany them. Ibrahim did as he was told. The force opened the headquarters and confiscated several computer discs, papers and other documents. One of the policemen placed the closure order on the main entrance of the office. (Source: Dr. Ghazi Hamad, managing editor of al-Risala, September 7, 1997).

The Center of Science and Culture was established in 1995 upon a license by the Interior Ministry. The Center was established by a group of citizens concerned with intellectual and political affairs who want to offer cultural services, including scientific courses, intellectual and political seminars and festivals and other intellectual activities. A force consisting of 25 members from the General Intelligence Apparatus raided the center Thursday afternoon, September 25, 1997. After one hour of inspection and searching, the force told Yousef Farhat, the deputy head of the center, that the center is closed until further notice and they sealed its door. (Source: Maher Abu Zir, member of the Board of Directors of the Center, October 5, 1997).

On October 23, 1997, following the funeral of Musa Dheir who died sustaining wounds he received after he was shot at by a member of Abu Samahdaneh, the participants in the funeral who were chanting slogans of revenge and threats against the governor Abdallah Abu Samahdaneh and they headed towards the house of the governor which consists of three floors and burnt it. The police tried to stop them but did not succeed although they opened fire and used tear gas bombs. (See the statement issued by the Palestinian Center for Human Rights, October 26, 1997).

### ***In 1998***

Year 1998 witnessed five cases of closing newspapers and banning the publishing of newspapers. On April 10, the PNA closed the British Reuters News Agency in the West Bank and Gaza Strip because it distributed a video tape which showed Adel Awadallah, a member in Izziddin Qassam Brigades, denying the charges filed against him by the Palestinian security services regarding his responsibility of assassinating Muhyiddin al-Shareef<sup>81</sup>.

On August 3, 1998, Palestinian police forces confiscated some issues of "Palestinians" newspaper published by Shabibeh Movement in Gaza upon orders from Ghazi Jabali, Chief of Palestinian police. It is believed that the decision was taken after the newspaper had published an article that criticized Jabali.

On December 18, the PNA closed three press offices: Gaza Center for TV Broadcast, Associated Press and Jaffa Office. The offices were closed following a march that condemned the US-British bombing of Iraq and to express solidarity with the people in Iraq<sup>82</sup>.

### ***Assessment of PNA practices regarding freedom of press***

We can say that the practices of the PNA towards the freedom of press targeted three basic levels

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Muhyiddin al-Shareef is considered one of the leading activists in Hamas Military Wing and Engineer no. 2 after Yahya Ayyash. Al-Shareef was wanted by both Palestinian and Israeli security services; he was killed on March 29, 1998, in the industrial zone in Ramallah following the explosion of a bombed car. It should be mentioned the conditions behind the death of al-Shareef are still unclear, but the forensic report confirmed that al-Shareef was killed before the car explosion; the report showed that he had received three shots in his chest and leg. The suspicious conditions of the death of al-Shareef caused confusion and concern among the Palestinians and raised tensions between the PNA and Hamas Movement, which accused the PNA of assassinating al-Shareef while the PNA said he had been killed following internal organizational disputes inside the movement. Reuters conducted interviews with Hamas leaders to cover the event and know the official position of the movement. Later, Chief of Palestinian police Ghazi Jabali issued on April 10, 1998, an order to close Reuters Agency Office for three months. The PNA accused Reuters of causing confusion and spreading false news over the incident. (Source: Ahmad Jadallah, a journalist working at Reuters and Field Research Unit at the Palestinian Center for Human Rights on April 11, 1998).

See statement issued by the Palestinian Center for Human Rights on December 19, 1998.

a- Practices regarding interrogation, detention and arrest of journalists it was noted that the practices of the PNA on this level were the strongest. There were 72 cases of violations by the PNA during the four years studied in this report.

b- Practices pertaining to assaults against journalists this is the second level of violations committed by the PNA. There were only 6 cases on this level

c- Practices dealing with closing media institutions, seizing or banning the publishing of newspapers this is the third and final level of violations committed by the PNA against the press; there were 15 cases of closing or banning the publishing of newspapers.

In fact, the severity of practices varied from one year to another. The following table summarizes the PNA measures on all levels during the years: 94, 95, 96, 97 and 98

<b>The general level</b>					
Interrogation , detention or arresting journalists					
Attacking journalists	-			-	
Closing or banning the publishing of licensed newspapers	-		-		
<b>Total</b>					

The above-shown table shows that the grand total of violations against freedom of press (including arrests, detention, closing of newspapers and banning of publishing newspaper) varied from one year to another. There is no doubt that the image will be more comprehensive after reviewing the PNA violations regarding freedom of expression based on political belief.

## **2- Measures towards freedom of expression based on political belief**

This section introduces the measures taken by the PNA regarding freedom of expression based on political belief. The right to political belief comes under the rights of beliefs in general, and includes the freedom of expressing certain political beliefs either individually or through a group voice. For example, this includes parties and participation in political activities that express these beliefs<sup>83</sup>. The section divides the PNA measures relating to freedom of expression based on political belief into two main sections:

- a- Measures dealing with arrest, detention and attacking members of opposition parties.
  - b- Measures dealing with the arrest or attacking of non-partisan elements with political visions, but that do not reflect the positions of any political party.
- a- Measures dealing with arrest, detention and attacking members in the opposition parties*

These measures include arrest, detention and attacking representatives of the national and Islamic opposition parties, in addition to measures closing their offices. The measures have varied from one year to another according to the developments that took place at the level of political agreements signed with the Israeli side. Therefore, it is important to review these measures in each year of the period under study.

### ***In 1994***

The information collected by the Field Research Unit at the Center points to the fact that there were several cases of arrests on political basis in 1994. In June, Palestinian security forces arrested citizen Yousef Suleiman Hasan Masri, because they suspected he had relations with the Eagles Group of the Fateh Movement.

On August 14, the Palestinian security forces launched a campaign arresting 35 citizens who are supporters of the Hamas Movement.

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Francis G. Jacobs and Robin C.A White. The European Convention on Human Rights. Clarendon Press, Oxford, 1996, p. 211.

During the period of September 5-6, the Palestinian security services launched an arrest campaign against the national opposition, detaining five citizens who are members in the Democratic Front for the Liberation of Palestine.

The month of October witnessed an escalation in arrest campaigns based on political affiliation. There were two arrest campaigns, which targeted 65 citizens who are members in the DFLP, and other arrest campaigns among Hamas members, detaining 24 citizens who support the Hamas Movement. On October 13-14, the Palestinian security forces conducted an arrest campaign against Hamas members, detaining 200 supporters. On October 29, 11 members of the DFLP were also arrested.

Palestinian security forces continued campaigns of arrest against supporters of the Islamic opposition. On November 11, there was an arrest campaign among members of Islamic Jihad, detaining 150 citizens who are either members or supporters of the movement, following the movement's suicide operation against Israeli soldiers in the Gaza Strip<sup>84</sup>.

On December 13, the Palestinian security forces arrested 13 citizens from Gaza, charging them with writing graffiti against the PNA.

In total, 495 citizens were arrested on the basis of political beliefs and affiliation.

### ***In 1995***

Year 1995 witnessed several cases of arrests on political grounds. On January 24, the Palestinian security forces arrested four leading figures from Hamas and Islamic Jihad.

The Palestinian security services escalated their arrest campaigns against the Islamic and national opposition when they arrested 42 members of the

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At around 2:00 a.m. Friday November 11, 1994, a Palestinian youth executed a suicide bombing operation against Israeli soldiers near the military police juncture on the main road between Gaza and Rafah, east of Netsarim Settlement. The operation resulted in the death of three citizens and injury of six soldiers and six Palestinians. Islamic Jihad announced on the same day its responsibility of the operation in a statement distributed in Gaza, stressing that the operation was executed to avenge the killing of Hani Abed who was killed by Israeli Special Forces. (See the statement issued by Gaza Center on Rights and Law, November 14, 1994).

DFLP, and 30 citizens from the supporters of Islamic Jihad and Hamas Movements.

On March 22, the Palestinian security forces arrested 15 citizens who are supporters of Hamas.

On the third of April of the same year, the general intelligence arrested citizen Mohammed Saleh Hasan Taha, from Der al-Balah, after he was accused of belonging to the Islamic Jihad Movement. On April 9, the Palestinian security services arrested 150 citizens who are supporters of Hamas and Islamic Jihad. On April 24, the Palestinian security services in Bet Lahia raided the houses of citizens Adel Aqel, Hilmi Ghandour, and Hisham Salem, and arrested them on charges of belonging to Hamas and Islamic Jihad.

In May, the Palestinian security services arrested four citizens who support the Hamas Movement in Nuseirat Camp.

The Palestinian security forces (criminal security) arrested citizen Ihsan Mohammed Hasan Bidwan on June 4<sup>th</sup> on charges of belonging to the Islamic Jihad Movement. He was released on July 6. On July 26, 41 citizens who support the Hamas Movement were arrested in Rafah.

On July 21, the Palestinian security services arrested 11 members who belong to the Popular Front for the Liberation of Palestine, following the Front issuing a statement supporting the operation of Qilt Valley<sup>85</sup>.

August witnessed a campaign of arrests and summoning of citizens on the grounds that they are wanted for political reasons. The Palestinian preventive security apparatus arrested during this month Ismail Hussein Radi and Naim Abdul Qader Abu Leilah, on suspicion that they belong to the Hamas Movement. The police, through the preventive security apparatus, also summoned brothers Hamdi and Wael Mohammed Abu Hilal from Khan Younis City, and arrested them on charges of Hamas membership.

On July 18, 1995, a group of the PFLP executed a military operation in Qilt Valley near Jericho that led to the killing of two Israeli soldiers and the abducting of one of their weapons; the PFLP claimed responsibility for the operation in a statement issued in Damascus; the statement also condemned the arrest campaign against its members. (See statement issued by the PFLP on July 21, 1995).

On August 28, a force from the general intelligence raided the house of Dr. Hameed Salem Abu Musa and Ali Ramadan al-Haj Abed from Khan Younis, and arrested them because they expressed sympathy with Hamas Movement. During the arrest, confrontations took place between 300 citizens who were at the site and the troops. The clashes resulted in the injury of two citizens who were shot by the general intelligence forces. The injured citizens are Mohammed Mohammed Ali Abed, 33, who works in the sanitation department at UNRWA, and Atallah Khalil Abu Sultan, 22, who works in the Military Discipline Unit.

On August 30, the general intelligence arrested Munif Hasan Awwad and Tahseen Ahmad Mahmoud Wleidi from Khan Younis, on charges of Hamas membership.

September also witnessed several cases of political arrests. On September 20, the general intelligence arrested 19 citizens from Rafah and Zaytoun and Shujayya regions in Gaza, on charges of membership in the Islamic Jihad Movement. On September 28, the Palestinian preventive security apparatus arrested Wisam Khalil Mustafa Lafi from Rafah on charges of membership in the PFLP. The next day the national security forces arrested 4 citizens from Nuseirat Camp on charges of membership of Hamas.

On October 3, the general intelligence arrested 7 citizens in Rafah on charges of belonging to Hamas; they were released on November 12, 1995.

On November 3, the Palestinian security forces arrested six citizens after charging them of belonging to the Islamic Jihad Movement, and a seventh citizen on charges of Hamas membership. The citizens are Salah Eddin Ahmad Ibrahim Abu Hasanein, Hazem Musa, Hashem Rasheed Hashem Abu Hashem and Fawzi Abu Asakar from Rafah city; Maysara Mohammed Abdallah from Bet Lahia; Mahmoud Rajab Abdul Rahman Burai from Jabalia Camp and Ahmad Mohammed Khalil Jawaher, on charges of Hamas membership. The PNA released Musa, Abu Hashem and Abu Asakar on November 21, whilst Abdallah and Burai were released on November 23. Abu Hasanein was released on December 2. All went through interrogation on their relations with the Islamic Jihad Movement.

On November 5, the Palestinian security forces arrested four citizens on the same basis; they are Mutaz Mohammed Abu Sbeih, Sameer Fouad Khalil Mansour, Ramez Abdul Qader Mohammed Obeid and Husam

Ibrahim Mohammed Lahham. All four are from Khan Younis, and were released two days after their arrest.

On November 8, Abdallah Issa, the general secretary of the Covenant Party, was arrested on charges of the party's distributing information about a dispute between his party and the PNA. The authority re-arrested Abdallah Issa on December 4. The Party issued on December 9, a statement appealing to the President of the PNA and the human rights organizations to intervene immediately and release him<sup>86</sup>.

In the period between 14-26 of November, the Palestinian preventive security apparatus and the general intelligence arrested three citizens on charges of belonging to the Islamic Jihad Movement. Two of the three detainees were known: Raed Ismail Yousef Nassar and Said Saleh Ateeq Mismeh from Der al-Balah, while the third refused to identify himself. On November 21, Ahmad Mohammed Nimer Hamdan was arrested on charges of Hamas membership.

The total number of citizens arrested on political beliefs was 359.

### ***In 1996***

1996 witnessed an escalation of arrest campaigns and closure of offices based on political beliefs. On January 1, the Palestinian preventive security apparatus and police arrested Atef Abdul Wahab Yousef Hamdan from Khan Younis on suspicion of belonging to Hamas. He was released the same evening. On February 25, the Palestinian preventive security apparatus and general intelligence conducted a wide campaign of arrests among the supporters of Hamas and Islamic Jihad; they arrested 83 persons following bombing operations inside Israel at the time<sup>87</sup>.

Palestinian security services continued during the period 2-9 March a campaign of arrests among Hamas members on the same basis; they

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The Covenant Party was established on December 1, 1994. The Party has a temporary leadership council, which consists of Abdallah Skeik, Kanafan Sarraj, Imad Dreimli, Deeb Jurai, Daes Abu Kishek and Sami Jallad (former member). (Source: the statement issued by the Palestinian Covenant Party on December 19, 1995).

On February 25, 1996, the Islamic Jihad Movement executed 4 suicide operations in Jerusalem, Asqalan and Tel Aviv. These operations caused the death of several Israeli citizens. The Israeli authorities imposed a tight closure on Gaza Strip at that time. The PNA conducted an arrest campaign among the members of Islamic opposition, mainly against Islamic Jihad Movement. (See the Palestinian Center for Human Rights. The Israeli Closure of Gaza: Legal and Documented Study. Series of Studies (6), July 1996).



arrested 31 citizens who support or are affiliated with Hamas or Islamic Jihad Movements. The police and preventive security apparatus arrested on March 56, five members of Hamas: Ahmad Hawajreh, Mohammed Abti, Jamal Timraz, Ahmad Sabbah and Ali Hasanat, as they were leaving Abdul Rahman Mosque in Der al-Balah Camp. The police and preventive security apparatus confiscated the keys of the mosque, changed the locks, and handed over the keys of the mosque to the Waqf Department, claiming that those in charge of the mosque are Hamas members. A Palestinian security force (Force 17) accompanied by a group of foreign photographers raided on March 7, the headquarters of the Islamic Salah Society and confiscated its contents. Later that night, a group of Force 17 raided the society's office in Nuseirat Camp and confiscated all its contents. On March 10, a force from the general intelligence, accompanied by a police force, raided the Islamic Society headquarters in Gaza, searched it and arrested several officials of that society: Sheikh Ahmad Bahar, head of the society; Mahmoud Salem Baroud, in charge of the Social Committee; Salah Eddin Ahmad Nijmeh, accountant of the society; Riyadh Juma'a Abdul Malek, guard; Shareef Asali, employee. The Palestinian security forces arrested during the period 13-20 March, 21 citizens who are suspected of being supporters and members of Hamas and Islamic Jihad.

April witnessed a decrease in the number of arrests on political grounds. Waleed Abdul Hameed Fadel was arrested on April 10 on charges of belonging to Hamas Movement.

On May 20, the Palestinian security forces arrested 7 citizens, mainly from Jabalia and Bet Lahia in Gaza, on charges of membership in Islamic Jihad. In addition, several citizens were summoned to police stations for interrogation about their connections with the Hamas Movement.

On June 13, the Palestinian general intelligence service arrested 10 citizens on charges of Hamas membership. An arrest campaign was launched in the period between 16-27 of the same month with the detention of 15 citizens. They were later released gradually in July.

The Palestinian security services arrested in the period between 17-27 of July Othman Othman Ismail Amsi, Mohammed Hamed Mohammed Houli, Ziad Mohammed Abdul Qader Abu Nada and Akram Ahmad Mohammed Dirgham on charges of Hamas membership; they were all released gradually at the end of August.

On September 5, the Palestinian security services arrested 6 citizens, mainly from Rafah, after being accused of belonging to Islamic Jihad.

In the period between 4<sup>th</sup> and 25<sup>th</sup> of October, the Palestinian security services arrested 11 citizens on charges of belonging to Islamic Jihad; six additional citizens were also summoned for interrogation on the same charge.

On December 30, the Palestinian security forces raided the National Salvation Party headquarters in Gaza and arrested the politburo member Khalil Nofal by force, after a heated argument between the breaking in force and the secretary general of the party<sup>88</sup>.

### ***In 1997***

1997 witnessed several cases of arrests on political grounds and the closure of several representative offices of political parties. February witnessed the beginning of the arrests. On February 5, the Palestinian security forces arrested 17 citizens who support the Islamic Jihad Movement.

In the period between 21<sup>st</sup> and 26<sup>th</sup> of March, the Palestinian Intelligence Apparatus summoned 27 Palestinians for questioning on their membership in Hamas and the PFLP. None of those summoned was arrested.

April witnessed an increase in number of arrests on political grounds. On April 2, the Palestinian security forces arrested 356 citizens who are supporters of the Islamic Jihad Movement.

On the 16<sup>th</sup> of August, the Palestinian police arrested 11 citizens who are suspected of being members in the secret service of the Hamas Movement. In the period between 3<sup>d</sup> and 4<sup>th</sup> of September, the Palestinian Preventive Security Apparatus and the General Intelligence arrested 12 citizens from Rafah City on charges of belonging to the PFLP. On the 8<sup>th</sup> of September, 30 citizens who support Hamas were arrested. During the period between 3<sup>d</sup> and 4<sup>th</sup> of September 1997, the Palestinian Preventive Security Apparatus and the General Intelligence arrested 12 citizens from Rafah city on the grounds of belonging to the PFLP. On the 8<sup>th</sup> of September, 39 citizens who are supporters of Hamas were arrested in

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For more details, see the press statement issued by the Islamic Salvation Party on December 30, 1996.

various regions in Gaza. On the 9<sup>th</sup> of the same month, the headquarters of the Islamic Bloc in Gaza, known as the Union of Islamic Bloc Youth<sup>89</sup>, was closed. On September 20, the Palestinian security services arrested 20 citizens who support Hamas. On September 25, the Palestinian Preventive Security services arrested Muhiddin Abdul Majid Mohammed Najjar after suspecting that he belongs to Hamas. He was released after 50 days of interrogation.

On October 9, the Palestinian security forces arrested and summoned several citizens from various parts of Gaza on charges of Islamic Jihad membership. The citizens are Maher Ayoub Habib, Amin Kamel Habib, and Shaker Burhan from Shujayye. The citizens who were summoned are Wajih Zarad and Masoud Yazouri from Gaza City. On October 21, the Palestinian security forces arrested 4 citizens from Gaza on the same charges. They are Yousef Khawaja and Ibrahim Mahmoud Ibrahim Abu Atwan from Rafah City, and Abdul Majid Eileh from Gaza, and Mohammed Hameed from Shate' Camp.

### ***In 1998***

1998 witnessed the highest number of arrest and detention cases by the Palestinian security services against the national and Islamic opposition. In the period between 21<sup>st</sup> and 23<sup>rd</sup> of January, 15 Hamas activists were arrested on the grounds of the seizure of a letter showing the movements' intentions to execute a bombing operation inside Israel. The detainees were released gradually in the period between January 1, and February 18, 1998.

March witnessed a qualitative development in the nature of the measures adopted by the PNA to force members of the opposition to hand themselves in. On the 27<sup>th</sup> of March, the General Intelligence seized Majed, lyad, Mohammed and Hasan Abu Jaber, in an attempt to force their brother Nabil Mohammed Hasan Abu Jaber to hand himself in after he was accused of belonging to the Islamic Jihad Movement. Nabil surrendered

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On September 9, 1997, the General intelligence informed the director of the Union of Islamic Bloc Youth in Gaza Strip of its decision to close the headquarters of the Bloc in the Strip. The headquarters was provided with the proper licenses. The Union issued on September 10, a statement protesting against the decision and appealed to the Palestinian Legislative Council and unions and human rights organizations to cancel the decision because it constitutes a violation to the principle of freedom of expression. (See the statement issued by the Islamic Bloc Union on September 10, 1997).

himself on April 21 to the General Intelligence at the Saraya building; he is still detained till now.

April is the month in which the most arrests were made on political grounds. On April 2, the criminal investigation unit in the police arrested seven members of the Islamic Jihad on the grounds of writing graffiti on the walls in Jabalia and Gaza. They are Abdul Rahman Mohammed Abul Naser, Fadi Hasan Mohammed Abu Sa'da, Fadel Ismail Ghandour, Ahmad Mohammed Abu Hajjaj; they were released on April 30. On the 9<sup>th</sup> and 10<sup>th</sup> of April, Dr. Abdul Azeez Rantisi and Dr. Ibrahim Ahmad Khaled Maqadmeh who are leading figures in the Islamic Movement, were arrested on the grounds of the assassination of al-Shareef, and were accused of conspiring and instigating against the authority<sup>90</sup>. It should be noted that Rantisi and Maqadmeh are still detained. In another development, the criminal investigation unit arrested on April 13, five persons who are members of the PFLP on charges of distributing a statement dealing with the killing of al-Shareef. They are Mohammed Abdallah Saleh Abu Mteir, Ayman Ismail Ali Lahor, Mohammed Said al-Sharafi, Jamil Saleh Abdallah Mizher, Imad Eddin Mohammed Abu Rahmeh. They were all release on April 14. During the period between 13<sup>th</sup> and 17<sup>th</sup> of April, and in relation to al-Shareef, the PNA conducted an arrest campaign, detaining 37 citizens who are supporters of Hamas and Islamic Jihad. The number of arrests that month was 52, which is a record figure when compared with months in the previous years.

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The Palestinian Center for Human Rights followed up through its legal unit the case of the arrest of Rantisi and Maqadmeh from its onset. On April 13, the attorneys of the center made a request to the attorney general, then, Fayez Abu Rahmeh, to allow them to visit their clients Rantisi and Maqadmeh after receiving several denials from the Palestinian police. The attorney general issued instructions to allow the attorneys of the center to visit them, but the police denied them the visit. On May 27, the high court in Gaza held a session to look into the request made by the center attorneys as representatives of Rantisi to show the reasons for keeping Rantisi and Maqadmeh under detention and to look into the demand to release them because the measures adopted in arresting are illegal. The court gave the attorney general till June 4, to respond to their request and June 4, the Palestinian Higher Court took a decision on the release of Dr. Rantisi after it was found out that the detention measures were illegal. The court also gave a deadline for the attorney general until June 20, to reveal the reasons for keeping Maqadmeh under detention by the Palestinian police. On June 20, the Court decided to reject the request made by the center attorneys to know the reasons for the arrest of Maqadmeh; the court also ordered his release. It should be mentioned that Rantisi is still detained despite the court's order. (See statements issued by the Palestinian Center for Human Rights on April 14, 19, and June 4, 22, 1998).

May witnessed a decrease in the number of arrests; the Palestinian Center for Human Rights recorded 9 cases compared with 52 cases in April. The arrests were against Hamas supporters.

June had a limited escalation in the number of arrests on political grounds. The Palestinian Center for Human Rights recorded 14 cases of arrests against Hamas and Islamic Jihad members and supporters. July did not see any arrests, according to the data received by the Field Research Unit in the Center.

Arrests commenced again in August, with the arrest of five supporters of Hamas and Islamic Jihad Movements. September did not witness any cases of arrests on political grounds<sup>91</sup>.

October was the month in which most arrests were conducted on political basis. On October 18, the General Intelligence arrested five citizens on charges of belonging to the military apparatus of Hamas<sup>92</sup>. On October 19, the Palestinian Preventive Security Apparatus arrested three citizens on the same grounds. On October 27, the General Intelligence arrested 4 citizens who support Islamic Jihad Movement because they distributed leaflets for the Movement. On October 29, the Preventive Security Apparatus and the Criminal Investigation Unit arrested 160 citizens, in addition to summoning around 60 citizens who support Hamas Movement. The arrests followed the suicide operation in Gosh Qateef<sup>93</sup>. Among those arrested in that campaign were Ismail Haniyye, Ismail Abu Shanab, Dr. Mahmoud Zahhar, Sayyed Abu Msameh, Ahmad Bahar, Ahmad Nimer and Mohammed Taha, who are considered leading figures in Hamas. On October 31, the General Intelligence arrested 3 citizens who support the

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It should be noted that this month witnessed a campaign of arrests among Hamas members on the grounds of a popular march in front of the Palestinian Legislative Council on September 12, 1998. The arrests in that campaign were not considered arrests on political grounds, but arrests on grounds of freedom to peaceful assembly. Therefore, they will be dealt with in the section pertaining to the PNA measures against peaceful assembly.

The citizens arrested are Akram Amer Abu Musa, Arafat Ahmad Abu Madi, Nidal Amer Kullab, Abdallah Mahmoud Abu Taha and Zuhdi Wadi from Khan Younes. They were arrested and transferred to Gaza Central Prison (Saraya).

On Thursday morning at around 7:30 a.m. on October 29, 1998, Suhaib Abdul Rahman Abdul Rahim Timraz, 19, who is believed to be a member in Hamas Military Wing, executed a suicide operation at the Gosh Qateef juncture when his bombed car ran into an Israeli military jeep that was guarding an Israeli coach which carried Jewish elementary school students. The operation led to the killing of one Israeli soldier and the serious injury of others; two school students received light injuries.

Islamic Jihad Movement because they distributed leaflets for the Movement.

In November there was a decrease in cases of arrests on political grounds. However, on November 23, the General Intelligence arrested 12 students at the Islamic University on charges of membership in the Hamas Movement.

The cases of arrest increased once more in December. During the visit of US President Clinton to the PNA areas, the PNA arrested in the period between 9<sup>th</sup> and 13<sup>th</sup> December a total of 40 citizens who support Hamas and Islamic Jihad, mainly students. This arrest campaign did not include leaders of Hamas and Islamic Jihad.

Through reviewing and analyzing the figures and measures adopted by the PNA in relation to the right of freedom of expression on political grounds, it is evident that the measures varied from one year to another, with strong connections with the developments that occurred in the environment surrounding the PNA. 1994 witnessed 495 cases of arrest. 1995 witnessed 359 cases. The number decreased in 1996 to reach 209 cases, while 1997 witnessed another decrease in cases to 163 cases only. In 1998, there were 327 cases of arrests on political grounds. 1998 is considered an expression of the PNA response to the developments that took place in the surrounding environment, as there were three important events. First, the assassination of Muhyiddin al-Shareef, a major activist in Hamas Military Wing, who was killed under suspicious conditions. This event led to the arrest of 52 persons, most of who were Hamas supporters. Secondly, the signing of the Wye River Understanding on October 23; this event resulted in arrest campaigns against opposition forces, mainly among the Hamas and Islamic Jihad Movements. More than 160 supporters of Hamas and Islamic Jihad were arrested during that time. The third event was the visit made by US President Clinton to the PNA areas, which led to the arrest of 40 citizens who supported Hamas and Islamic Jihad.

There is no doubt that the picture will not be complete without reviewing the PNA measures towards citizens on political basis but not related with faction affiliations, meaning those having a critical political position without belonging to any party or faction.

***b- Measures relating to detention, arrest or attacking citizens on political non-factional grounds***

These measures include the detention, arrest or attacking of citizens merely as a result of them exercising their right in expressing their opinions freely through written articles or books, or through participating in general discussions about special political viewpoints. Some of those citizens do not belong to political parties or factions, while others might be members of political factions but the measures taken against them were not based on factional issues.

We will review the measures of the PNA on this level in each year of the period under study.

***In 1994***

According to the information collected by the Field Research Unit at the Center, there were no indicators showing any cases of arrests or human rights violations based on the adoption of a certain political positions.

***In 1995***

This year witnessed the start of violations in the arena of the right of freedom of expression on the basis of critical political viewpoints. On February 14, the Palestinian security forces arrested attorney Raji Sourani, former director of the Gaza Center for Rights and Law, and the current director of the Palestinian Center of Human Rights. The arrest was because of a report issued by the Gaza Center condemning the formation

of the state security court on February 7<sup>4</sup>. On December 7, the Palestinian police arrested Iyad Sarraj, the general director of the Gaza Program for Mental Health, and detained him for several hours. It is believed that the arrest was because of the same issue, and in particular because he criticized the attorney general at a conference held on December 6 at Rashad Shawwa Center in Gaza<sup>95</sup>.

### ***In 1996***

There was a limited escalation in the cases of arresting non-factional citizens compared with 1994. On May 18, the Palestinian police arrested

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On February 14, 1995, at around midnight, a force from the criminal investigation unit headed to the house of attorney Raji Sourani requesting his attendance at the unit headquarters in Abbas region without explaining the reasons. Sourani refused to go with them after he found out that they had no arrest warrant. He told them to leave and that he would follow them later. Sourani headed to the unit headquarters in Abbas the same night and met with Col. Ziad Urreif, the deputy of chief of Palestinian police and other officers who informed him that they have an order from the president of the PNA Yasser Arafat to arrest him and interrogate him by the attorney general Khaled Qidra then. When he asked to know the reason for that order, they said they had no further information and that they received the order from chief of Palestinian police Ghazi Jabali. When he asked if they had an arrest warrant and a charge list, they denied. He then told them that their procedures are illegal and that they cannot arrest him in this manner. They kept him in the headquarters till the next day when he was able to meet with the attorney general who informed him that the President is angry because of the statement issued by the Gaza Center about the state security court, adding that the president considered the article a personal insult to him. Sourani said that condemning the decision to form a state security court is no insult to any person but came to express a firm position against forming such courts, explaining that the statement came under the title of "an appeal to President Arafat". The attorney general informed him that President Arafat wanted to meet with him, but Sourani refused because he was still under detention, which makes the decision to meet with President Arafat a non-optional one. He was later informed that he is free to leave. On the next day, Sourani was summoned once again upon an arrest warrant to meet with the President. Sourani went the next day to meet the President, but he was met by Tayyeb Abdul Rahim and Ghazi Jabali on behalf of the president. A discussion took place in which Sourani reiterated his position on the formation of a state security court. The meeting ended with the unconditional release of Sourani.

On December 7, 1995, at around 1:00 p.m. a Palestinian police officer came to the office of Sarraj and requested that he accompany him to meet with Col. Talal Abu Zeid. Sarraj accompanied the police officer to the Palestinian police headquarters in Rimal where he was detained. No official charge was made against Sarraj, but it is believed that the arrest came on the same background; he was released on December 7, 1995. (See statement issued by Palestinian Center for Human Rights on December 7, 1995).



Dr. Iyad Sarraj for the second time after the publishing of one of his articles in the New York Times newspaper in which he criticized the PNA<sup>96</sup>.

On June 9, the police re-arrested Dr. Iyad Sarraj for the third time without providing an explanation of the reasons for the arrest. It is believed that the arrest of Dr. Sarraj was on the grounds of his critical viewpoints<sup>97</sup>. On June 15, the police arrested Ahmad Mohammed Sousou because he wrote an article talking about the burdens of the citizen in the central region of Gaza, and demanding the PNA and the PLC to assume their responsibilities and to work on improving the health and economic conditions of the residents<sup>98</sup>.

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The New York Times published on May 6, 1996, an article entitled "Darkness in Gaza" which included an interview with Dr. Iyad Sarraj on the political and economic conditions in the PNA areas and his position regarding the peace process. In the interview, Sarraj launched a strong criticism to the PNA, describing it as a corrupt dictator regime and considering it as one form of the occupation that the Palestinian society is facing. The PNA accused Sarraj of slandering the PNA. On May 21, 1996, Sarraj appeared at the state security court and was remanded for 15 days until the conclusion of the interrogation. On Sunday evening, May 26, 1996, Dr. Sarraj was released on bail until the date of the court. Dr. Sarraj directed a letter of apology to the President of the PNA regarding the article and his interview, stressing that he had no intention to insult the president, expressing appreciation to the efforts exerted by the president to serve his own people and cause. As a result, the case was closed. ( See New York Times newspaper on May 5, 1996, statements issued by the Palestinian Center for Human Rights on May 19-21, 1996 and an interview with Awni Asfour, the administrative manager if Gaza Center for Mental Health on June 12, 1996).

On June 9, 1996, at around 11:30 p.m. Palestinian police officers came to the house of Dr. Sarraj and asked him to accompany them, but he refused because they had no arrest warrant. They left the house and came back after 20 minutes with an arrest warrant signed by the attorney general; he accompanied them this time to the police headquarters in Rimal in Gaza, where he was detained. On June 13, the Magistrate Court decided to release him on bail after he was charged by the attorney general of drug possession. Without informing his defense attorney, Raji Sourani, director of the Palestinian Center for Human Rights, the state security court remanded Sarraj for 15 additional days after accusing him of attacking a police officer. Sarraj was released on June 27, 1996. (See statements issued by the Palestinian Center for Human Rights on June 10, 26, 1996).

On June 15, 1996, at around 2:00 a.m. police force arrested Ahmad who lives in Magahazi refugee camp because he wrote an article about the burdens of citizens in the central region and he distributed the article in the mosques near his house. Ahmad had submitted a copy of the letter to PLC member Marwan Kanafani during a seminar organized by Kanafani and Dr. Ziad Abu Amro, head of the political committee in the PLC, regarding the burdens and problems facing the central regions. He was released on June 17, 1996 after a three-day interrogation. (testimony by the citizen Ahmad on June 24, 1996).

### ***In 1997***

The field research unit at the center documented only five cases of arrest during that year on the grounds of political ideas of non-factional citizens. The first of these cases took place at the beginning of 1997, where a force from the preventive security service arrested on January 1, 1997, Ghazi Hamad Mohammed Hamad, because he had written an article comparing the treatment of detainees in the PNA prisons and the Israeli occupation prisons<sup>99</sup>.

On April 28, attorney Jamil Salameh, the former general prosecutor in Gaza Attorney General Office and the legal adviser in the Ministry of Planning and International Cooperation, was arrested after he wrote an article talking about bribes and favoritism in the PNA apparatuses.

On May 28, the criminal investigation unit in the police arrested Ayyoub Othman, lecturer at Azhar University, because he wrote an article criticizing the PNA and its institutions, after the issuing of the report of the General Control Office<sup>100</sup>.

On July 2, a force from the preventive security apparatus raided the house of Dr. Fathi Suboh, lecturer at the Education College in Azhar University, and arrested him. While sources in the apparatus claimed Suboh was arrested on security grounds, his wife said he was arrested because he

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On January 1, 1997, at around 5:00 PM, at the end of the evening prayers at Huda Mosque in Rafah, two persons from the preventive security apparatus in Rafah arrested Dr. Ghazi Hamad while he was leaving the mosque; they requested him to accompany them to the preventive security apparatus in the town. He went with them; he was not allowed to inform his family who heard about his arrest from the eyewitnesses who saw the arrest. The family of Dr. Hamad contacted Minister of Communications Imad Falouji who interfered in the case; Dr. Hamad was released.

On May 28, 1997, members of the criminal investigation unit in Gaza raided the house of Ayyoub Othman requesting he accompany them. When they arrived to the headquarters, Othman met with Col. Talal Abu Zeid who accused him of slandering the PNA in the article he wrote in weekly al-Bilad newspaper on May 27. After some discussion, Othman was released.

included questions in an exam about administrative corruption in Azhar University and the PNA<sup>101</sup>.

On October 16, female attorney Subhiyye Jum'a, director of the Dameer Institute Caring for Prisoners, and attorney at the Independent Commission for Citizens Rights, was summoned by the General Intelligence Apparatus and interrogated about her work and activities<sup>102</sup>.

### ***In 1998***

The field research unit recorded three cases of violating the freedom of expression based on a critical political viewpoint. On April 7, the police force arrested Abdallah al-Shami, a leading figure in the Islamic Jihad

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The Palestinian Center for Human Rights followed up this case with extreme concern. On the second day of his arrest, the lawyers of the center, as representing Dr. Suboh in the case, sent a letter to the acting attorney general to know the reasons of his arrest and reasons why they did not follow the legal procedures during the arrest. They also demanded allowing them to visit Dr. Suboh. When the center received no response, they headed to the Higher Court and demanded the release of Dr. Suboh. On July 22, the Center issued a statement saying that the raid on the house of Dr. Suboh and the confiscation of his papers consolidate the belief that Dr. Suboh was arrested because of the exam questions. On August 9, the Higher Court convened to look into the case and postponed its decision till October 6, when the center issued a statement expressing shock at the decision of the Higher Court of rejecting the appeal of the center to release Dr. Suboh because the case was transferred to the state security court. The attorney general office said later that the state security court remanded Dr. Suboh although the defendant and his lawyers were never informed that the case was looked into by that court. Dr. Suboh was released on October 26, 1997 following the deterioration of his health condition; he was transferred to hospital on November 6, 1997. For more information on this case, see the statements of the Palestinian Center for Human Rights on July 12, July 22, August 10, October 6 and October 26, 1997.

On October 16, 1997, attorney Subhiyye Jum'a was summoned by the General Intelligence Apparatus. When she arrived to the headquarters, she was met by Col. Mohammed Masri and an interrogation Officer called "Abu Ala"; they asked her questions about the nature of her work and activities. After two hours of interrogation, she was released; she also received an apology for the summoning.

Movement, because he delivered a sermon during the feast about wide spread corruption in the PNA and the humiliation of the nation<sup>103</sup>.

On August 18, the Palestinian security forces re-arrested Abdallah al-Shami on the grounds of an article he wrote in the weekly Istiqlal newspaper, criticizing the new ministerial cabinet at that period<sup>104</sup>. On December 14, al-Shami was arrested once again because he made statements against US President Clinton during his visit to Gaza; he was released at the end of year.

#### *Assessing the practices of the PNA regarding the right of freedom of political belief*

The above review shows that the practices of the PNA regarding the right of freedom of political belief targeted two levels:

- 1- *The right of freedom of speech and expressing a political position on a factional basis* It is noticed that the practices of the PNA at this level were the most extreme. The number of violations committed by the PNA based on factional grounds during the four-year period of the study reached 1,517. This is a record figure when taking into consideration the short period in which the PNA assumed power and committed the violations.
- 2- *The right of freedom of expression of a political belief that does not reflect a factional position but a personal position:* This level was the least targeted by the PNA, with the number of violations committed

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On April 7, 1998, a police force arrested Abdallah al-Shami. On Friday, April 10, Tareq Ismail al-Shami, nephew of Abdallah, tried to visit him but was not allowed; they only allowed in underwear. On April 11, his wife submitted a request to visit her husband but was denied a permit. She insisted to see Col. Talal Abu Zeid to get a permit to visit her husband. The officers told her then that her husband was transferred to preventive security apparatus where he was kept until his release on April 13, 1998.

On August 9, the Palestinian Legislative Council made a vote of confidence on the new government with 55 votes in favor and 28 votes against although the new formation included some figures who were mentioned in the report of the General Control Office and only two or three new figures were added to the Cabinet. The new Cabinet spurred strong criticism among the Palestinian citizens since it became clear that there was no intention to make any changes on the current conditions. The position of the PLC was strange because it had affirmed on more than one occasion that those involved in the corruption cases must be changed and that a new government based on new technocratic and scientific principles must be formed. (See al-Ayyam al-Quds Newspapers on August 10, 1998).

reaching 13 cases during the past four years. This low figure might be interpreted as a reflection of the fact that there is no cultural heritage among the citizens to exercise this right, and therefore there was a minimum number of people who exercised this right in the first place. In addition, Palestinian society is known to be highly politicized. In other words, we rarely find people who are not considered either members or supporters of a certain political faction, at least at the intellectual and ideological level. Citizens might exercise this right based on their political affiliation or belief and not their personal opinions, so these people were classified as citizens whose rights were violated by the PNA based on their factional affiliation. These two reasons might be why there was a relatively limited number of violations at this level. The following table illustrates the measures of the PNA at each level during the four-year period.

<b>Level</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
<i>Arrests, detention, attacking members of opposition parties or closing their offices</i>	459	359	209	163	327
<i>Arrests, detention, attacking non-factional elements but with a political viewpoint</i>	-	2	3	5	3
<b>Total</b>	<b>459</b>	<b>361</b>	<b>211</b>	<b>168</b>	<b>330</b>

The PNA escalated its measures against the right of freedom of expression through issuing the *Presidential decree no. (3) for the year 1998 concerning reinforcing national unity and prohibiting instigation*, issued on November 19, 1998. The first article of the decree included a phrase describing the actions that are considered illegitimate according to the law. These are : instigation on issues of racial discrimination; using violence or instigation towards violence that might harm the relations with Arab and foreign countries; forming illegal associations; instigation on breaching agreements held by the PLO with Arab or foreign countries. In fact, the issuing of this decree came as part of the PNA commitments in the Wye

River agreement. The dangers of this decree is that it came as a legal concrete expression of Palestinian acceptance to the Israeli conditions, and implied recognition of the Israeli right to interfere in defining the nature of relations of the PNA with Palestinian society. This can be seen through yielding to Israeli exploitation and linking the implementation of the agreement with Palestinian commitments to implement Israeli demands. These demands include the issuing of legislation and laws<sup>105</sup> that not only ban violence and terrorism but that also undermine the principles of establishing a civil and democratic society, by using these laws and legislation (such as the presidential decree mentioned above) as a legal cover for exercising a series of human rights violations. For example, the decree did not define what is meant by “instigation against agreements held between the PLO and Arab or foreign countries”, and what are the borderlines that separate a political position rejecting the agreements and an instigator. Will adopting a critical position rejecting the agreements be considered one form of instigation? And if so, who has the power to decide this, the PNA or the state of Israel? Moreover, according to Wye River agreement, a joint Palestinian-Israeli committee was formed to fight instigation<sup>106</sup>. This joint committee holds regular meetings to review and assess the Palestinian performance at the level of fighting instigation. The question that poses itself here is whether this committee has the right to interfere in defining what is meant by the term instigation, as mentioned in the presidential decree?

One of the other problems of this decree is the concept of “agreements held between the PLO and Arab and foreign countries”. The decree did not explain this point adequately; does it mean all agreements held between the PLO since its establishment in 1965, which the ordinary citizen does not know, and it is possible that the citizen might criticize one of those agreements without knowing so? Or does it mean the interim agreements?

The decree raises a legal debate concerning the effectiveness of the agreements; it is well known that any agreement reached with another agreement does not become effective locally or part of the local laws unless it is ratified by the legislative authority. Concerning the agreements signed by the PLO, neither the PLC nor the PNC ratified any of them; thus

Wye River agreement affirmed that the Palestinian side made a commitment to issue a decree banning all forms of instigation to violence and terrorism, provided that this decree be similar to the Israeli effective legislation dealing with the same issue. See article no. 3 on banning instigation in Wye River Understanding Memorandum, Washington, October 23, 1998.

Ibid.

it is impossible to see such agreements as part of the local law to which decrees and decision can be issued<sup>107</sup>.

1998 is characterized as a year where legislation was issued to restrict the right of freedom of expression on the basis of factional or political grounds and on non-factional basis. This is a qualitative development in the nature of measures taken by the PNA to limit the freedom of exercising such rights. In the past, citizens were arrested without any legal grounds, but now they have a legal cover and legislation, and exercising such measures is considered legal.

### ***The PNA and the Right to Peaceful Assembly***

This right includes the freedom to hold public meetings and to participate in them, and the freedom of demonstrating and organizing marches and peaceful gatherings, and other forms of collective expressions. The measures of the PNA at this level include:

- 1- Measures pertaining to prohibiting or setting obstacles to organizing peaceful demonstrations, marches, conferences and public meetings.
- 2- Measures relating to arresting and detaining citizens on the grounds of participating in peaceful demonstrations and marches and public meetings.

A record of the measures of the PNA in relation to the right to peaceful assembly, during the period of study.

- 1- *Measures related to prohibiting or setting obstacles to organizing peaceful demonstrations, marches, conferences and public meetings.*

Major General Ghazi Jabali, chief of Palestinian police, issued two decrees on September 9, 1994. The first decree stipulates that a license is needed from the Palestinian police in order to hold political meetings. The second decree obligates coach companies in Gaza and Jericho to get a license from the Palestinian police each time they transfer persons who belong to political groups<sup>108</sup>. On September 27, 1994, the assistant to the Deputy Minister of Higher Education, Dr. Abdallah Abdul Min'em, issued a decree

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See statement issued by the Palestinian Center for Human Rights on December , 1998 on the Presidential Decree no. 3 for the year 1998.

See decrees no. Q. Sh. Issued by chief of Palestinian police on September 9, 1994.

which was distributed to all school principals. This was on the need to get the approval of the PNA, represented by the Palestinian police, at least four days prior to the holding of any sports, cultural or social festivals. During the period 1994 and 1998, dozens of peaceful marches, demonstrations and public meetings were held after getting an approval from the Palestinian police. The PNA showed tolerance regarding all forms of peaceful assembly that were organized in opposition to Israeli measures, such as protests against settlements and land confiscation, demanding for the release of Palestinian detainees in occupation jails, protesting against the policy of siege, protesting against illegal measures in Jerusalem, and other issues. As for other forms of peaceful assembly in protest against the performance of PNA, the period under study witnessed constraints and other impediments against such forms of assembly. Several of those activities were cancelled because the police refused to give licenses. In other cases, the police intervened to prevent the holding of activities that had been granted licenses. The focus here is on the cases in which the police rejected the granting of permits for holding peaceful forms of assembly, and the cases in which such activities were banned under the claim that they were unlicensed.

### ***In 1994***

1994 witnessed several factional and popular conferences and many peaceful marches and demonstrations. Some of those activities were held without any police or security forces intervention<sup>109</sup>. However, on September 9, the police prohibited the holding of the Third National

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For example, 400 citizens who support Hamas Movement gathered on August 6, 1994, at Gaza Municipality Yard in protest against the policy of appointment of the municipal council in Gaza. Demonstrators carried placards with slogans condemning the policy of appointment in municipal councils. The police came to the scene but did not interfere and the gathering ended with no clashes. A student march started on October 8, 1994, from al-Azhar University in solidarity with Palestinian detainees in the Israeli occupation prisons heading towards the Red Cross and demanding the immediate release of all Palestinian detainees and alleviating their suffering. The march ended without the intervention of Palestinian security forces. On October 15, 1994, a demonstration supporting Hamas started from Sheikh Radwan region in Gaza towards Saraya Building. The demonstration included 4,000 supporters who chanted slogans against Maj. Gen. Naser Yousef and Ghazi Jabali. The demonstration was dispersed without the intervention of the police. On November 11, 1994, and upon a call from Islamic Jihad, a commemoration festival was organized in Yarmouk region in which thousands of Hamas and Islamic Jihad supporters participated. The festival included a military parade by some masked persons, in addition to delivering a speech about the Cairo agreement and the PNA; the festival was dispersed without any intervention by the police or security services.



Conference of the Democratic Front for the Liberation of Palestine, which was supposed to be held at the YMCA in Gaza. The police surrounded the region and prevented anyone coming in or out of the building.

On November 15, the Palestinian police force and security troops set up road blocks and prevented buses carrying supporters of Islamic Jihad from reaching Sheikh Radwan to participate in the funeral procession that was supposed to be held in protest against the killing of Hani Abed<sup>110</sup>. The police forces inspected the identity cards of car passengers, and searched for supporters of Islamic Jihad, arresting them via the roadblocks that were spread throughout the whole Gaza Strip<sup>111</sup>.

### ***In 1995***

The PNA resumed its policy of restrictions and impediments, preventing residents from exercising their right in freedom of assembly. The PNA prevented the students at the Progressive Student Action Front and the Secondary Students Committees Union at Karmel School from celebrating the 27<sup>th</sup> anniversary of the PFLP. The chief of Palestinian police issued an order preventing students at Azhar University from celebrating the same occasion<sup>112</sup>.

On April 16, Ghazi Jabali issued an order prohibiting the use of mosques as places of "instigating and causing internal disputes". He ordered the removal of all journals placed in mosques, claiming "mosques are for everybody and this violates with the teachings of our Haneef Religion"<sup>113</sup>. It was clear that the aim was to reduce the ability for Islamists to gather and express their opinions by using the mosques as places for discussion and exchanging of political viewpoints, or "instigating" as seen by the PNA.

### ***In 1996***

No cases were recorded during this year.

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Hani Abed, 32 from Sheikh Radwan in Gaza, was one of the leading figures in Islamic Jihad, was assassinated by the Israeli Intelligence when they bombed his car near the Science and Technology College in Khan Younes on November 2, 1994.

the information mentioned here are based on documentation by the field research unit in the Center regarding festivals, marches and demonstrations during 1995.

See statement issued by the Progressive Student Action Front and the Secondary Students Committees Union in Gaza on January 4, 1995.

See Order no. 1481 issued by chief of Palestinian police on April 16, 1995.

### ***In 1997***

That year did not witness any cases of obstructing festivals, demonstrations or public meetings by the PNA. In spite of this, the year had one case where the right of freedom of peaceful assembly was exercised without the intervention of the Palestinian police or the Palestinian security forces<sup>114</sup>.

### ***In 1998***

1998 witnessed a repetition of the PNA policies and measures relating to exercising the right of freedom in peaceful assembly. The Palestinian police, on July 17, rejected granting the Islamic Salvation Party a license to organize summer camps in various parts of Gaza<sup>115</sup>.

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On December 1, 1997, the Islamic Salvation Party organized a mass rally at Nuseirat Services Center on the occasion of Isra' and Miraj. The festival was attended by Sheikh Ahmad Yaseen and leading Islamic figures in Gaza; participants stressed on national unity and called on the PNA to re-open the Offices of Islamic Salvation Party in Gaza. The festival ended without any intervention by the PNA.

On May 31, 1998, the Islamic Salvation Party sent a letter to the general director of the Palestinian police Ghazi Jabali informing him of the party's intention to organize several summer camps in Gaza Strip and requesting a permit to hold the camps, but Jabali denied them the permit. On June 16, 1998, the Party received a letter from the Interior Ministry informing them that the ministry does not mind organizing the camps and that the official parties were notified about the camps. The Ministry of Interior sent the party another letter saying that the party must stop the measures and preparations for the camps and follow up the matter with Maj. Gen. Abdul Razzaq Majaydeh and Maj. Gen. Ghazi Jabali, who were contacted but the conversation ended in a negative way. The party was denied permit to organize the summer camps. (Source: Statement issued by the Islamic Salvation Party on July 19, 1998).

On September 12, the Palestinian police dispersed a sit-in demonstration called for by the committee of prisoners and detainees in the PNA prisons, that demanded their release<sup>116</sup>.

On the 18<sup>th</sup> of December, Palestinian police confronted a march in solidarity with the Iraqi people, condemning the US-British bombing of Iraq. The police prevented the participants from resuming their march towards the PLC headquarters in Gaza city<sup>117</sup>.

## *2- The measures relating to arrest and attacks against citizens on the grounds of participation in peaceful marches and demonstrations and public meetings*

The measures of the PNA varied at this level from one year to another during the period studied, according to the internal and external policies faced by the PNA.

### ***In 1994***

On November 9, following the Friday Prayers, clashes took place between the worshippers at Palestine Mosque and the Palestinian police and security forces. The clashes resulted in 13 persons killed and the injury of

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On September 10, 1997, the Committee of Relatives of Prisoners in the PNA prisons called on residents for a solidarity sit-in with their imprisoned sons in prisons in front of the PLC. At around 2:00 p.m. on Saturday September 12, 1997, a large force consisting of 1,000 anti-riot policemen and national security forces, led by Maj. Gen. Ghazi Jabali towards the Council where they were spread in the surrounding streets and prohibited the pedestrians and cars from passing in the region around the Council. At around 4:30 p.m. around 300 men and women relatives of the detainees were able to reach the yard of the PLC building where they held a sit-in. The situation was escalated when Sheikh Yaseen arrived to the site along with several leading figures in Hamas when they were stopped by the Palestinian police at Jala' juncture (in Saraya region) and prohibited them from reaching the headquarters of the council. At that point, Sheikh Yaseen and his companions held a sit-in; they were joined by 200 citizens who participated in the sit-in. The situation was escalated when the citizens tried to enter the council from its western gate while the policemen tried to stop them. This led to clashes between the citizens and the police; Kana'an Obeid, member of the Islamic Salvation Party, received light injuries; several policemen were also injured. The clashes lasted a few minutes after which the police were able to control the situation and disperse the demonstrators.

See the statement issued by the Palestinian Center for Human Rights on December 19, 1998.

200 others<sup>118</sup>. Clashes also took place in various regions in the Gaza Strip following the Palestine Mosque incident, but there were no cases of deaths or injuries.

### ***In 1995***

The Field Research Unit at the Center documented one case of violation in 1995 on the grounds of right to peaceful assembly. On October 30, clashes occurred between the residents of Shoka (east of Rafah city, the site where the airport was planned to be built), and Palestinian security troops. This followed an incident where bulldozers started leveling the lands of residents there. The clashes resulted in the death of one citizen who was shot by the Palestinian troops. A member of the Palestinian security forces was also injured in the incident<sup>119</sup>.

### ***In 1996 and 1997***

According to information gathered from the field research unit at the center, the Gaza Strip did not witness any cases of attacks and violations on these grounds in 1996 and 1997.

### ***In 1998***

1998 was the most significant year in terms of the number of cases of arrests and attacks against citizens on the grounds of participation in demonstrations and marches. On September 12, the police arrested nine citizens who are supporters of Hamas, and another citizen who supports Islamic Jihad, on the grounds of participating in a peaceful march organized by Hamas in opposition to the PLC. The march demanded the release of political detainees, especially Hamas detainees, in the PNA prisons<sup>120</sup>. In addition to the arrest of the ten citizens, the clashes between citizens and the security forces led to the injury of five citizens who support Hamas.

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For more details, see Al-Quds Newspaper on November 20-21, 1994.

Salem Mohammed Abu Sneimeh, who worked in the presidential guard unit, was killed in the incident. He died at Shifa' hospital after receiving bullets shot by members of the national security forces. (Source: sworn testimony by Nabil Ali Saleh Shehadeh, field researcher at al-Haq Institute then, on October 30, 1995).

Two of the detainees supporting Hamas were detained separately; Samir Ali Nabaheen was summoned on September 11, 1998; Wisam Abu Shamaleh was arrested separately; the police release six of the detainees gradually between the period 16-24, September 1998, while the rest remained under detention, including Nabaheen and Abu Shamaleh.

In the period between 14-24 October, the Palestinian security forces arrested five citizens who support Hamas and Islamic Jihad on the grounds of participating in a mass rally held in Rafah city commemorating the anniversary of the former secretary of the movement, Fathi Shiqaqi. Four of them were released on November 11, and the fifth released on October 30.

In the period between 6-8 November, the Palestinian security forces arrested nine citizens who support the PFLP and DFLP, on the grounds of participating in a mass rally held in Jabalia to condemn the signing of Wye River agreement. All detainees were released on November 6-7 of the same year.

On December 18, the Palestinian police seized four PFLP leading figures and eight journalists, including the head of the Journalists Union in Gaza. This was on the grounds of organizing a mass march condemning the USD-British bombing of Iraq, and to express solidarity with the people of Iraq<sup>121</sup>.

#### *Assessing the PNA measures towards the right to peaceful assembly*

After reviewing the PNA measures towards the right to peaceful assembly, it is noted that the measures of the PNA towards this right was divided into two basic levels:

##### *a- The measures relating to setting obstacles to peaceful demonstrations and marches and public meetings:*

It is noted that from the start the PNA issued military orders in order to limit the freedom of citizens to exercise this right. The number of violations against citizens on this issue reached 7 cases during the four years of the study. This might be not be the result of adopting a more liberal policy on the part of the PNA, but that citizens did not exercise this right in the first place due to the restrictions set by the PNA.

##### *b- Measures pertaining to arrest and attacks against citizens on the grounds of exercising the right to peaceful assembly:*

In further confirmation to the previous analysis, the number of violations against citizens at this level reached 47 cases during the period of study,

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See the statement issued by the Palestinian Center for Human Rights on December 19, 1998.

including cases of shooting and killing citizens. This shows that there is a legacy of dealing with this right, and that citizens try to exercise this right when the opportunity arises.

***A table showing the number of cases of violations of right to peaceful assembly during the period of study***

<b>Level</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
<i>Measures pertaining to setting obstacles in face of peaceful demonstrations and marches and public meetings</i>	2	2	-	-	3
<i>Measures pertaining to arrest and attacks against citizens on the grounds of exercising the right to peaceful assembly</i>	1	1	-	-	45
<b>Total</b>	<b>3</b>	<b>3</b>	<b>-</b>	<b>-</b>	<b>48</b>

The above table shows that the measures of the PNA against the right to peaceful assembly were less severe than the measures against the freedom of political belief or freedom of press and publication during the period of study. It is clear that the years of the study did not witness a substantial difference in terms of the number of violations on the grounds of peaceful assembly, except for year 1998 which witnessed 48 violations.

## General Assessment

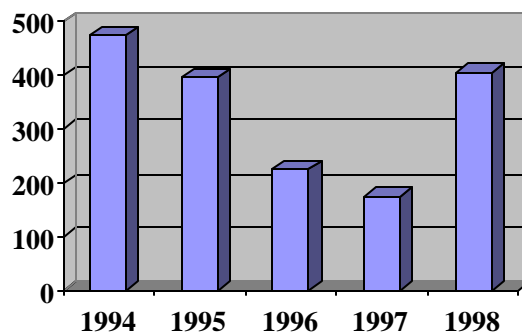
Reviewing the status of exercising rights of freedom of expression and peaceful assembly during the periods of foreign rule and the era of the PNA, we can see the limited scope given to citizens to exercise those rights. The colonialist forces throughout history legislated laws in a manner to restrict any activities that might play a role, even if limited, in developing Palestinian society and reinforcing the values of democracy and basic human rights. The activities dealing with the exercising of these rights were targeted by these laws more than any other activities, since they were considered as having a political dimension, in addition to their civil and social aspects. The colonialist powers legislated these laws to attain their interests in terms of controlling the economic, social, and political resources in the country. The PNA is the first Palestinian national authority assuming responsibilities of running the civil affairs of Palestinians and carrying the slogan of building the independent state and the democratic political system in Palestine, inspired by the Declaration of Independence issued by the Palestinian National Council in 1988. The new authority was supposed to work relentlessly on achieving these goals through protecting all the basic human rights of the Palestinian citizen, including the right to freedom of expression and peaceful assembly, and to create the legal context to make the exercise of these rights possible. However, through an accurate monitoring of the PNA measures in relation to these rights, several violations were recorded, especially in those two areas. What was surprising in this context is that the PNA, despite limited experience in dealing with issues of civil society, was able to develop legislation that restricted citizens exercising these rights at a time when systems that ban the exercising of such rights is looked at as an illegitimate regime. Allowing the exercise of such rights has become an important source of legitimacy for the political system. As a result, political systems compete in declaring legislation and measures that grant a larger room for exercising these rights. This is because the source of legitimacy of any political system and the extent of its acceptability by the international community has become linked to the ability of the system to reinforce democratic rules for its relation with its society, mainly the right of freedom of expression and peaceful assembly. Thus, it is important to look into the reasons behind the policies and measures of the PNA in terms of restricting these freedoms and rights. The following table illustrates the number of violations committed by the PNA at the three levels: the freedom of the press, the freedom of political belief and the right to peaceful assembly. This will help in a comparative analysis of these measures during the period of the study.

<b>Level</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
<i>Violations committed against freedom of press</i>	12	32	14	7	28
<i>Violations committed against freedom of political belief</i>	459	361	211	168	330
<i>Violations committed on grounds of freedom to peaceful assembly</i>	3	3	-	1	48
<b>Total</b>	<b>474</b>	<b>396</b>	<b>225</b>	<b>176</b>	<b>406</b>

The table above shows that number of violations committed against the right to freedom of expression and press and peaceful assembly varied from one year to another. There were 474 cases in 1994, going down to 396 cases in 1995, which means that the decrease ratio was 19%. The figure decreased further in 1996 to reach 225 cases, which is a decrease by 43% compared with 1995. A further decrease was witnessed in 1997 to reach 176 cases, which is a 22% decrease in comparison with 1996. In 1998, the figure rose to 406 cases, which is an increase by 130.7% compared with 1997. Therefore, the period between 1997 and 1998 is considered the only period that witnessed an escalation in the number of violations. As for the remaining periods (1994-1995, 1995-1996, 1996-1997), these witnessed a decrease in number of violations.

*The follows bar graph showing the number of violations committed against the freedom of expression, press and peaceful assembly in each year:*





In order to understand this discrepancy, one must look at the PNA as an institution that does not work in complete isolation from the environment that affects it and is affected by it. We will divide the period of the PNA since the start of its performance into four phases:

#### *The Establishment Phase*

This includes 1994 when the PNA was established in parts of the Palestinian territories. The establishment period of any institution is usually characterized by two major features: first, the policies and code of conduct and form of relation between the institution and the society is usually unclear as it is still in the stages of formation and maturation. Second, any institution at the start of its work attempts to gain social legitimacy and support. This rule applies if we are talking about a civil institution with social, service or profit objectives. But, if we are talking about a political or military institution, which has political agreements with another country such as the case of the PNA, this rule does not fully apply. The position of the institution in this case, regarding the activities that take place in the surrounding environment, is closely tied to the nature of those activities. If we are talking about societal activities that might directly affect the future existence of the institution, the position of the institution in this case will be strong and extremist against those activities. As is well known, the PNA came as the first political and military institution in the history of the Palestinian people, and as the first physical and concrete expression of peace agreements that did not gain the unanimous approval of the Palestinian people. From the outset, the agreements faced opposition from

several national and Islamic parties. As a result, the PNA was established within a context doubtful of its legitimacy to run the affairs of the Palestinian citizens, as the agreements that brought about this authority did not gain the unanimous approval of the citizens. Therefore, the PNA considered opinions doubting its legitimacy as a source of threat to its existence. The PNA worked on oppressing these opinions, and tried to marginalize the parties which expressed doubtful viewpoints. The PNA placed itself by force within this doubtful context. Thus, we see that the number of violations on the grounds of political belief in 1994 reached 459 cases, with 12 cases towards the freedom of the press, and 3 cases against the freedom to peaceful assembly. The total number of violations in 1994 was 474, which is the highest record of violations committed by the PNA on these grounds during the period of the study.

#### *The identity definition Phase*

The phase includes 1995, when the institution tries to define the features of its character, and to take the initiative to define its relation with the surrounding environment and to continue reinforcing itself within this context. These things are done in tandem with the beginnings of forms of response on the part of the institutions as a reaction to the developments that take place in the environment. Regarding the case of the PNA, from the beginning it aimed towards achieving full control over the citizens living under its jurisdictions. 1995 witnessed extensive negotiations between the PNA and Israel over redeployment in the West Bank. The PNA, at that time was coerced to take certain measures to support its position in the negotiation process, and to prove its capacity to control Palestinian society and run its affairs, thus proving its eligibility to control other areas. Among the social and civil activities that the PNA tried to prove this for were activities dealing with freedom of expression and freedom to peaceful assembly. Thus, we see that the number of violations committed by the PNA against those rights reached 396 cases, which is a high figure compared with years 1996 and 1997, although the figure is less than the figure recorded in 1994. This might be the result of the fact that the authority was able in 1994 to impose itself on Palestinian society in a manner that impacted negatively on the citizens' approach to exercise their rights in these fields. Therefore, the violations committed in 1995 did not arise as an internal need to impose control over the society since it achieved this goal in 1994, but came as the beginnings of response to the developments that occurred at the level of political agreements.

### *The Phase of Reciprocal Action*

This phase includes years 1996, 1997 and 1998. This phase witnesses an escalation in the level of response on the part of the institution towards the developments that took place at the external environment level. We find it adopting lenient policies towards the society in some cases, and at other times acting in an extreme manner. The nature of policy adopted by the institution in this case is defined on the nature of developments that occur in the surrounding environment. In the case of the PNA, it is committed to an agreement signed with Israel and it is in charge of the civil affairs of Palestinians living under its jurisdiction. Thus, its policies towards the Palestinians in that area are defined first by the developments that occur at the level of political agreements with Israel, and to a lesser extent by the trends of the Palestinians living under its jurisdiction. 1996 saw the dishonoring of the Israeli government of the deadline set in the agreement signed with the PNA over the redeployment from the West Bank on September 28, 1995. According to that agreement, March 28, 1996 was set as a deadline for Israel to redeploy its troops from the West Bank, but Israel did not abide by that deadline. This was reflected in the PNA approach and measures towards the freedom of expression and peaceful assembly. The stalling on the part of Israel was accompanied by some stalling on the part of the PNA in terms of measures towards these freedoms. Therefore, we see that 1996 did not witness any escalation of violations against those rights compared with 1995. The violations in 1996 were 225, which is a decrease by 43%. In addition, the PNA was also affected by the political developments. The approach of public opinion in terms of condemning the violations of the PNA in 1995 might have affected the position of the PNA towards these freedoms, and pressured it not to escalate violations in 1996. As proof, the number of violations decreased further in 1997 despite the signing of the Hebron Protocol in that year, and the US and Israeli pressures that were exerted on the PNA during the negotiations process over this agreement. This also includes after the agreement, on the need to take stringent actions and measures against the freedom of expression and the right to peaceful assembly. However, the number of violations in 1997 went down further to reach 176 cases only. This shows that Palestinian public opinion in the PNA areas had the loudest voice in defining the nature of PNA measures towards those rights in year 1997.

However, 1998 once more demonstrated how the PNA is affected by the developments that occur at the level of political agreements signed with the Israeli side. Following the signing of the Wye River Memo in October, the PNA adopted several steps and measures that were targeted to "fight terrorist organizations and their structures", as a response to the Israeli

conditions that in the agreement. This was in return for an Israeli commitment to implement the first and second phases as agreed upon in the interim agreements. Following the visit of US President Clinton to the PNA areas to attend the Palestinian popular meeting that aimed to ratify the cancellation of the items in the Palestinian National Charter that call for the destruction of the state of Israel, as agreed in the memo<sup>122</sup>, and following the popular positions rejecting the US-British invasion of Iraq, the PNA committed 28 cases of violations against freedom of press. These were focused mainly on detaining journalists, and there were 330 cases of violations on the grounds of peaceful assembly. The number of violations reached 406, which is an increase by 130.7% compared with the previous year (from 176 cases in 1997 to 406 cases in 1998).

The policy of the PNA and its measures during that year came in response and as an expression of its political commitments to the agreements signed with the Israeli side, regardless of Palestinian public opinion. These agreements are considered to be a basic part of the surrounding environment, affecting its work and position regarding Palestinians living under its jurisdictions; they also define the nature of measures adopted by the PNA.

In conclusion, we can say that the environment surrounding the PNA consisted of two basic parts: first, the political agreements that connect the PNA with Israel and which restrict the independent decision making of the PNA regarding the policies and measures towards Palestinians living under the PNA areas. Second, the public opinion of Palestinians in the PNA areas, which has a lesser impact on the policies of the PNA. In some cases, which is rare, public opinion determines the policies and measures of the PNA towards the society (1997). In most cases, the political agreements signed, mainly with Israel, are the decisive factor in the policies and measures taken by the PNA towards the Palestinians under its jurisdiction (years 1995, 1996 and 1998 were the most expressive).

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Wye River agreement affirmed in its article C-2 on the need that "the PLO Executive Committee reaffirm what came in the letter that was sent by the Chairman of the PLO Yasser Arafat on January 22, 1998, to President Clinton on canceling items in the Palestinian National Charter that contradict with the exchanged letters between the PLO and the government of Israel on September 9, 10, 1993. The President of the PNA Arafat, PNC Speaker, PCC members and ministers in the Palestinian government will call for a meeting in which President Clinton will deliver a speech to reaffirm their commitment to the peace process and to the decisions mentioned by the PLO Executive Committee and the PCC". Concerning the letters exchanged between the PLO and the government of Israel on September 9, 10, 1993, see Annexes: "Declaration of Principles (Oslo) on Arrangements of the Interim self-Government, Washington, September 13, 1993.

Therefore, the political reality resulting from the political agreements, including the establishment of a national authority in the regions where Israel re-deployed its troops, created a unique situation in those areas. On the one hand, and for the first time in contemporary history, a certain state (Israel) can share with "another state" (PNA) its jurisdictions in defining its relations with society. On the other hand, and also for the first time, the capacity of a political authority or entity to build its state and to achieve the national development tasks is linked to its capacity to oppress and marginalize the majority of this people through imposing as many restrictions as possible on the expression of beliefs and opinions. Freedom of expressing opinions and beliefs is considered a vital phenomenon in revitalizing any political system, regardless of its nature. State building or the formation process is difficult without this freedom. State building sets a condition that the political system must have the capacity to achieve the mobilization of the masses. This cannot be achieved without having an open relation between the masses and the system, and this requires that the political system must grant the social masses and sectors in society more scope to express their opinions and beliefs without restrictions.

## **Conclusion**

This study analyzed and evaluated the performance of the Palestinian National Authority in relation to the right to freedom of opinion, expression and peaceful assembly, in the period between May 1994 and December 1998. The study was limited to the Gaza Strip only, because the Palestinian Center for Human Rights has available information and material based on the documentation of the field research unit and other related units.

The study focused on three basic pillars when evaluating this experience: 1) freedom of press, 2) freedom of expression on grounds of political belief and 3) the right to peaceful gatherings. Laws and legislation which were issued by the National Authority relating to the right to freedom of opinion and expression were evaluated and analyzed. These are: Palestinian Law of Publications 1995, the executive charter no. 9 on organizing the work of foreign mass media correspondents, and the presidential decree no. 3 of 1998. The study did not include the law of public meetings, which was issued by the National Authority on January 28, 1999, or any other laws after the period of time under discussion.

In evaluating the National Authority's performance with regards to the right to the freedom of opinion, expression and to peaceful assembly in the

Gaza Strip, the study also monitored and analyzed cases of related abuse in Gaza. The study aimed at identifying the extent to which the National Authority was able to fortify the principle of the right to freedom of opinion, expression and peaceful assembly as part of the political practice and cultural heritage in Palestinian society.

In our analysis and evaluation of the level of practice on the right to freedom of opinion, expression and the right to peaceful assembly in areas of the National Authority jurisdiction, we noticed the absence of an essential and appropriate legal heritage to make the exercise of these rights possible. The PNA is the first Palestinian Authority which holds the responsibility for running the local affairs of part of the Palestinian population. This has happened after the Palestinians had been subjected for longer periods to the rule of foreign non-national forces, starting with the Ottoman rule, the British Mandate, the Egyptian administration in Gaza Strip, the Jordanian rule in West Bank and ending with the Israeli occupation. As becomes clear in our analysis of the periods of foreign rule, those forces issued their legislation and rules in a way that contradicts with the ambitions and aspirations of the Palestinian people and that confiscated the public freedoms of citizens. The activities which are related to the right to freedom of opinion, expression and the right to peaceful assembly were the most targeted activities by the foreign legislator in case of inciting public opinion against the ruling authorities. As a result, the Palestinian people were not able to practice these rights freely and have no real legal heritage adequate to guarantee those rights.

In 1994, the year which witnessed the establishment of the first national authority to assume the responsibility in the region, many hopes were raised for the possibility of Palestinians enjoying their basic rights within the jurisdiction of the new authority. Hopes flourished when the Palestinian leadership adopted the slogans of establishing the democratic state and fortifying values of pluralism and respect for human rights.

However, the practice differed to a large extent from the political rhetoric of the Palestinian Authority. It seemed for many people that the hopes of the past were only illusions. On the legal level, the PNA issued laws and legislation that do not contribute to enhancing the atmosphere of public freedoms; these laws also restrict the right of citizens to enjoy freedom of expression, publication and peaceful assembly. On the level of the freedom of press, since the creation of the Authority in 1994 and up until 1998, the PNA arrested 72 journalists, attacked 6 others and closed 15 licensed newspapers. On the level of the political belief, during the same period it arrested 1,517 residents on the grounds of party affiliation, and 13 citizens

on the grounds of their political opinions. In relation to the right to free and peaceful gathering, the authority banned seven demonstrations, conferences, and peaceful assemblies. It also arrested and killed 47 citizens on the grounds of practicing the right to peaceful assembly. Therefore, the overall cases of abuses which were practiced by the authority since its establishment in 1994 and up till 1998 on grounds of practicing the right to opinion, expression and peaceful assembly amounted to 1,677 cases<sup>123</sup>. It is a high figure, particularly if we take in consideration the short time of only four years and the new experience of the National Authority in dealing with issues of civil society. As noted, the vast majority of abuse cases had a political dimension (1,517 cases of violations related to arrest of citizens on partisan grounds).

Within this context, it is noticed that the National Authority is tied to political agreements with Israel. The continuation of the state of confrontation in most of the situations between both parties played a major role in creating a state of double standards by the National Authority in dealing with those rights. The National Authority has expressed an apparent tolerance at certain points and adopted a tough position at others when dealing with the practices that are related to the rights to freedom of opinion, expression and peaceful assembly which targeted Israel. However, it adopted a tough position towards the practices that are directed towards itself. In some cases the authority felt that citizens exercising these rights could affect the possibility of succeeding with the implementation of signed agreements with Israel. Therefore, the political agreement formed in some cases the framework within which the National Authority manages the Palestinian affairs at the expense of its commitments towards Palestinian society, and the building of a democratic political system. This created a state of inconsistency in the nature of measures adopted by the PNA, according to developments which took place at the level of political agreements that are signed with Israeli. Also, for the nature of commitments which the Authority accepted under any new agreements signed with the Israeli government, particularly the security commitments. For example, the period following signing the memorandum of understanding "Wye River" observed an escalation of measures against the freedom of press, in terms of arrest campaigns against members and supporters of opposition parties<sup>124</sup>. These practices contradict with the trends that aim to establish a democratic Palestinian state, reinforce values of pluralism, respect human rights and

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123 At least this what has been documented through the unit of fieldwork in the center. Therefore, there could be other cases not reported, or not documented by the unit.

124 For that, see pp. 51 – 62 of this report.

establish an active civil society. Meanwhile, these measures reflected the reality of the injustice that is faced by the Authority in the interim phase agreements and in its relations with Israel, which has the aim of creating a gap between the National Authority and the Palestinian Society.

Practices of the National Authority had a deep impact on creating self-constraints amongst the people in general, and journalists in particular, in practicing these rights. They became doubtful and concerned with reservations about what they publish, fearing and anticipating oppression and pursuit. This issue has negatively affected the development of the press and the possibility of practicing the right to access knowledge on the part of citizens. This in turn affected negatively the possibility for the citizen to practice the right in freedom of opinion and expression, this is related fundamentally to the right to knowledge and having access to information.

On another level, the interim agreements played a role in affecting the legal status in areas under control of the PNA with regards to identifying the margin for Palestinians to practice the right in freedom of opinion and expression. In response to the commitments of peace agreements, the PNA issued legislation<sup>125</sup> which narrows that space and marginalizes a large sector of Palestinians from circles of action and political action. This is a result of the PNA escalation of measures towards some of the social and civil rights, such as those related to the practice of the right in freedom of expression, opinion and in peaceful assembly. Therefore, the reality created by the agreements of the interim phase and the pressures imposed on the Palestinian Authority, in addition to the approaches of the Authority itself, have not helped in creating the appropriate atmosphere to strengthen those rights as part of the political education of Palestinians.

In light of the aforementioned, the Palestinian Center for Human Rights puts forward the following recommendations. These are useful in supporting the democratic process in general, and reinforcing the right to freedom of opinion, expression and peaceful assembly, and as part of the political education and heritage of Palestinians, in particular:

- 1- It is essential that the Palestinian Legislative Council review the legal framework that organizes practicing the right of opinion, expression and the peaceful assembly in areas of the PNA. There are many laws and decrees that were issued by the PNA that relate to these rights. The Palestinian Legislative Council should work on re-evaluating those laws and decrees to identify to what extent these conform with the relevant

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125 For example the presidential decree no. (3) which was issued on 19 November 1998.



international norms and covenants. For example, there are laws such as the Law of Publications which was issued by the PNA in 1995, and the presidential decree of 1998, that are related to practicing the right of freedom of opinion and expression, and which had a big impact on the practice of those rights. The Council should approve the laws and decrees which agree with international norms and covenants, and cancel the laws and decrees which negatively affect the citizens ability to practice these rights. Within this context, it should be noted that the Legislative Council, through the Basic Law, was able to issue articles related to the right of freedom of opinion, expression and peaceful assembly. These articles agree with the relevant international norms and covenants, and will play an important role if the Basic Law is approved by President of the PNA, Yasser Arafat, towards reinforcing the practice of these rights as one of the major and basic human rights for Palestinians. Accordingly, the Legislative Council should work out mechanisms for pressuring the President to approve the basic law, because this is of great importance in reinforcing the practicing of the right in freedom of opinion, expression and peaceful assembly.

- 2- It is noted that the PNA's political agreements with Israel are one of the major problems facing it, and negatively affecting its ability to reinforce the right of freedom of opinion, expression and peaceful assembly as part of the political education and heritage of Palestinians. The issue has reflected negatively on its relations with citizens in the area of its jurisdiction, and caused it to take several measures which restrict the citizens from practicing those rights. We would like to emphasize here that there is no contradiction between the values of democracy and human rights and peace. On the contrary, genuine peace is the peace that guarantees basic human rights for citizens, and guarantees their rights without any restrictions other than internationally recognized laws. Therefore, the PNA should realize its efforts towards establishing peace with Israel, and when reinforcing its concepts as part of Palestinian education this should coincide with real efforts to strengthen democracy and respect basic human rights.
- 3- Therefore, within the context of efforts aimed at strengthening the exercise of the right of opinion, expression and peaceful assembly as part of the political education of Palestinians, the PNA should develop educational curriculum in areas under its jurisdiction. It should focus on university curricula, which should include materials related to democracy and human rights. This may reinforce the principals of democracy and human rights as part of the culture of an important group in Palestinian society, the university students. This issue is of

great importance since this group will occupy future leading and sensitive positions in the Palestinian society, or become much closer to centers of decision making in society. Therefore, if this group obtains a democratic and human rights education, this may increase the possibility that the authority will adopt in the future policies and measures that support these concepts, including the right in freedom of opinion, expression and peaceful assembly. This experience of introducing material related to human rights and democracy in university curricula could be the start of a more general and comprehensive experience, which is related to the publicizing of these materials in curricula of the various educational stages.

- 4- It is essential for the PNA to promote the education of human rights and democracy among public employees, particularly those who are mandated to implement law, or those closest to the process of decision making. This could take place through convening courses, workshops and seminars and benefiting from experts in this context for the purpose of increasing awareness among this important category of the Palestinian society. This will undoubtedly create the needed educational atmosphere inside the Authority's institutions to support the citizens' practice of their basic rights, which include the right in the freedom of opinion, expression and the right of peaceful assembly.
- 5- Moreover, as long as media is an essential source of education, it is essential for the PNA to act on developing media programs in the various governmental mass media. These should include materials related to human rights and democracy for the purpose of increasing awareness among ordinary citizens in relation to their basic human rights, which include the right of opinion, expression and the right in peaceful assembly.
- 6- One of the other most important problems noticed in this study is the interference of the Palestinian security apparatuses in journalistic work, through arresting and attacking journalists and issuing orders to close licensed papers. This contradicts with the Law of Publications, which was issued by the PNA on June 25 1995. According to Article 42 of that law, "the competent court will look into all the violations which contradict with the provisions of this law, and the attorney general will undertake the investigation of them according to the jurisdictions and measures that are stipulated in the partial laws in force." Despite the fact that the law does not identifying the nature of the specialized court, it certainly does not mean any of the Palestinian security apparatuses. Therefore it is essential that the Authority act on the correct implementation of the

law through the immediate halt of the security apparatus' interference in journalistic work. Possible offenses of journalists, according to the definition of the law, should be transferred to the concerned parties to investigate.

# **Annexes**

**Annex no. (1)**  
**Law of Publications**

***Palestine National Authority***

***Law of Publications***

**1995**

Chairman of the Executive Committee of the Palestine Liberation Organization (PLO)  
President of the Palestine National Authority (PNA)

Having seen law No. 5/1995 concerning the transfer of authorities and jurisdictions. Law of Publications No. 3/1933 still enforced at Gaza Strip, and Law of Publications No. 16/1967 applicable in the Palestine West Bank.

Pursuant to the approval of PA Council of Ministers on June 17, 1995.  
And in accordance with the submission of the Minister of Information the following law has been enacted:

***Article (1)***

The following words and expressions will be construed wherever mentioned in this law according to the designated meanings opposite each unless stated otherwise:

The Ministry: The Ministry of Information

The Minister: The Minister of Information

The Director: Director-General of Publications and Advertising.

The Party: The party legally recognized by the PNA and holding a valid license from the Authority.

The Person: The legal person.

Printed Material: Every publication where words, or figures in letters, photographs, drawings, pressure or inscription have been included therein.

Periodical Print: specialized press print with different types issued at intervals comprising:

A- The Press Print consisting of:

- 1- Daily Print: Each print issued continuously on daily basis under certain and serial numbers for distribution free of charge or at a certain price.
- 2- Non-Daily Print: Each print issued on weekly basis or within lesser or longer periods ready for distribution either free of charge or at a certain price.
- B- The Specialized Print: Any print specializing in one or more subject in defined fields available for distribution to the interested persons or the public as specified by the license of issuance.
- C- News Agency Bulletin: It is a prepared print for providing press and media corporations with news articles, photographs, and drawings released on daily, weekly, monthly or quarterly basis or otherwise.

The Press: The profession of editing and releasing the press publications.

The Journalist: The person who chooses working in the press as a career or a source of living under the provisions of this law.

The Print House: Various types and forms of systems and equipment used for producing publications. However, this definition does not cover the typewriter, the printer, duplicating machine and photocopying machines.

The Library: A licensed commercial store for selling books, writing materials, newspapers magazines, and other publications.

Publishing House: A corporation administering the preparation, production and selling of publications.

Distribution House: A corporation responsible for the distribution or selling of publications.

The Press Office: It is an office in charge of combining information, news, and press reports from its various sources through different techniques and its distribution over different information media.

Advertisement Office: It is the responsible office for commercial advertisement, production of its relevant materials, and its publication or transmission via different information media.

Study & Research House: A corporation entrusted with the conducting of studies and research works, rendering consultancy services in the social, cultural, economic, and human spheres and other aspects.

Public Opinion Probing House: A corporation dealing with conducting field research programs in order to probe different points of view of public opinion concerning a certain subject through probing means of legitimate probing methods.

The Translation House: A corporation entrusted with translation services from one language to another, including spontaneous translation.

## **Article (2)**

Press and Printing are free. However, the freedom of opinion should be entitled to every Palestinian individual who attains the absolute right to

express his opinion in a free manner either in saying, writing, photographing and drawing in the various mass media.

#### ***Article (3)***

The press should exercise its duties in a free manner during the process of presenting news, information, and commentaries. It contributes in disseminating thought, culture, and sciences within the limits of the law and the framework of maintaining public freedom, rights, public duties, and respect of private life of others and its sanctity.

#### ***Article (4)***

The freedom of press covers the following points:

- a- Providing the Palestinian citizen with facts, thoughts, trends, and information at local, Arab, Islamic, and international levels.
- b- Giving all citizens a chance to publish their opinion.
- c- Scrutinizing the various sources of information, news and statistics of great interest to Palestinian individuals, analyzing, publishing, and commenting thereupon within law limits.
- d- The right of the press print, the news agency, the news editor, and the journalist to uphold the secrecy of the obtained sources of information and news unless the court has decided otherwise while reviewing criminal cases in order to maintain and defend the security of the state or to prevent a crime or to realize justice.
- e- All citizens, political parties, cultural or social institution, and unions should be entitled the right of full expression while exercising their various activities through publications.

#### ***Article (5)***

Any individual, including political parties, should be assigned the right to own and issue press prints by virtue of the provisions of this law.

#### ***Article (6)***

The official competent authorities should facilitate the mission of the journalist and researchers by advising them with their programs and projects.

#### ***Article (7)***

- a- It is inadmissible to publish in the printed publication any material which may contradict with the principle of freedom, national responsibilities, human rights, and the respect of truth. It must also consider the right of thought, opinion, and expression.
- b- The periodical prints addressed to children and teenagers should not include any photographs or stories, or scripts, or news which could hamper morals, values, and Palestinian traditions.

#### **Article (8)**

The journalist and all persons dealing with this profession should fully respect the rules and the morals of this career, including the abidance by the following obligations:

- a- To respect the rights of the individuals and their constitutional freedom without any interference in their private life.
- b- To present the press material in an objective, integrated, and balanced form.
- c- To strive for accuracy, integrity, and objectivity in commenting over news and main events.
- d- To refrain from publishing material that might flare up violence, fanaticism, and hatred or calls for racism and sectarianism.
- e- To refrain from exploiting the press material in commercial advertisements with the aim of upgrading or degrading the value of a certain product.

#### **Article (9)**

- a- The periodical print must rely in its resources on definite legitimate sources, and is prohibited thereon to receive any financial support or instructions from any foreign country.
- b- Each periodical print that desires to receive financial support from foreign non-governmental organizations should apply to the Ministry of Information and gets its prior approval on such support.

#### **Article (10)**

The journalist or any person working in the press is prohibited from establishing a business-like relationship with any foreign body, unless it has been established by the rules of the foreign mass media correspondence system issued by the virtue of this law.



#### **Article (11)**

- 1- Each press print must have an editor-in-chief with the following qualifications:
  - a- To be a journalist.
  - b- To have good command of the language, reading and writing, of the periodical print to which he was appointed editor-in-chief. If the periodical print is issued in more than one language, he must have full command of the basic language and have sufficient knowledge of other languages.
  - c- The editor-in-chief must not occupy this position for more than one periodical print.
  - d- The editor-in-chief must not accept any other job in the same periodical print in which he is working, or at other periodical prints.
  - e- he must not be convicted by a court verdict in an immoral crime or felony or misdemeanor.
  - f- he must have a virtual domicile in Palestine unless circumstances prompted otherwise.
  - g- he must not fall within the category of persons entitled to judicial immunity by virtue of law.
- 2- Unless otherwise prescribed in items (b) (e) and (f), the provision of the pervious paragraphs are not applicable to the editor-in-chief of the printed material issued by a party.

#### **Article (12)**

The editor-in-chief should be responsible for whatever is published in the press print for which he is appointed a chief. However the owner of the print and the writer of the editorial published therein are solely responsible for its contents.

#### **Article (13)**

- a- The specialized print must have an editor-in-chief to be responsible for whatever may be published therein with the following qualifications:
  - 1- To be a Palestinian.
  - 2- Having worked with the Palestine Liberation Organization for non-holders of the Palestinian nationality.
  - 3- he must not be convicted in a felony or a misdemeanor pertinent to immorality or dishonesty.
  - 4- he must hold a scientific degree related to the specialization of the press print or has experience in the same field to qualify him for work at the press print with the exception of that issued by a party.
- b- Non-journalists may attain the absolute right to be nominated editors-in-

chief responsible for a specialized press print whose subjects fall within the field of his specialization.

#### ***Article (14)***

Each publication house, study and research house, public opinion probing center, press office, translation house, advertisement office, distribution house, and library must employ a managing director with the following qualifications:

- a- he must be a Palestinian.
- b- he must have served with the PLO if not holding a Palestinian Nationality.
- c- he must not be convicted of a felony or a misdemeanor pertinent to immorality or dishonesty.
- d- he must hold a high school diploma and acquire appropriate experience in the scope of work he was assigned to if he is to be nominated to hold the position of a managing director to a publication house or translation house or advertising office.
- e- he must hold the first university degree and acquire appropriate experience in the field of work he is assigned to if he is to be nominated to the post of a managing director for research and study department, or public opinion center, or the press office.

#### ***Article (15)***

No single person has the right to hold the position of a managing director for more than one corporation among those prescribed in by article (14) of this law.

#### ***Article (16)***

The owner of the periodical print shall attain the following qualifications:

- a- he must be a Palestinian citizen residing in Palestine.
- b- Non-resident Palestinians should seek the prior consent of the Ministry of Interior.
- c- he must not be convicted of a felony or misdemeanor pertinent to immorality or dishonesty.

#### ***Article (17)***

- a- The license of issuing a press print will be granted for the following bodies.
  - 1- The journalist as defined by this law and acquiring the prescribed

- conditions therein.
- 2- The press corporation duly established and registered for the purpose of issuing press publications.
  - 3- The political party.
- b- The Minister is empowered, upon a nomination by the director, to give a license for the purpose of issuing bulletins to the following bodies:
- 1- A Palestinian news agency.
  - 2- A foreign news agency in accordance with the principle of reciprocity provided that the responsible editor-in-chief for this bulletin is a Palestinian journalist.

#### ***Article (18)***

The application for getting a license for a press print should contain the following details:

- a- The name, domicile, and address of the applicant.
- b- The name of the print and the place of issuing and printing.
- c- Date of issue while specifying whether the print is daily, weekly, biweekly, or quarterly etc....
- d- Field of specialization by outlining whether it is a political, cultural, or economic print.
- e- The language or languages of issue.
- f- Name of the responsible editor-in-chief, his age, domicile, address, scientific degree, and practical experience.
- g- The authorized capital of the press print.
- h- Affixing his signature on a bank guarantee in which he commits himself to deposit wages and expenses for the employees to a minimum period of six months, excluding literature and artistic prints issued by cultural, literary, and artistic unions.

#### ***Article (19)***

Applications for obtaining a license for a specialized print should be submitted to the director on a form specially prepared for this purpose, the Minister should, upon a nomination from the director, issue a decision within a maximum period of 30 days starting the date of submitting the application. However the Minister's decision of disapproval must be justified and liable for an appeal at the high court of justice.

#### ***Article (20)***

- a- Application for obtaining a license for the establishment of a library, a publishing house, a distribution house, a research and study house, a

public opinion probing center, a press office, a translation house or an advertising office should be submitted to the director on a form duly prepared for this purpose. The Minister should, upon a nomination by the director, issue a decision within a maximum period of 30 days from the date of submitting the application. However the Minister's decision of disapproval must be justified and liable for appeal at the high court of justice.

- b- Relevant information and procedures pertinent to the license application as prescribed by paragraph (a) of this article, including inserting changes or amendments to the text of the license and procedures of relinquishing must be outlined by a special system to be issued by virtue of this law.
- c- It should be considered established on sound basis even though its present composition does not conform with the provisions of this law, all print houses, publishing houses, libraries, and publications, effective prior to the date of issuing this law in the official gazette provided that the owners of these establishments submit within 60 days of enforcing this law supporting documents to the Ministry of Information.

#### ***Article (21)***

- a- In order to be considered for issuing a license for a daily press print, its registered capital should not be less than 25,000 dinars.
- b- In order to be considered for issuing a license for non-daily press Print, its registered capital should not be less than 10,000 dinars.
- c- The daily and non-daily press prints to be issued by any political party shall be excluded from the minimum limits of the capital prescribed in subparagraphs (a) and (b) of this article.

#### ***Article (22)***

The owner of the press print is hereby required to publicize in a prominent and clear place, his name and that of the editor-in-chief of this print along with the place and date of issue, the amount of subscription therein, and the name of the print house where it is being printed. He is also required to submit a written notice to the director in case of making any alterations or amendments as to the context of the license within a specified period of 30 days from the day of the amendment.

#### ***Article (23)***

Excluding the press print issued by the political parties, the license of the print will be considered canceled and invalid by law in any of the following

cases:

- a- If the press print was not released within 6 months from the date of issuing the license.
- b- If the under-mentioned press print stopped from issuance without a justified reason acceptable by the Minister.
  - 1- The daily print for three consecutive months.
  - 2- The weekly print for twelve consecutive months.
  - 3- Periodical prints issued regularly for more than a one-week period, if it has failed to release four consecutive editions.

#### ***Article (24)***

Without prejudice to the prescribed conditions under this law, the license of a press print is given to the owner who can cede part of all his rights to third persons under the following conditions:

- a- The assignor should notify the director about his intention to cede part of all his right one month ahead.
- b- The assignee should attain the conditions prescribed under this law which permits the ownership of the press print or any part thereof.
- c- The assignee should submit an application to the director within 30 days prior to the date set for cession, expressing his willingness to own the press print.
- d- Cession procedures shall be performed at the headquarters of the Ministry in accordance with procedures outlined by the Minister via instructions issued for this purpose.

#### ***Article (25)***

If the printed press publishes false news or an article entailing inaccurate information, the person mentioned in the article is entitled to the right of responding to the article or demanding the rectification of the error. The editor-in-chief is obligated to publish the reply or the rectification free of charge in the edition issued after receiving the reply in the same place and font of the first item or article in the press print.

#### ***Article (26)***

If the press print publishes false news or an article entailing inaccurate information pertinent to the public interest, the editor-in-chief is obligated to publish the reply or the written rectification arriving from the concerned body, free of charge in the issuing edition to receiving the reply or the rectification at the same place and font of the first misleading item or article in the press print.

#### **Article (27)**

The provisions of article (25) and (26) of this law are applicable to any press print issued outside Palestine and distributed inside it.

#### **Article (28)**

The editor-in-chief of the press print attain the absolute right to withhold publishing the reply or rectification prescribed in articles (25) and (26) of this law under any of the following cases:

- a- If the press print has rectified the error accurately before receiving the reply or the correction.
- b- If the reply or the correction was signed by false signature or written in language different from the language in which the original article is written.
- c- If the context of the reply or correction was made in violation to law and public order or inconsistent with public morals.
- d- If the reply was received at least two months following the date of publishing the item or the article unless there was a convincing reason for this delay.

#### **Article (29)**

If the responsible authority for any print issued outside Palestine and distributed inside it refuses to publish the reply or the rectification in accordance with the provisions of article (27) of this law, the Minister is entitled, upon recommendations from the director, to take whatever action he may deem appropriate therein.

#### **Article (30)**

Each print must entail the name of its author, the publication house where it has been printed, and the date of printing.

#### **Article (31)**

It is strictly forbidden to use the name of a formerly issued and then suspended press print by a new press print except after the elapse of 5 years from the date of suspension, unless those in charge of their successors have ceded their right to that name before the termination of the said period.

**Article (32)**

The editor-in-chief is strictly prohibited to publish any article for any person under nickname unless the writer has unveiled his true name.

**Article (33)**

The owner of the printing house or its managing director should abide by the following:

- a- To keep records where the headlines of the printed articles, names of their writers, and the number of printed copies per each, are written in serial numbers.
- b- To deposit at the publication and publishing department four copies of each non-periodical print printed at his establishment prior to its distribution.

**Article (34)**

Whoever wishes to import any periodical print from abroad should notify the Ministry of Information two weeks ahead as a minimum period.

**Article (35)**

Each distribution house or whoever wants to import periodical prints consisting of magazines or newspapers and the other-likes should obtain a one-time license from the Ministry of Information.

**Article (36)**

Any person wishing to sell newspapers, books, photographs, drawings and other publications is required to obtain a license from the Ministry of Information.

The license is issued according to an application submitted to the Ministry entailing the name, nickname, profession, age, and place of residence of the applicant. He is also required to attach with the application copies of the identity card and two personal photographs.

**Article (37)**

- a- No print shall be allowed to publish the following:
  - 1- Any secret information about police and security forces, their armament, locations, movements or military training.
  - 2- Articles and materials harmful to religious and doctrines whose rights are

protected by the law.

- 3- The articles which may cause harm to national unity or incites for committing crimes, or planting seeds of hatred, dissension, and disunion or stirs trouble and sectarianism among the members of society.
- 4- Minutes of secret sessions of the Palestinian National Council and Council of Ministers of the Palestinian National Authority (PNA).
- 5- Articles and news which are aimed at shaking confidence in the national currency.
- 6- Articles and news which are apt to infringe individuals' dignity or their personal convictions and liberties and harmful to their personal reputation.
- 7- News, reports, letters, editorial, and pictures that touch and offend morals.
- 8- Drugs or medical products or cigarettes advertisement and other similar material unless advertisement has been permitted in advance by the Ministry of health.
- b- It is strictly forbidden to import publications from abroad if they contain materials banned by virtue of this law.

#### ***Article (38)***

The provisions of this law, pertinent to importing prohibited publications, should not be applicable over all imported materials by government corporations, universities, and scientific research centers provided the prior approval of the Minister.

#### ***Article (39)***

It is strictly prohibited to publish the proceedings of courts at any lawsuit before the issuance of final verdict. It is also prohibited to publish such proceedings at a lawsuit dealing with a citizen under 16 years old unless the court has allowed it.

#### ***Article (40)***

If any print has published press investigations or news for a certain individual or body in return for a set amount of money, the print should clarify that it this material deals with an advertising material.

#### ***Article (41)***



The owner and the director in charge of the publication house are prohibited to print any press print, which had been banned from being published, or market or print any unlicensed print.

#### **Article (42)**

- a- The competent court will look into all violations committed in contrast with the provisions of this law. However the public prosecutor will be entrusted with investigating the violations according to powers and procedures prescribed in the penalty codes.
- b- A public right lawsuit will be filed in connection to crimes of periodical publications prescribed by this law against the editor-in-chief of the print and the writer of the article in their capacity as original perpetrators, while however the owner of the press print will be responsible along with both (i.e.) editor and writer of the articles for the private rights arising from these crimes and for court charges. The owner of the print shouldn't bear any criminal responsibilities unless it has been proved that he was an accomplice in the crime.
- c- A public right lawsuit will be filed in connection to crimes of non-periodical publications, prescribed by this law, against the author as the original culprit and the publisher as accomplice. If the author of the print or the publisher were unknown, the owner of the publication house will be sued.
- d- The owners of publication houses, libraries, and publishing and distributing houses should be held jointly responsible for the personal right, and court charges issued against their staff in publication cases covered by the provisions of this law.

#### **Article (43)**

- a- The court issuing the verdict is empowered to order the convicted person to publish the text of the final sentence free of charge, or publish a summary therefrom at the first edition of the ensuing periodical print due to be released after notifying him with the verdict at the same place in the print where the article, subject of the complaint, has been first published in the same font. However the court is also empowered if it deems appropriate to order the publication of the verdict or a summary thereof at two other newspapers at the expense of the convicted.
- b- If the convicted person has contravened the provisions of paragraph (a) of this article, he should be punished for at least one month in jail or a fine not less than (500) five hundred Jordanian Dinars but not exceeding JD (1500) one thousand five hundred Jordanian Dinars or by both penalties in addition to publishing the verdict at his own expenses.

**Article (44)**

if the editor-in-chief of the press print has contravened the provision of article (25) and (26) of this law, he will punished with at least one month prison term or be fined no less than JD (500) five hundred Dinars but not exceeding JD (1500) one thousand five hundred Jordanian Dinars or by both penalties in compliance with the complaint of the affected person.

**Article (45)**

- a- He who contravenes the provision of article (9) of this law should be punished by a minimum sentence period of four months and maximum period of six month in jail or by a fine no less than JD (4,000) four thousand Jordanian Dinars but not exceeding JD (6,000) six thousand Jordanian Dinars.
- b- The court orders the reimbursement of any amount paid for third person to the account of the treasury.

**Article (46)**

He who contravenes the provisions of article (41) of this law should be punished by a fine no less than JD (500) five hundred Dinars. However, if the owner of the publication house is a legal person, he should be fined by at least JD (2,000) but not more than JD (5,000) or two months in jail or by both penalties.

**Article (47)**

He who contravenes the provisions of article (37) of this law, in addition to other penalties prescribed herein, the competent authority is empowered by an administrative ruling, to seize and confiscate all printed copies issued at that date. However, the court can also order a temporary suspension of the involved print for a specified period not exceeding three months.

**Article (48)**

The perpetrator of any other violation committed in contrast to the provisions of this law with no definite penalty prescribed, is liable for a fine not exceeding JD (1000) one thousand Jordanian Dinars or one month in jail or by both penalties.

**Article (49)**

The Minister of information is entitled to issue all decisions and instructions pertinent to the execution of the provisions of this law.

**Article (50)**

Abrogating the law of publication No. 3/1933, enforced in Gaza Strip, and the law of publications No 16/1967 applicable in the West Bank or any provisions irrelevant to the provisions of this law.

**Article (51)**

All the competent authorities, each in its field of specialization, are hereby required to implement this law which will be effective within thirty days of the date of publishing it in the official gazette.

Issued in Gaza city on 25/6/1995

Signed by  
Yasser Arafat  
Chairman of the Executive Committee of the Palestine Liberation  
Organization  
President of the Palestinian National Authority

## **Annex no. (2)**

### **Presidential Decree no. (3) for the year 1998**

#### ***Regarding Reinforcing National Unity and Prohibiting Instigation***

Chairman of the Executive Committee of the Palestine Liberation Organization (PLO)

President of the Palestine National Authority (PNA)

After looking at the effective constitutional and legal rules

And Law no. (5) for the year 1995 on transferring authorities and jurisdictions

And Palestinian Penal Code no. (74) for the year 1936 and its amendments

And Penal Code no. (16) for the year 1960 effective in the Palestinian districts in the West Bank

And the Penal Code of the PLO for the year 1979

And resolution no. (1) for the year 1994 on working under laws, regulation and orders effective prior to June 5, 1967 in the Palestinian territories

And until issuing a uniform law that can tackle these issues by the Palestinian Legislative Council

And without prejudicing the provisions and principles of the International human law decided by the UN and ratified by the PLO

And within the provisions of the Palestinian laws on respecting political pluralism and ensuring the freedom of thought and expression and clinging to the national identity and personality and the historical relation with the Palestinian land and abiding by national unity

#### **Article (1)**

The following acts shall be considered illegal in all Palestinian districts:

Instigation towards racial discrimination and encouraging acts of violence that violate the laws; insulting various religions or using violence or instigation to use violence that harms the relations with brotherly and foreign countries; forming illegal associations that exercise or instigate towards crimes and abusing life and inciting masses to change by using illegal means or instigating towards internal conflict or inciting to breach agreements held between the PLO and brotherly or foreign countries.

**Article (2)**

Any person committing any of the above-mentioned acts will be punished according to the provisions of the laws mentioned above.

**Article (3)**

This decree will be published in the Palestinian Gazette and be effective upon publishing it.

Issued on November 19, 1998

Yasser Arafat

Chairman of the Executive Committee of the Palestine Liberation  
Organization  
President of the Palestinian National Authority