

Freedom in the World 2018 - West Bank

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Freedom Status: Not Free

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

Freedom Rating: 6.0 (1 = Most Free, 7 = Least Free)

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

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

Quick Facts

Population: 2,800,000

Press Freedom Status: Not Free

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 onerous 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.

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.

Key Developments in 2017:

- The PA and Hamas, which controls the Gaza Strip, signed a renewed reconciliation deal in October, raising the possibility of future presidential and legislative elections, but the agreement stalled on the issue of control over internal security in Gaza.
- PA municipal elections were held in May, but Hamas and some other parties refused to participate, and the ruling Fatah faction ran unopposed in the majority of municipalities.
- In June, the PA adopted the Electronic Crimes Law as part of a broader crackdown on the media, granting authorities ample discretion to punish dissent with high fines and imprisonment.

The Israeli authorities continued efforts to expand Jewish settlements in the West Bank, adopting a law in February that would allow the formal seizure of private Palestinian land where settlements had been built illegally, and proposing a bill – which later stalled – to absorb a number of West Bank settlements into Israel's Jerusalem municipality.

POLITICAL RIGHTS: 5 / 40

A. ELECTORAL PROCESS: 2 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4

The PA has not held a presidential election since 2005, when Fatah's Mahmoud Abbas won with 62 percent of the vote. His four-year term expired in 2009, but he has continued to rule with the support of the Fatah-led Palestine Liberation Organization (PLO). The primary obstacle to new Palestinian elections is the ongoing rift between the West Bank-based PA government and the Islamist political and militant group Hamas, which seized control of the Gaza Strip in 2007.

Under PA laws, the prime minister is nominated by the president and requires the support of the Palestinian Legislative Council (PLC). However, the PLC elected in 2006 was unable to function due to the break with Hamas and Israel's detention of many lawmakers, and Abbas has since appointed prime ministers and cabinets without legislative approval.

In October 2017, Fatah and Hamas recommitted to a reconciliation agreement brokered by Egypt, which raised the prospect of elections. However, there had been little progress on implementation by year's end. A series of similar reconciliation deals have failed in recent years.

A2. Were the current national legislative representatives elected through free and fair elections? 0 / 4

The PA has not held elections for the 132-seat PLC since 2006, when Hamas won 74 seats and Fatah took 45. Although the two factions initially formed a unity government headed by Prime Minister Ismail Haniya of Hamas, the 2007 schism left that government and the PLC itself unable to function, and the legislature's mandate expired in 2010. Moreover, Israeli forces have repeatedly detained many PLC members since 2006, and up to 13 were in detention during 2017.

Local council elections, originally due in 2016, were held in May 2017. However, Hamas, Islamic Jihad, and the Popular Front for the Liberation of Palestine (PFLP) decided not to participate, and just 145 municipalities – fewer than half of the West Bank's total – featured competitive races. Some two-thirds of those council seats went to independents, while Fatah captured nearly 28 percent and smaller groups divided the remainder. In 181 municipalities, a single candidate list ran unopposed and won automatically; Fatah won 75 percent of the seats in those locations.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 2 / 4

The PA's laws provide a credible framework for elections, but they have not been fully implemented for more than a decade. The 2017 local council elections were organized by the Palestinian Central Elections Commission. The body's nine commissioners are appointed by the president, and the electoral law requires them to be experienced and politically impartial judges, academics, or lawyers. Voting did not take place in East Jerusalem, whose de facto annexation by Israel is not recognized internationally, or in Gaza.

B. POLITICAL PLURALISM AND PARTICIPATION: 4 / 16

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 free of undue obstacles to the rise and fall of these competing parties or groupings? 1 / 4

The PA and Israeli forces in the West Bank have sought to suppress Hamas, periodically engaging in mass arrests and closures of affiliated institutions. Some other factions with militant wings face similar crackdowns.

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.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4

The prolonged and indefinite postponement of presidential and PLC elections has prevented any rotation of power, and the PA leadership has been accused of avoiding any contest that could lead to a Hamas victory. Moreover, Hamas's boycott of the 2017 local elections left it unrepresented in any West Bank municipal office.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 1 / 4

In addition to its detentions and harassment of political figures from Hamas and some other factions, Israel effectively impedes Palestinian political activity through its restrictions on freedom of movement, including an elaborate system of checkpoints, roadblocks, and permit restrictions, as well as the continuous barrier it has constructed along the West Bank side of the pre-1967 border.

International donors – including the United States and a number of Arab governments – sometimes exert influence over the PA to promote or marginalize certain politicians or political factions.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4

Women and religious or ethnic minorities enjoy formal political equality under PA laws, and both women and Christians have held PLC seats and cabinet positions. However, they tend to be underrepresented in such posts, and their particular interests are not necessarily addressed by the political system. About a fifth of the council seats in the 2017 municipal elections went to women.

Palestinian residents of East Jerusalem can participate in Israeli municipal elections, but since most are not Israeli citizens, they cannot vote in elections for the Israeli Knesset (parliament), which governs them. They are formally entitled to vote in PA presidential and legislative elections according to the 1993 Oslo Accords, but Israel has refused to allow PA municipal elections in East Jerusalem, as it considers the area part of the Israeli municipality of Jerusalem.

The roughly 600,000 Jewish settlers in the West Bank, including East Jerusalem, are Israeli citizens with full political rights in Israel.

C. FUNCTIONING OF GOVERNMENT: 2 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 0 / 4

The PA lacks an elected executive and legislature, and its ability to implement policy decisions is limited in practice by direct Israeli military control over much of the West Bank, including the movement and travel of PA officials, staff, and related personnel and contractors. Israel periodically withholds the transfer of tax revenues to the PA.

C2. Are safeguards against official corruption strong and effective? 1 / 4

The PA's Anti-Corruption Commission is responsible for implementing an anticorruption strategy it developed for the years 2015-18. The Coalition for Accountability and Integrity (AMAN) reported in 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. Israeli movement and access restrictions foster opportunities for bribery and corruption in the West Bank.

C3. Does the government operate with openness and transparency? 1 / 4

In February 2017, Prime Minister Rami Hamdallah released a five-year National Policy Agenda that emphasized improved efficiency, transparency, and accountability in government and promised a number of economic and social development initiatives. However, critics said the plan was disconnected from the realities of the Israeli occupation and the serious fiscal and economic challenges faced by the PA. In 2016, a coalition of nongovernmental organizations (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. Some independent Palestinian media outlets have also endeavored to monitor PA governance.

ADDITIONAL DISCRETIONARY POLITICAL RIGHTS QUESTION

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? -3 / 0

The growth of Jewish settlements, related seizures of Palestinian land, and the demolition of Palestinian homes in the West Bank continued in 2017, which marked the 50th year of the occupation. The UN Office for the Coordination of Humanitarian Affairs (UNOCHA) reported that Israeli authorities demolished 423 structures during the year, including in East Jerusalem, citing the lack of building permits. At least a third of all Palestinian homes in East Jerusalem lack an Israeli building permit, which are extremely difficult for Palestinians to obtain. The 2017 demolition figure, though high, represented a decline after a major spike in 2016. Such demolitions displace hundreds of people each year.

Construction starts in Jewish settlements and tenders for settlement construction both increased sharply in 2017 compared with the previous year, according to the Israeli NGO Peace Now. With support and incentives from the Israeli government and private organizations, the number of settlers in the West Bank has increased steadily for decades.

In February, the Knesset adopted a law that authorized the formal seizure of private Palestinian land where settlements had been built illegally, though its implementation was suspended pending a review by the Israeli Supreme Court. In October, Israeli prime minister Benjamin Netanyahu endorsed a proposed bill to absorb a number of West Bank settlements into Israel's Jerusalem municipality, effectively annexing the territory. The measure had not advanced through the Knesset by year's end.

CIVIL LIBERTIES: 23 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 8 / 16

D1. Are there free and independent media? 1 / 4

The news media are generally 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. In June 2017, President Abbas used an executive decree to issue the Electronic Crimes Law, which prescribes heavy fines and lengthy prison terms for a range of vaguely defined offenses, including the publication or dissemination of material that is critical of the state. Other offenses involve content that could disturb public order or national unity, or harm family and religious values. Leaks of information by whistle-blowers or journalists can also draw fines or imprisonment under the law, as can use of online circumvention tools to access blocked websites. Separately during June, the PA attorney general ordered service providers to block at least 29 websites, including those belonging to opposition and independent media outlets.

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. PA security forces engaged in a crackdown on the media during 2017, arbitrarily arresting a number of journalists, including five in one day in August. One photojournalist, Fadi Arouri,

was arrested and interrogated over Facebook posts that officials said "could lead to disorder in society." In October, Israeli forces raided and shut down several media facilities that were accused of providing services to Hamas-affiliated outlets.

The Palestinian Center for Development and Media Freedoms (MADA) reported a total of 119 press freedom violations by Palestinian forces in the West Bank in 2017, up from 86 the previous year. Many involved arbitrary detentions and interrogations, website blocking, or arrests. Israeli authorities were responsible for 375 violations in the Palestinian territories, according to the group, up from 249 in 2016. The most serious incidents involved physical attacks on journalists as they covered Israeli military actions or clashes with Palestinian protesters.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 2 / 4

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 is a criminal offense. The 2017 Electronic Crimes Law criminalizes expression aimed at harming moral and religious values without defining those values, allowing for arbitrary enforcement.

Security-related restrictions on movement, and vandalism or physical assaults against worshippers or places of worship, affect Jewish, Muslim, and Christian residents of the West Bank to varying degrees. The Israeli authorities regularly prevent Palestinian Muslims from reaching Jerusalem to pray, and generally restrict access for young adult males to the Temple Mount/Haram al-Sharif compound on Fridays. In July 2017, after Palestinian attackers killed two Israeli police officers near the site, authorities decided to install metal detectors and other new security structures at the entrances to the compound, setting off clashes between Palestinian protesters and Israeli police that led to several fatalities. The unrest subsided after Israeli officials reversed the changes later that month.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 2 / 4

The PA has administrative authority over Palestinian education. Some academic self-censorship has been reported. Israeli movement restrictions limit access to schools and academic institutions; schools have sometimes been damaged during military incursions, and student travel between the West Bank and Gaza Strip has been curtailed. According to the Association for Civil Rights in Israel, East Jerusalem's schools are badly underfunded compared with schools in West Jerusalem.

Political activism is common on university campuses. In May 2017 student council elections at Birzeit University, Hamas supporters won 25 seats, Fatah won 22, and the PFLP placed third with 4 seats. The results were considered an indication of political views among West Bank Palestinians more broadly.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

Private discussion is relatively free, though Israeli and PA security forces are known to monitor online activity and arrest individuals for alleged incitement or criticism of Palestinian authorities, respectively. The adoption and enforcement of the Electronic Crimes Law in 2017 increased concerns about the freedom of personal expression online.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 5 / 12

E1. Is there freedom of assembly? 1 / 4

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 are routinely broken up with force, occasionally resulting in fatalities. Such clashes continued in 2017, as Israeli forces sought to restrict and disperse sometimes violent demonstrations, declaring certain protest areas to be closed military zones. After the U.S. government recognized Jerusalem as the capital of Israel in December, Israeli personnel were

accused of using excessive force to quell both peaceful and violent demonstrations against the move, with reports of injuries from tear-gas canisters, rubber-coated bullets, or live ammunition.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 2 / 4

A broad range of NGOs operate in the West Bank. However, Israeli restrictions on movement impede civil society activity, human rights NGOs reportedly face harassment and threats from settlers and right-wing Israeli groups, Hamas-affiliated groups have been periodically shut down by Israeli or PA officials, and activists who criticize the PA leadership can face harassment and abuse by security services. In March 2017, the Knesset approved a law that bars entry for any foreign groups that publicly support a boycott of Israel or its West Bank settlements, which could affect Palestinian organizations' access to Israel and foreign organizations' access to both Israel and the West Bank.

E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4

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? 2 / 4

The PA judicial system is partly independent. The legal framework in the West Bank derives from Ottoman, British Mandate, and Jordanian law; Israeli law and military orders; and the PA's Basic Law and ordinary legislation. The PA courts are administered by the High Judicial Council, which consists of Supreme Court judges, the heads of appellate courts, the attorney general, and the deputy justice minister. Enforcement of judicial decisions is impeded by PA noncompliance as well as lack of Palestinian jurisdiction in so-called Area C, a portion of the West Bank – covering 60 percent of its territory but a small share of its Palestinian population – where the Israeli military exerts exclusive control. Israeli settlers are subject to the independent Israeli civilian courts. Palestinians can appeal Israeli military orders and actions before the Israeli Supreme Court.

F2. Does due process prevail in civil and criminal matters? 2 / 4

In addition to its civilian courts, the PA has a military court system that lacks almost all due process guarantees, 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 by PA security forces.

Palestinians are also subject to Israel's military court system for a variety of offenses, from terrorism to "illegal entry into Israel" and traffic violations. Palestinians are regularly detained without charges for extended periods. Petitions challenging administrative detentions and sentences are reviewed in secrecy. Most convictions in Israeli military courts are based on confessions; the widespread use of pretrial detention encourages defendants to enter plea deals rather than remain in custody through a lengthy trial process. According to the Israeli human rights group B'Tselem, there were 5,561 Palestinian security detainees and prisoners from the West Bank held in Israeli prisons as of November 2017.

According to Defense for Children International (DCI) Palestine, 313 Palestinian children (aged 12-17) from the occupied territories were being held in Israeli military detention as of November 2017. Although Israeli law prohibits the detention of children younger than 12, some are occasionally held. Most Palestinian child detainees are serving sentences – handed down by a special military court for minors created in 2009 – for throwing stones or other projectiles at Israeli troops in the West Bank; acquittals on such charges are very rare, and the military courts have been criticized for a lack of due process protections. East Jerusalem Palestinian minors are tried in Israeli civilian juvenile courts.

Jewish settlers are tried in Israeli civilian courts, which generally provide due process protections.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0 / 4

Allegations of torture and other abuse by PA security forces are common, and officers are rarely punished for such violations. Human rights groups have criticized Israeli interrogation methods, which allegedly include some forms of physical abuse and other measures such as isolation, sleep deprivation, psychological threats and pressure, painful binding, and humiliation.

Militant Jewish settlers continued to attack Palestinian individuals and property in 2017. 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 one prominent case, soldier Elor Azaria was sentenced in February 2017 to 18 months in prison for manslaughter, having killed a Palestinian attacker who had already been subdued; the penalty was reduced to 14 months in September.

Israeli security personnel and civilians face small-scale terrorist attacks in the West Bank; some 12 people were killed in such attacks during 2017, according to B'Tselem. Meanwhile, 38 Palestinians were killed by Israeli security forces and three others were killed by settlers; in at least some of these cases, the Palestinians apparently posed no imminent lethal threat.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4

The legal arrangements operative in the West Bank are fundamentally discriminatory in that Israelis and Palestinians who reside or commit crimes in the same location are subject to different courts and laws.

Palestinian women are underrepresented in most professions and encounter discrimination in employment, though they have equal access to universities. Women are legally excluded from what are deemed dangerous occupations.

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 movement, including the ability to change their place of residence, employment, or education? 1 / 4

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 Israeli separation barrier, 85 percent of which lies in West Bank territory and which was declared illegal in 2004 by the International Court of Justice, continues to divide families and communities and cause general hardship and disruption of services.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1 / 4

While Palestinians are able to own property and engage in business activity, their rights are seriously undermined by Israel's movement and access restrictions and the expansion of Israeli settlements, which is encouraged by the Israeli government and private groups. Israeli authorities also employ a variety of methods to prevent Palestinians from developing their privately owned land, particularly in Area C, for example by declaring nature reserves or denying permit requests; development carried out without permits is subject to demolition. Palestinian property is also illegally damaged or occupied by Israeli settlers.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family,

protection from domestic violence, and control over appearance? 2 / 4

Palestinian laws and societal norms, derived in part from Sharia (Islamic law), put women at a disadvantage in matters such as marriage and divorce. 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; a provision in the penal code allows PA judges to show leniency in "extenuating circumstances," a loophole that has traditionally been used in such cases.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1 / 4

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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