

Freedom in the World 2017 - West Bank

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Freedom Status: Not Free

Aggregate Score: 28/100 (0 = Least Free, 100 = Most Free)

Freedom Rating: 6/7 (1 = Most Free, 7 = Least Free)

Political Rights: 7/7 (1 = Most Free, 7 = Least Free)

Civil Liberties: 5/7 (1 = Most Free, 7 = Least Free)

Explanatory Note:

The numerical ratings and status listed above do not reflect conditions in Israel or the Gaza Strip, which are examined in separate reports. Prior to its 2011 edition, *Freedom in the World* featured one report for Israeli-occupied portions of the West Bank and Gaza Strip and another for Palestinian-administered portions.

Quick Facts

Population: 2,800,000

Press Freedom Status: Not Free

Ratings Change:

The West Bank's political rights rating declined from 6 to 7 due to the controversial postponement of municipal elections, which adversely affected the ability of opposition forces to meaningfully compete in the political arena.

OVERVIEW

The West Bank is under Israeli military occupation and is subject to the partial jurisdiction of the Palestinian Authority (PA), which is operating under an expired presidential mandate and has no functioning legislature. The Israeli occupation entails substantial physical barriers and constraints on movement, demolitions of homes and businesses, severe restrictions on political and civil liberties, and expanding Jewish settlements. The PA itself has grown more authoritarian, engaging in crackdowns on the media and human rights activists who criticize its rule.

Key Developments

- The PA postponed all local elections planned for October after its highest court ruled that voting could not proceed in East Jerusalem or Gaza, though critics of the move argued that it was politically motivated.
- The number of Israeli demolitions and seizures of Palestinian-owned structures nearly doubled compared with 2015, whereas Israel approved \$20 million in additional funding for Jewish settlements in June.

- The PA reportedly revoked the licenses of dozens of nongovernmental organizations (NGOs) during the year, citing legal irregularities.
- Israeli forces temporarily cut off all access to several villages following terrorist attacks on nearby Jewish settlements, disrupting entire communities' livelihoods for days or weeks at a time.

Executive Summary

Mahmoud Abbas marked his 11th year as president of the PA in 2016, as well as his seventh year without an electoral mandate, having remained in office beyond his original four-year term. The PA also remained without a legislature, as the council elected in 2006 was unable to function after a 2007 schism between Abbas's Fatah faction and the Islamist group Hamas, which seized control of the Gaza Strip. That legislature's term expired in 2010.

Local elections planned for October were postponed following a ruling by the PA's High Court of Justice that voting could not proceed in Gaza or East Jerusalem. The postponement, which affected the entire territory, drew harsh criticism from Hamas and independents, as many perceived the decision as a politicized effort to ward off challenges to Abbas's rule. Separately in August, PA security officers beat a shooting suspect to death in custody, drawing criticism from multiple political factions and outside observers amid concerns about a deteriorating political and human rights environment.

Israel maintained restrictions on movement for the Palestinian population while promoting the growth of Jewish settlements, despite new censure at the UN Security Council, which adopted a resolution stating that the settlements lacked "legal validity" and calling for a halt to all settlement activity.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights 5 / 40 (-1)

A. Electoral Process 2 / 12

- A1. Is the head of government or other chief national authority elected through free and fair elections?
 A2. Are the national legislative representatives elected through free and fair elections?
 A3. Are the electoral laws and framework fair?

Palestinian residents of the West Bank fall under the overlapping control of Israel and the PA, an interim self-governing body created by the 1993 Oslo Accords with partial jurisdiction in the West Bank and Gaza Strip. Jewish settlers in the West Bank are Israeli citizens. Israel claims full sovereignty over East Jerusalem, though its annexation of the area is not internationally recognized, and most Palestinian residents do not hold Israeli citizenship.

Under the laws in place for the most recent PA elections, the PA president is elected to four-year terms. The prime minister is nominated by the president and requires the support of the unicameral, 132-seat Palestinian Legislative Council (PLC), which also serves four-year terms.

Voting in the West Bank during the 2005 presidential and 2006 PLC elections was deemed largely free and fair by international observers. Abbas won the presidency with 62 percent of the vote, but Hamas led the PLC balloting with 74 seats, leaving Fatah with 45. The two factions formed a unity government headed by Prime Minister Ismail Haniya of Hamas.

After the 2007 schism between the two groups left Hamas in de facto control of the Gaza Strip, Abbas appointed a new prime minister and cabinet in the West Bank without the PLC's approval. In 2008, PA security forces arrested hundreds of Hamas members and supporters. The rift, combined with Israel's detention of many Palestinian lawmakers, prevented the PLC from functioning, and its term expired in 2010. Meanwhile, the Fatah-led Palestine Liberation Organization (PLO) indefinitely extended Abbas's presidential term after his electoral mandate expired in 2009.

Also in 2009, Abbas issued a law permitting the Fatah-affiliated minister of local government to dissolve municipal councils elected in 2005 after their four-year mandates expired, leading to the replacement of nearly all Hamas-affiliated municipal officials in the West Bank with Fatah loyalists. In 2012, elections were held for more than 90 of the West Bank's 353 municipalities amid some accusations of unfairness, with Hamas and Islamic Jihad boycotting. Only half of eligible Palestinians registered to participate, and only 54 percent of those registered actually voted. Fatah won 40

percent of the seats at stake; others were taken by independents, including many former Fatah members.

The PA cabinet scheduled local elections for October 2016 across the Palestinian territories, following an agreement with Hamas to allow it to administer elections in Gaza. In September, however, the PA High Court of Justice suspended the elections, citing ongoing disputes about the exclusion of East Jerusalem and the legality of preelection court judgements in Gaza. In early October, the High Court ruled that the elections could proceed in the West Bank only, leading the PA government to postpone all municipal elections by at least four months.

Renewed discussions on forming a national unity government and ending the Fatah-led PA's schism with Hamas were under way at the end of 2016, though repeated attempts at such a reconciliation had failed to gain traction in previous years.

B. Political Pluralism and Participation 4 / 16 (-1)

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system open to the rise and fall of these competing parties or groupings?

B2. Is there a significant opposition vote and a realistic opportunity for the opposition to increase its support or gain power through elections?

B3. Are the people's political choices free from domination by the military, foreign powers, totalitarian parties, religious hierarchies, economic oligarchies, or any other powerful group?

B4. Do cultural, ethnic, religious, or other minority groups have full political rights and electoral opportunities?

The PA and Israeli forces in the West Bank have largely sought to suppress Hamas since its 2006 election victory, intermittently engaging in mass arrests and closures of affiliated organizations. Abbas and his government have also taken administrative and bureaucratic actions to marginalize potential political rivals within Fatah; he was reelected as Fatah's leader by handpicked delegates at a November 2016 party conference. A number of smaller Palestinian parties continue to operate, including through membership in the PLO.

Israeli authorities arrested the Hamas representative on the Palestinian Central Elections Commission (CEC) in August 2016 in advance of the planned municipal voting. The CEC certified approximately 860 political party and independent candidate lists for 416 districts in the West Bank and Gaza Strip. The PA's postponement of the elections was widely perceived as an effort to block anticipated Hamas and independent gains at the council level.

Palestinian residents of East Jerusalem who do not hold Israeli citizenship can participate in Israeli municipal elections, but are precluded from voting in Knesset (parliament) elections. They are formally entitled to vote in PA presidential and legislative elections, according to the 1993 Oslo Accords. In the 2006 PLC elections, Israel did not allow Hamas to campaign in the city. Hundreds of checkpoints, roadblocks, permit restrictions, and the security barrier that Israel has constructed along the West Bank side of the pre-1967 border also present obstacles to political participation, both in East Jerusalem and across the West Bank. The PA's inability to organize municipal elections in East Jerusalem due to Israeli control was cited as part of the rationale for postponing the broader municipal voting in 2016.

C. Functioning of Government 2 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government?

C2. Is the government free from pervasive corruption?

C3. Is the government accountable to the electorate between elections, and does it operate with openness and transparency?

The PA lacks an elected executive and legislature, as the PLC ceased functioning after the 2007 schism and both its and Abbas's electoral mandates have long since expired. Moreover, the PA's ability to implement policy decisions is limited in practice by direct Israeli control over much of the West Bank, including the movement and travel of PA officials, staff, and related personnel and contractors. Israel sometimes withholds the transfer of tax revenues to the PA. Israeli authorities have also routinely imprisoned PLC members, particularly Hamas deputies, as Israel regards Hamas as an illegal terrorist organization. As of October 2016, six PLC members were imprisoned.

In 2015, the PA Anti-Corruption Commission put forward an anticorruption strategy for 2015–18. The Coalition for Accountability and Integrity (AMAN) reported in April 2016 that there was increased public awareness of anticorruption mechanisms, but noted continuing government corruption in a number of areas, including favoritism in the allocation of public-sector jobs and contracts and a lack of transparency in budgetary matters.

The cabinet has discussed the adoption of an access to information law with civil society groups, but passage of a draft law stalled in 2015. In March 2016, a coalition of NGOs, including AMAN, formed a crisis management cell to monitor the PA's executive decision-making, citing opaque procedures for the formation of policies and legislation.

Additional Discretionary Political Rights Question B -3/0

Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favor of another group?

1. Is the government providing economic or other incentives to certain people in order to change the ethnic composition of a region or regions?
2. Is the government forcibly moving people in or out of certain areas in order to change the ethnic composition of those regions?
3. Is the government arresting, imprisoning, or killing members of certain ethnic groups in order change the ethnic composition of a region or regions?

Jewish settlements, related seizures of Palestinian land, and home demolitions in the West Bank spiked in 2016. According to the UN Office for the Coordination of Human Affairs (UNOCHA), 1,093 Palestinian-owned structures in the West Bank, including East Jerusalem, were demolished or seized during the year, nearly double the number for 2015, with a comparative monthly average of 91 versus 46. More than 1,600 Palestinians were displaced as result of these demolitions or seizures. A fraction of such demolitions are conducted to punish families of Palestinians accused of perpetrating violence against Israelis or in the course of military operations. Israel cited a lack of Israeli-issued building permits for the majority of demolitions and seizures, which occurred in East Jerusalem and in Area C, the portion of the West Bank under its direct administrative and security control.

In June 2016, Israel reportedly approved \$20 million in additional financing for Jewish settlements in the West Bank and continued throughout the year to retroactively formalize certain ad hoc settlement outposts. As of the summer, Israel was moving ahead with plans to build more than 1,735 housing units in the West Bank, including 1,000 in East Jerusalem. In December, the UN Security Council adopted Resolution 2334, declaring that the settlements lacked "legal validity" and calling for all settlement activity to cease. Approximately 600,000 Jewish settlers were living in the West Bank, including East Jerusalem, as of 2016.

Civil Liberties 23 / 60 (-1)

D. Freedom of Expression and Belief 8 / 16 (-1)

- D1. Are there free and independent media and other forms of cultural expression?
- D2. Are religious institutions and communities free to practice their faith and express themselves in public and private?
- D3. Is there academic freedom, and is the educational system free of extensive political indoctrination?
- D4. Is there open and free private discussion?

The media are not free in the West Bank. Under a 1995 PA press law, journalists may be fined and jailed, and newspapers closed, for publishing "secret information" on PA security forces or news that might harm national unity or incite violence. Media outlets are routinely pressured to provide favorable coverage of the PA and Fatah. Journalists and bloggers who criticize the PA or Fatah have faced arbitrary arrests, threats, and physical abuse. Reporters are also subject to administrative detention and assault by Israeli forces. Since 2007, both the PA and Israeli forces have regularly suppressed Hamas-affiliated media outlets in the West Bank.

The Palestinian Center for Development and Media Freedoms (MADA) reported 86 press freedom violations – including physical assaults – by Palestinian forces in the West Bank in 2016, down from 116 the previous year. According to the

same report, Israeli authorities were responsible for 249 violations in the Palestinian territories, down from 407 in 2015. Although the figures reflected a general reduction in unrest and violence compared with 2014 and 2015, they still represented an increase from pre-2014 statistics.

The PA Basic Law declares Islam to be the official religion of Palestine and states that "respect and sanctity of all other heavenly religions (Judaism and Christianity) shall be maintained." Blasphemy against Islam is a criminal offense. Some Palestinian Christians have experienced intimidation and harassment by radical Islamist groups and PA officials.

Restrictions on movement and access serve as a general barrier to freedom of religion for Palestinians in the West Bank. Israel permits limited Palestinian access to Al-Aqsa Mosque in East Jerusalem during Muslim holidays. In 2016, male access to the site for Friday prayers was restricted to boys under age 12 and men over age 45. New rules also precluded access for Palestinians resident in select East Jerusalem neighborhoods. Attacks on religious sites by radical Jewish settlers, including vandalism of churches and mosques, have increased in recent years.

The PA has administrative authority over Palestinian education. Israeli movement restrictions limit access to academic institutions. Schools have sometimes been damaged during military actions, and student travel between the West Bank and the Gaza Strip has been limited.

Israeli academic institutions in the West Bank increasingly face international and domestic boycotts. Primary and secondary education in West Bank settlements is administered by Israel, though religious schools have significant discretion over curriculums. According to the Association for Civil Rights in Israel, East Jerusalem's schools are badly underfunded compared with schools in West Jerusalem.

Private discussion is relatively open and free, though both Israeli and PA security forces are known to monitor online activity and arrest individuals for alleged incitement or criticism of the Palestinian authorities.

E. Associational and Organizational Rights 5 / 12

E1. Is there freedom of assembly, demonstration, and open public discussion?

E2. Is there freedom for nongovernmental organizations?

E3. Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining?
Are there free professional and other private organizations?

The PA requires permits for demonstrations, and those held to protest against PA policies are generally dispersed. Israel's Military Order 101 requires a permit for all "political" demonstrations of more than 10 people; demonstrations in Israeli-controlled areas are routinely broken up with force, occasionally resulting in fatalities. Such clashes increased in 2015, as Israeli forces sought to restrict and disperse frequent and sometimes violent demonstrations, declaring some protest areas to be closed military zones. Similar confrontations occurred during 2016.

A broad range of NGOs are able to operate in the West Bank, though in 2016 the PA cracked down on some civil society groups, reportedly closing 50 NGOs and charities in May and 16 in July due to alleged legal irregularities. Israeli restrictions on movement within the West Bank and between the West Bank and Gaza Strip further undermine Palestinian civil society, and human rights NGOs reportedly face harassment and threats from settlers and right-wing Israeli groups. Many Hamas-affiliated groups were shut down following the 2007 schism, and others have been periodically targeted in subsequent years. Activists who criticize the PA leadership can face harassment and abuse by security services.

Workers may establish unions without government authorization, but labor protections in general are poorly enforced. Palestinian workers seeking to strike must submit to arbitration by the PA Labor Ministry, and various other rules make it difficult to mount a legal strike. Palestinian workers in Jerusalem are subject to Israeli labor law.

F. Rule of Law 5 / 16

F1. Is there an independent judiciary?

F2. Does the rule of law prevail in civil and criminal matters? Are police under direct civilian control?

F3. Is there protection from political terror, unjustified imprisonment, exile, or torture, whether by groups that support or

oppose the system? Is there freedom from war and insurgencies?

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population?

The nascent PA judicial system is partly independent. West Bank law derives from Ottoman, British Mandate, and Jordanian law; Israeli law and military orders; and the Palestinian Basic Law and PA legislation. The PA High Judicial Council holds a mandate to appoint judges upon approval of the PA president. The court system allows for the right of appeal. Enforcement of judicial decisions is impeded by PA noncompliance as well as lack of Palestinian jurisdiction in Area C, which covers 60 percent of West Bank territory. Palestinians can appeal Israeli military orders and actions before the Israeli Supreme Court. While the court is often deferential to Israeli authorities, there have been a number of decisions in favor of Palestinian petitioners in recent years.

The PA has a military court system that lacks almost all due process, including the right to appeal sentences, and can impose the death penalty. No executions have been carried out since 2005, however. The PA military courts handle cases on a range of security offenses, on collaborating with Israel, and on drug trafficking. Human rights groups regularly document allegations of arbitrary detention and torture, and PA security officers are rarely punished for such abuses. In August 2016, following the killing of two Palestinian security officers in Nablus, PA forces killed two suspects who they said were armed. Days later, they arrested a third man said to be involved – Ahmad Izz Halaweh, a high-ranking member of a radical armed offshoot of Fatah – who was beaten to death in custody. The incident touched off riots and a further crackdown by the security services.

Palestinians are subject to Israel's military court system for a variety of offenses, from terrorism to illegally entering Israel and traffic violations. Jewish settlers are tried in Israeli civilian courts. Palestinians are regularly detained without charges for extended periods. Petitions challenging administrative detentions and prison sentences are reviewed in secrecy. According to the Israeli human rights group B'Tselem, there were 5,859 Palestinian security detainees and prisoners from the West Bank held in Israeli prisons or military facilities as of August 2016, including 646 administrative detainees and 335 minors.

Most convictions in Israeli military courts are based on confessions, sometimes obtained through coercion. Israel's Supreme Court banned torture in a 1999 ruling, but physical coercion is considered permissible when the prisoner is believed to have vital information about impending attacks. Human rights groups criticize Israeli interrogation methods, which allegedly include some forms of physical abuse, isolation, sleep deprivation, psychological pressure, and threats of violence against detainees and their relatives.

Most Palestinian child detainees are serving sentences of less than a year for throwing stones or other projectiles at Israeli forces in the West Bank, handed down by a special court for minors; acquittals on such charges are very rare. Defense for Children International (DCI) Palestine reports that most of these children are taken from their homes in the middle of the night, interrogated without a parent or lawyer, and subjected to threats as well as physical and verbal abuse. East Jerusalem Palestinian minors are tried in Israeli civilian juvenile courts.

Militant Jewish settlers continued to attack Palestinian individuals and property in 2016, often with the aim of driving Palestinians off their agricultural land. Most perpetrators of such activity enjoy impunity. Israeli soldiers accused of excessive force or abuse of Palestinian civilians are subject to Israeli military law, though convictions, which are rare, typically result in light sentences. In March 2016, soldier Elor Azaria was caught on video killing a wounded and disarmed Palestinian attacker in Hebron. He was tried for manslaughter and was awaiting a verdict at year's end.

Although LGBT (lesbian, gay, bisexual, and transgender) people in the West Bank do not face prosecution for same-sex activity, they are reportedly subject to harassment and abuse by PA authorities and members of society.

G. Personal Autonomy and Individual Rights 5 / 16

G1. Do individuals enjoy freedom of travel or choice of residence, employment, or institution of higher education?

G2. Do individuals have the right to own property and establish private businesses? Is private business activity unduly influenced by government officials, the security forces, political parties/organizations, or organized crime?

G3. Are there personal social freedoms, including gender equality, choice of marriage partners, and size of family?

G4. Is there equality of opportunity and the absence of economic exploitation?

Israeli checkpoints, roadblocks, travel permits, and other restrictions continue to seriously constrain freedom of movement, stunt trade, and limit Palestinian access to jobs, hospitals, and schools. The number of physical barriers decreased in early 2016; however, Israel appeared to step up a practice of cutting off entire communities from key transportation routes following Palestinian attacks on Israeli settlers. In July, one village had its access points sealed after a teenage resident stabbed and killed an Israeli girl in a nearby settlement. The village was cut off for 34 days, and 2,771 permits to work in Israel were canceled. The village was shut down again in September following the killing of two youths accused of attacking Israelis. Israel also continued its practice of revoking work permits for family members of alleged attackers.

The Israeli security barrier, most of which runs through West Bank territory and which was declared illegal in 2004 by the International Court of Justice, continues to separate families and communities and cause general hardship and disruption of services. Israel has not provided compensation to Palestinians who lost access to livelihoods and property due to the barrier.

Palestinian women are underrepresented in most professions and encounter discrimination in employment, though they have equal access to universities. Palestinian laws and societal norms, derived in part from Sharia (Islamic law), disadvantage women in marriage, divorce, and inheritance. For Christians, personal status issues are governed by ecclesiastical courts. Rape and domestic abuse remain underreported and frequently go unpunished, as authorities are allegedly reluctant to pursue such cases. So-called honor killings continue to be reported.

The PA has no law focused on combating trafficking in persons. Some Palestinians – both children and adults – reportedly work in exploitative conditions in Israeli settlements, where the PA has no jurisdiction. Israeli labor laws are rarely applied to protect such workers.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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- ⌘ Freedom of assembly and association
- ⌘ Freedom of expression
- ⌘ Freedom of movement
- ⌘ Freedom of religion
- ⌘ Housing, land and property rights (HLP)
- ⌘ Independence of judiciary
- ⌘ Political parties
- ⌘ Rule of law / Due process / Procedural fairness

