



Occupied Palestinian Territories

Torn apart by factional strife



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Growing lawlessness and political violence between Palestinian factions in the Occupied Palestinian Territories (OPT) reached an unprecedented level in the first half of 2007, culminating in June with all-out inter-factional strife between gunmen loyal to the two main parties in the newly formed coalition government. Some 300 Palestinians were killed in gun battles and attacks, with residents often caught in the crossfire as security forces and armed groups loyal to the President's Fatah party and to the Prime Minister's Hamas party battled each other recklessly across the Gaza Strip.

Having wrested control of all the Fatah-controlled security installations and other government institutions in the Gaza Strip, Hamas forces and gunmen have continued to hunt down Fatah supporters and other critics. Hundreds have been arbitrarily detained, torture is routine, protest demonstrations are violently suppressed, and journalists are attacked and intimidated.

In the West Bank the security forces under President Abbas' control launched a crackdown on Hamas supporters. Hundreds have been rounded up and detained outside the legal framework, and often ill-treated and at times tortured. Protesters, critics and pro-Hamas media have been attacked and intimidated by security forces and Fatah gunmen.

In the Gaza Strip the violence has taken a heavy toll on the civilian population, already debilitated by years of Israeli military campaigns, deteriorating humanitarian conditions and growing international isolation. Since June the situation has worsened markedly, with 1.5 million people trapped in the Gaza Strip by stringent Israeli blockades and international sanctions, and forced into growing poverty and despair.

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Cover image: Palestinian bystanders look at a burning security vehicle during armed clashes between Hamas and Fatah gunmen and security forces in Gaza City, 13 June 2007. © Maan

Back cover images (from top): Gunmen of the al-Aqsa Martyrs' Brigades, the armed wing of Fatah, driving in the centre of Nablus, West Bank, 18 June 2007. © AP

Palestinians run for cover as Hamas gunmen take position during a gun battle with Fatah gunmen, Nablus, West Bank, 22 December 2006. © AP

Wounded Palestinian in Gaza City's main hospital after he was injured during armed clashes between Hamas and Fatah gunmen and security forces, 13 June 2007. © Maan



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Occupied Palestinian Territories

Torn apart by Factional Strife

October 2007

Summary

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Aftermath of attack on the Islamic University in Gaza City, ©AI

Hundreds of Palestinians lost their lives as a result of the inter-factional political violence which engulfed the Gaza Strip in the past year. Fighting between security forces and armed groups loyal to the two main Palestinian political parties - Fatah, headed by Palestinian President Mahmoud Abbas and Hamas of then Prime Minister Isma'il Haniyeh – caused the deaths of many unarmed bystanders not involved in the confrontations, including children.

Both sides committed grave human rights abuses and showed a flagrant disregard for the human rights of a civilian population already worn down by decades of Israeli occupation, military campaigns and blockades, which have caused a sharp deterioration in the humanitarian situation of the 1.5 million inhabitants of the Gaza Strip.

As armed clashes became more frequent and intensified, Fatah and Hamas gunmen unlawfully killed and maimed captured rivals and hostages, and used indiscriminate and reckless fire in and around residential neighbourhoods. Neither medical nor educational facilities were immune as they and residential buildings were both attacked and used as firing positions from which to mount attacks. Homes and public properties were damaged and beleaguered residents were virtually imprisoned in their own homes for days by the fighting.

After Hamas' violent takeover in the Gaza Strip in June, President Abbas' decision to suspend operations of PA security forces and judicial institutions in the Gaza Strip created a legal and institutional vacuum there, opening the way for Hamas to establish a parallel security and law enforcement apparatus, but one which lacks appropriately trained personnel, accountability mechanisms or safeguards. Unsurprisingly, arbitrary detentions and torture or other ill-treatment of detainees by Hamas forces are now widespread and the initial improvements in the security situation which followed Hamas' takeover are fast being eroded.

In the West Bank, there has also been a marked deterioration in the human rights situation under the emergency government set up by President Abbas in June. Arbitrary detention of suspected Hamas supporters by Palestinian Authority (PA) security forces has become routine, with detainees often subject to torture or other ill-treatment and Fatah gunmen have launched revenge attacks against Hamas supporters and their properties with impunity.

Amnesty International is calling on both the PA and Hamas to take swift and decisive measures to stop and prevent the increasingly widespread human rights abuses committed by those acting under their authority and to put an end to the impunity enjoyed by security forces and armed groups, which has encouraged and fuelled lawlessness and insecurity in the Gaza Strip and in parts of the West Bank.

The organization is also calling on the international community to hold all the Palestinian parties accountable to the same human rights standards and to ensure that the population of the Gaza Strip is not punished for the positions and actions of the Hamas de-facto administration, and that emergency assistance essential to fulfilling fundamental human rights is never used as a bargaining tool to further political goals.

KEYWORDS:

This report summarizes a 57-page document (25985 words): *Occupied Palestinian Territories, Torn apart by factional strife* (AI Index: MDE 21/020/2007) issued by Amnesty International in October 2007. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

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Occupied Palestinian Territories

Torn apart by factional strife

TABLE OF CONTENTS

GLOSSARY	1
CHRONOLOGY	1
1. INTRODUCTION	4
2. BACKGROUND	8
3. LEGAL FRAMEWORK	10
Palestinian and international human rights law	10
Palestinian justice system	13
Institutional and judicial vacuum in the Gaza Strip.....	14
Proliferation of parallel systems outside the legal framework in the Gaza Strip.....	16
4. SECURITY FORCES AND ARMED GROUPS – BLURRED LINES	18
Security forces	18
Armed groups.....	20
Proliferation of unlicensed weapons – a root cause of lawlessness	22
5. ABUSES IN THE GAZA STRIP	23
Unlawful killings and abductions	23
Children and bystanders caught in the crossfire	25
Peaceful demonstrators under fire	27
‘Punitive’ shootings spread fear.....	29
Silencing dissent	33
Arbitrary detentions, abductions and torture by Hamas forces.....	36
6. ABUSES IN THE WEST BANK	39
Crackdown on Hamas supporters	39
Continued impunity for Fatah armed groups	41
Armed attacks against presumed Hamas supporters.....	43
Arbitrary detentions, torture and other ill-treatment.....	48
Violation of laws regulating detention.....	51
CONCLUSION AND RECOMMENDATIONS	52
To the PA and the Hamas de-facto administration in the Gaza Strip:	53
To the PA:	53
To the Hamas de-facto administration in the Gaza Strip:.....	56
To the al-Aqsa Brigades and Qassam Brigades:.....	57
To the International Community:.....	57

GLOSSARY

al-Aqsa Brigades	al-Aqsa Martyrs' Brigades, armed wing of Fatah
Executive Force	Security force set up in 2006 by the then Hamas government
Fatah	Main party of the PLO, formerly headed by the first PA President Yasser Arafat
Hamas	Islamic Resistance Movement
ICRC	International Committee of the Red Cross
al-Mezan	A Palestinian human rights organization
Mukhabarat	General Intelligence
OPT	Occupied Palestinian Territories
PA	Palestinian Authority
PCHR	Palestinian Centre for Human Rights
PICCR	Palestinian Independent Commission for Citizens' Rights
PLO	Palestine Liberation Organization
Qassam Brigades	'Izz al-Din al-Qassam Brigades, armed wing of Hamas
RPGs	Rocket-propelled grenades

CHRONOLOGY

January 2006	Hamas wins PA elections in the West Bank and Gaza Strip, defeating Fatah party of President Mahmoud Abbas.
March 2006	Hamas forms a government led by Prime Minister Isma'il Haniyeh.
February 2007	Fatah and Hamas leaders meet in Saudi Arabia to negotiate an end to inter-factional fighting and agree to form a national unity government.
17 March 2007	Fatah and Hamas form a unity government led by Prime Minister Haniyeh.
March-May 2007	Sporadic inter-factional clashes and attacks continue between security forces and armed groups loyal to Fatah and Hamas.
May 2007	Fatah-Hamas inter-factional clashes escalate.
June 2007	Hamas forces and armed groups attack and take control (by 14 June) of all Fatah-controlled PA security installations and government buildings in the Gaza Strip. On 14 June President Abbas dismisses Prime Minister Haniyeh's government, declares a state of emergency and establishes an emergency government based in the West Bank headed by outgoing Finance Minister, now Prime Minister Salam Fayyad. Hamas refuses to recognize the emergency government and sets up a Hamas de-facto administration in the Gaza Strip.



CONTEXT

In 1994 the Oslo Accords between Israel and the Palestine Liberation Organization (PLO) led to the establishment of the Palestinian Authority (PA), with jurisdiction over parts of the Occupied Palestinian Territories (OPT - the West Bank, including East Jerusalem, and the Gaza Strip) occupied by Israel since 1967. The establishment of the PA did not change the status of the OPT under international law as territories under Israeli military occupation, and Israel retains effective control over the West Bank and Gaza Strip, their population and their natural resources.

The Oslo Accords gave the PA jurisdiction for civil affairs (such as health, education and internal security) in some 40 percent of the West Bank, fragmented into some 230 separate enclaves each surrounded by areas under full Israeli military administration. The Gaza Strip was similarly divided and surrounded by a fence, further restricting movement to the West Bank.

In the 1990s Israel accelerated the establishment and expansion of Israeli settlements – unlawful under international law – on confiscated Palestinian land in the OPT, virtually doubling the number of Israeli settlers there, and built an extensive network of roads to serve these settlements. The Israeli authorities also demolished hundreds of Palestinian homes, claiming that they were built without permits – which the Israeli authorities denied as a matter of policy.

After the outbreak of the *intifada* (Palestinian uprising against Israeli occupation) in September 2000, Israeli-Palestinian violence spiralled. Since then, Israeli forces have killed some 4,200 Palestinians, including more than 800 children, in air strikes, artillery shelling and other attacks against refugee camps and densely populated residential areas throughout the OPT. In the same period, Palestinian armed groups have killed some 1,100 Israelis, including 120 children, in shooting attacks and suicide bombings in buses, restaurants, and shopping malls. Killings of Israelis have decreased significantly in the past two years, but not killings of Palestinians. Since the beginning of 2006, twenty Israelis have been killed by Palestinian armed groups, while some 900 Palestinians have been killed by Israeli forces.

In addition, Palestinians throughout the OPT have suffered a plethora of other human rights abuses. Israeli forces have destroyed thousands of Palestinian homes, vast areas of agricultural land and crucial civilian infrastructure. Electricity power plants, roads, bridges and water, sewage and telephone networks in the Gaza Strip have been destroyed or damaged by Israeli air strikes in retaliation for continuing rocket attacks against Israel by Palestinian armed groups. The Israeli army has bombed PA security forces installations and prisons and has prevented PA security forces from operating in many areas of the West Bank. Israeli forces also continue to carry out incursions, attacks and undercover operations in Palestinian towns and villages throughout the OPT.

Ever increasing restrictions imposed on the movements of People and goods within and into/out of the OPT have paralyzed the Palestinian economy and rendered any semblance of normal life impossible for the 3.5 million of Palestinians living in the OPT.

In the West Bank movements is hindered by some 500 military checkpoints and blockades around Palestinian towns and villages, and by a 700km fence/wall, declared unlawful by the International Court of Justice. The Israeli authorities contend that the blockades are necessary to prevent Palestinian suicide bombers from entering Israel, but the checkpoints and blockades and 80 percent of the fence/wall are located inside the West Bank – not between it and Israel. They hinder movement between Palestinian towns and villages, split and isolate Palestinian communities, separate Palestinians from their agricultural land, hinder access to work, schools, and hospitals, and have destroyed the Palestinian economy.

In the Gaza Strip, the blockades imposed by Israel were tightened after Hamas' election victory in January 2006 and again since the Hamas forcible takeover in June 2007, and are now keeping the 1.5 million Palestinian inhabitants cut off from the rest of the world. The consequence has been a sharp increase in poverty, unemployment and health problems among Palestinians, and a deterioration of the humanitarian situation to an unprecedented level. Some 80 percent of the population of the Gaza Strip is now living on or below the poverty line (of US \$ 2 a day) and depends on international aid for survival. Despair and lack of hope about the foreseeable future fuel violence and the radicalization of a predominantly young Palestinian population whose prospects for employment and a normal life are virtually non-existent.

In recent years the rivalries and infighting within the PA leadership, its security and political apparatus and among Palestinian political factions, have resulted in a further deterioration of the situation and an increasing spread of lawlessness.

1. INTRODUCTION

Unprecedented levels of political violence between Palestinian factions in the Gaza Strip during the past year, which culminated in June 2007 when Hamas seized control of Palestinian Authority (PA) security institutions in the territory, took a heavy toll on the civilian population and compounded the devastating impact of decades of Israeli occupation and military campaigns, causing a further deterioration in living conditions and prompting greater international isolation.

In all, some 350 people were killed and more than 2,000 were injured in the first half of 2007 as a direct result of the inter-factional armed clashes and attacks in the Gaza Strip between rival security forces and armed militias loyal to PA President Mahmoud Abbas' Fatah party and to (the now deposed) Prime Minister Isma'il Haniyeh's Hamas party. Many of the dead and injured were bystanders who had taken no part in the fighting; others were militants of one side or another, including many who were killed in cold blood.

"I had left the children at my mother's house when the clashes started in the area and I could not go to pick them up. There was too much shooting in the street everywhere. I could not go to my mother's until the following day. I was so worried, I did not sleep all night." (Resident of Rimal, Gaza City – January 2007 clashes)

"For three days we could not leave the house; we thought we would be killed in our home. Gunmen had taken position on tall buildings in the area and were firing rockets at each others. We feared that a missile could come through the window any time. Most of the time we had no electricity and no water. We tried to keep the children busy and waited for it to end." (Resident of Tal al-Hawa, Gaza City – June 2007 clashes)

"As I was leaving home I found several masked gunmen by the window on the staircase; others were going upstairs, where a security forces officer lives; they probably feared that the Qassam would shoot from the opposite building. I told them that they should not be there because they endangered the residents but they stayed anyway. There was nothing I could do." (Resident of Thalatini Street, Gaza City – June 2007 clashes)

Both Fatah and Hamas security forces and armed groups committed grave human-rights abuses and displayed a flagrant disregard for the safety of the civilian population. Rival security forces whose responsibility it was to uphold and enforce the law, and to protect the population, betrayed this responsibility and instead acted as partisans, in concert with armed groups that serve as their proxy militias, and themselves broke the law and committed gross abuses with complete impunity.

Both sides killed captured rivals and abducted scores of members of rival groups and held them hostage, to be exchanged for friends and relatives held by their rivals. Indiscriminate attacks and reckless gun battles in residential neighbourhoods left a beleaguered civilian population virtual prisoners in their own homes. Roadblocks set up by gunmen from both sides further

endangered the safety of residents and impeded their movements.



Much of the fighting took place in, from and around residential buildings, endangering both residents and passers by. Hamas gunmen commandeered the roofs of tall buildings from which they launched attacks against PA security forces, while Fatah gunmen made similar use of buildings from which to attack Hamas positions. Gunmen fired rocket-propelled grenades (RPGs) and other missiles at and from residential buildings in which civilians were present causing large-scale damage and starting fires that resulted in further destruction. They also mounted attacks in and around hospitals, directly targeting and launching attacks from hospital buildings, putting patients and staff in danger, impeding the work of medical staff and hindering access to healthcare for those in need. At times, they directly targeted patients in their hospital beds.

Aftermath of armed clashes in Gaza City – a high-rise residential buildings fired upon and used as a firing position, © AI

In its visit to the Occupied Palestinian Territories (OPT) in June/July, Amnesty International heard harrowing accounts from victims of both sides and from residents who were directly affected by the waves of armed clashes which took place in the Gaza Strip in June and previous months. Although accounts of gun battles and other attacks in which both gunmen and uninvolved bystanders were killed and injured are often contested, there is incontrovertible evidence that both sides acted with reckless disregard for the safety of local residents and committed grave human rights abuses.

The situation that has emerged since Hamas' violent takeover in the Gaza Strip in June has further undermined the rule of law. President Abbas' decision to suspend all operations of PA security forces and judicial institutions in the Gaza Strip created a legal and institutional vacuum which Hamas has filled by establishing an alternative security and law enforcement apparatus which lacks appropriately-trained personnel or adequate accountability mechanisms or safeguards. Hamas' Executive Force and the 'Izz al-Din al-Qassam Brigades (Qassam Brigades, Hamas' armed wing), operating outside the legal framework, continue to

target Fatah activists and other critics. They routinely use violence to break up demonstrations and other gatherings, carry out arbitrary arrests and frequently subject detainees to beatings, torture or other ill-treatment. Undertakings by deposed Prime Minister Haniyeh and other Hamas leaders to investigate such abuses, hold those responsible to account and prevent the abuses from recurring have been ineffective. If anything, abuses have increased.

In the West Bank, the emergency government appointed by President Abbas in June has done little to hold to account the Fatah gunmen who reacted to the Hamas attacks in Gaza by attacking and abducting Hamas supporters and burning down their houses and businesses as well as the offices of charities believed to be linked to Hamas. Even though attacks targeting Hamas members and supporters mostly ceased after a few days, Fatah's armed wing, the al-Aqsa Martyrs' Brigades (al-Aqsa Brigades), continue to operate outside the law and to attack and intimidate Hamas supporters with impunity. Hundreds of known or presumed Hamas supporters and other Fatah critics have been arrested by PA security forces, and violations of arrest and detention procedures have been frequent. The space for freedom of speech and non-violent political activities in both the West Bank and Gaza Strip has shrunk significantly, both due to harassment and intimidation by militias acting outside the legal framework, and as a result of direct measures taken by the PA to silence their opponents.

Amnesty International is greatly concerned about the conduct of the PA security forces and Fatah-controlled armed groups and that of Hamas-controlled forces and armed groups, in particular at:

- reckless use of force by all parties in the armed clashes, which resulted in the killing and wounding of unarmed bystanders, including children;
- deliberate killings of political opponents and of hostages, and of armed men who had been captured or incapacitated;
- the use by all parties to the armed clashes of hospitals, schools and civilian residential buildings from which to carry out attacks against their opponents, including attacks carried out against and within such buildings, including hospitals;
- abductions, hostage-taking and arbitrary detention;
- torture and other ill-treatment of detainees and hostages;
- denial of detainees' access to legal counsel;
- use of excessive, unnecessary and even deadly force against peaceful demonstrators;
- systematic impunity for members of the security forces and armed groups responsible for these grave human rights abuses in the West Bank and Gaza Strip.

In the Gaza Strip Amnesty International is concerned at:

- political killings and the re-emergence of a situation of lawlessness;

- the targeting of Fatah supporters and other political opponents by the Executive Force and the Qassam Brigades in a politically-motivated campaign of arbitrary detentions and abductions;
- torture and other ill-treatment of detainees and hostages;
- arbitrary detention of detainees in locations not authorized by law for this purpose, where detainees are at risk;
- the establishment by the Hamas de-facto administration of agencies and mechanisms to enforce the law and administer justice, but which lack the requisite independence, skills and accountability to discharge this role and to ensure that the rule of law is respected for both victims and accused, that human-rights abuses are not committed, that victims have access to effective mechanisms to obtain redress, and that those accused of crimes are afforded due process;
- the impunity enjoyed by perpetrators of crimes and the lack of political will on the part of the Hamas de-facto administration to hold such perpetrators to account and to respect fundamental human rights, including the rights to freedom of expression, assembly and association.

In the West Bank Amnesty International is concerned at:

- the targeting of Hamas supporters by PA security forces in a politically-motivated campaign of arbitrary detentions and intimidation;
- torture and other ill-treatment of detainees held arbitrarily by the PA security forces;
- systematic breaches of the procedures laid down by Palestinian law relating to arrest, detention and prosecution of suspects; arrests are carried out by security forces who have no authority under the law to do so and detainees are held arbitrarily in security-force facilities that are not designated by law for such purpose;
- the failure of the security forces to bring detainees before prosecutors and judges within the legally-stipulated period, and the continued arbitrary detention of detainees whose release has been ordered by a judge;
- attacks by members of al-Aqsa Brigades against Hamas supporters and others;
- the impunity enjoyed by members of the security forces and al-Aqsa Brigades and the lack of political will on the part of the PA administration to hold such perpetrators to account; to respect fundamental human rights, including the rights to freedom of expression, assembly and association; and to afford due process and redress to the victims.

2. BACKGROUND

In January 2006 Hamas won the Palestinian legislative elections, defeating the Fatah party of President Mahmoud Abbas which had been in power continuously since the establishment of the PA in 1994. Hamas formed a government in March 2006, led by Prime Minister Isma'il Haniyeh.

Over the following months, political tensions between the rival parties and their supporters developed into armed confrontations in which security forces and militia-type armed groups loyal to Fatah were pitted against security forces and similar militia-type armed groups loyal to Hamas. These clashes became increasingly frequent and intensified as repeated attempts to reach a compromise and form a Fatah-Hamas coalition government failed, and a new wave of inter-factional fighting broke out after President Abbas announced in December 2006 that he intended to call new presidential and parliamentary elections in the PA.

In February 2007, leaders of the two parties met in Mecca, under the auspices of King Abdallah of Saudi Arabia, and reached what became known as the "Mecca Agreement".¹ Essentially, this was a pledge to end the inter-factional fighting and form a national unity government: crucially, the agreement failed to spell out the concrete measures the two sides would take to achieve the stated goal.

The unity government was then established on 17 March 2007. Prime Minister Haniyeh remained in place as its head but it included ministers from Fatah and Hamas, as well as independents and representatives of small parties. It failed to bring any improvement, however, and the continuing involvement of Hamas led the international community largely to maintain its boycott and the sanctions it had imposed on the Hamas-led government following its election in 2006, and to continue to limit its contacts and funding to the PA to President Abbas and non-Hamas ministers. Hamas resented its continuing international isolation but persisted in its refusal to comply with the conditions laid down by the Quartet (USA, European Union, Russia and the UN), namely that it should recognize the State of Israel, renounce violence in its struggle against Israeli occupation and accept agreements previously signed by the Palestine Liberation Organization (PLO) with Israel.

Tensions continued to mount particularly in the Gaza Strip, where the Hamas leadership remained confined and became increasingly resentful that its ministers and institutions continued to be isolated by the international boycott and sanctions while the mostly West Bank-based Fatah leadership enjoyed international recognition and continued to receive foreign financial support.

As the level of distrust between Fatah and Hamas grew, the viability of the new unity government was increasingly called into question and both sides accused the other of seeking to undermine it. At the same time, the security situation deteriorated, marked by abductions and attacks against foreigners, and Hamas alleged that certain individuals within Fatah were

¹ <http://www.jmcc.org/new/07/feb/meccaagree.htm>

deliberately fomenting chaos in the Gaza Strip in order to force the collapse of the unity government.

In May 2007, armed clashes between the two sides resumed with renewed intensity. A series of ceasefires were agreed by the Fatah and Hamas leadership, but these collapsed within days or even hours. Each time, the ensuing casualties and damage engendered further resentment and mistrust between the two sides, so exacerbating the divisions between them and increasing the likelihood of further violent clashes. As lawlessness spread, the distinctions between politically-motivated attacks and score-settling by sub-groups on each side, attacks by other political groups and long-standing family feuds became increasingly blurred. In May, unity government Interior Minister Talab al-Qawasmi resigned amid mounting tension between Fatah and Hamas and actions by both sides which undermined his position.² Then, after the Israeli government authorized the entry into the Gaza Strip from Egypt of hundreds of Fatah fighters newly trained under a US-funded programme and Hamas gunmen ambushed a convoy which they alleged was carrying weapons newly delivered to Fatah, both sides accused the other of plotting a coup. Widespread and intensive armed clashes ensued.

Hamas forces and armed groups attacked and took over all the PA security forces positions and other institutions, and effectively took control of internal affairs in the Gaza Strip. In response, on 14 June, President Abbas dismissed Prime Minister Haniyeh's unity government, declared a state of emergency and appointed outgoing Finance Minister Salam Fayyad as Prime Minister of a new emergency government based in the West Bank. The emergency government was appointed on 17 June for a 30-day period, as stipulated by the Palestinian Basic Law,³ but has remained in place to date, without the approval of the Palestinian Legislative Council (parliament).⁴ This violates the Basic Law, which stipulates: "*The state of emergency may be extended for another period of thirty (30) days if a two-thirds majority of the members of the Legislative Council vote in favor of the extension.*"⁵

Hamas has refused to recognize the West Bank-based emergency government, insisting that the deposed Prime Minister Haniyeh is the legitimate, democratically-elected Prime Minister and calling for a resumption of dialogue with Fatah. President Abbas, Fatah and the emergency government insist that Hamas relinquish control of all PA security installations and other institutions in the Gaza Strip before any political dialogue can be considered. Other political parties represented in the Palestinian Parliament have abstained from participating in the emergency government, except for the Third Way party of Prime Minister Fayyad, but some have backed President Abbas' call for a return to the *status quo ante* in the Gaza Strip.

² See: http://news.bbc.co.uk/1/hi/world/middle_east/6653437.stm

³ The Basic Law of 2003, amended in 2005, acts as a sort of constitution pending the establishment of a Palestinian state.

⁴ Basic Law, Article 110(1): "*The President of the National Authority may declare a state of emergency by decree when there is a threat to national security caused by war, invasion, armed insurrection or in times of natural disaster, for a period not to exceed thirty (30) days.*"

⁵ Basic Law, Article 110(2).

3. LEGAL FRAMEWORK

Palestinian and international human rights law

During a few brief periods, up to 14 June 2007, when the violence between Fatah and Hamas security forces and armed groups in the Gaza Strip reached the requisite scale and intensity, the relevant rules of international humanitarian law⁶ on the conduct of hostilities also applied, alongside human rights standards.

International humanitarian law sets out standards of humane conduct applicable to all parties in armed conflicts, including armed groups. In the words of the International Committee of the Red Cross (ICRC), the foremost authority on international humanitarian law, “whenever armed force is used the choice of means and methods is not unlimited.” This basic rule is explicitly reflected in a number of international humanitarian law treaties. Article 3 common to the four Geneva Conventions of 1949 and their Additional Protocol 2 are the instruments most directly relevant to non-international armed conflict. These treaties increasingly are supplemented by customary international law. The authoritative ICRC study of customary international humanitarian law has determined that many of the rules of international humanitarian law that were codified for international conflict now apply to non-international conflicts as well. These customary rules⁷ include the prohibition of direct attacks on civilians; the prohibition of indiscriminate attacks -- attacks which fail to take necessary precautions to distinguish between civilians and fighters; and the prohibition of disproportionate attacks – attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. And it is long established that willful killings and torture; the taking of hostages, and attacks against those who are *hors de combat* are prohibited by international humanitarian law of non-international armed conflict.⁸

⁶ The law of occupation, which is part of international humanitarian law, continues to apply in the OPT. Palestinians in Gaza and the West Bank are protected persons under the Fourth Geneva Convention. Despite the removal of Israeli settlements from the Gaza Strip, it remains occupied territory as Israel exercises de-facto control over many aspects of life in Gaza. As the Occupying Power, Israel has a responsibility for the welfare of the civilian populations in the West Bank and Gaza. In the years after the Oslo agreement, the PA exercised some state-like functions, including operating a justice system, police and security forces and it undertook to respect and uphold human rights law.

⁷ ICRC, Customary International Humanitarian Law, Vol. I: rules.

⁸ International humanitarian law defines those *hors de combat* as including: those who are in the power of an adverse party, those who clearly expresses an intention to surrender, and those who have been rendered unconscious or are otherwise incapacitated by wounds or sickness, and who are therefore unable to defend themselves - provided that in any of these cases they abstain from any hostile act and do not attempt to escape.

International criminal law provides that individuals who perpetrate serious violations of international humanitarian law are individually responsible and should be brought to justice. Serious violations of international humanitarian law are war crimes.

The right to life, liberty and security of person is enshrined in the Universal Declaration of Human Rights (UDHR - Article 3).

Although not fully in line with internationally recognized human rights standards, Palestinian laws contain numerous provisions, which – if implemented – would provide important safeguards for detainees against arbitrary detention, torture and other ill-treatment.

Article 13 of the Basic Law categorically prohibits the use of torture or duress against detainees and stipulates that statements or confessions obtained as a result of such abuses are considered null and void.

The obligation not to subject people to torture or other ill-treatment is a rule of customary international law and the prohibition of torture is absolute. The absolute prohibition has been codified in the Universal Declaration of Human Rights (UDHR), as well as several human rights treaties, notably the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, and in non-treaty human rights standards. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (hereafter The Body of Principles)⁹ stipulates in Principle 6: “*No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*”¹⁰ *No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.*”

Torture and other ill-treatment is also prohibited by international humanitarian law, as a grave breach of the Geneva Conventions and a war crime.

Article 9 of the UDHR prohibits arbitrary arrest or detention. The prohibition of arbitrary deprivation of liberty is also considered a norm of customary international law.¹¹ This prohibition is also enshrined in the Body of Principles. Principle 2 of the Body of Principles states: “*Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.*”

Principle 36 (2) states: “*The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention, shall be forbidden.*”

⁹ Adopted by the UN General Assembly in 1988.

¹⁰ See: <http://www.ohchr.org/english/law/bodyprinciples.htm> - wp1025564#wp1025564

¹¹ See, e.g., Human Rights Committee General Comment 29 on States of Emergency (Article 4 of the ICCPR) UN Doc CCPR/C/21/Rev.1/Add.11, at paragraph 11.

Furthermore, international standards require that all detentions be ordered by and subject to challenge before and supervision by an independent judicial authority. Principle 4 of the Body of Principles states:

“Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.”

Principle 11 states: *“A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.”*

The same Principle also requires that a detained person and his counsel *“receive prompt and full communication of any order of detention, together with the reasons therefore”* and that *“a judicial or other authority shall be empowered to review as appropriate the continuance of detention.”* The right to challenge the lawfulness of detention may not be suspended, even during times of emergency.¹²

Similar provisions are contained in Palestinian law: Article 11 of the Basic Law makes it unlawful to arrest and imprison any person except by judicial order in accordance with the provisions of the law, and requires that detainees are held only in places authorized by the laws relating to the organization of prisons. Article 29 of the Penal Procedures Law states: *“No person may be arrested or imprisoned except by order of the competent authority as designated by law. He must be treated in a manner that will preserve his dignity and may not be physically or morally harmed.”*

Further, both international standards¹³ and Palestinian law prohibit holding people in unofficial places of detention. Article 68 of the Penal Procedures Law states: *“No person may be detained or confined except in a correctional and rehabilitation centre [a prison] and in the places of detention designated by law.”* The failure to abide by the above-mentioned Palestinian law and/or these international standards renders a detention or arrest arbitrary under international human rights standards.

The Body of Principles states that the detaining authorities *“shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority”* (Principle 9), that detentions must be promptly reviewed by a judicial or other authority (Principle 11) and that detainees must be given prompt access to their families and legal counsel (Principle 15).

Similar provisions are contained in the Palestinian Penal Procedures Law, according to which the detention of any individual prior to their being charged with an offence must be reviewed within 24 hours by a prosecutor (Article 34), who may extend the detention for an additional 48 hours. After 72 hours of detention, the case must be reviewed by a judge (Article 51), who may extend the pre-charge detention by 15 days (Articles 62 and 63),

¹² See, e.g. Human Rights Committee General Comment 29 on States of Emergency (Article 4 of the ICCPR) UN Doc CCPR/C/21/Rev.1/Add.11, at para 16.

¹³ Article 10 of the UN Declaration on Enforced Disappearance.

renewable by a judge every 15 days to a maximum of 45 days.¹⁴ The law also grants detainees prompt and unhindered access to legal counsel (Article 46). Further, Article 12 of the Basic Law requires that detainees be charged and brought to trial without delay.

Palestinian justice system

The **legal system** in the areas of the OPT under PA jurisdiction comprises a body of laws and decrees which include those remaining from previous centuries when the area was ruled by other powers – Ottoman, British, Jordanian (in the West Bank), Egyptian (in the Gaza Strip) and Israeli – and legislation introduced since 1994, notably decrees issued by former President Yasser ‘Arafat and current President Mahmoud ‘Abbas, and laws passed by the Palestinian parliament, the Palestinian Legislative Council (PLC). The first elections to the PLC, which comprises 132 members, were held in 1996. Laws passed by the PLC come into force once ratified by the PA President. The PLO Revolutionary Code of 1979 (developed by PLO structures in exile prior to the establishment of the PA) is also still in force and is the basis of the military justice system. The Basic Law of 2003, amended in 2005, acts as a form of constitution pending the establishment of a Palestinian state.

The **court system** consists of *Sulh* (Conciliation/Magistrate) courts, which hear cases of misdemeanors; *Bidaya* (First Instance) courts, which hear cases of more serious crimes and appeals against judgments handed down by *Sulh* courts; Appeal Courts, which hear appeals against judgments of the First Instance Court; and the High Court, which provides the highest level of appeal and hears petitions for cassation challenging procedural breaches. A Supreme Criminal Court was set up in 2006 to try crimes including murder, abduction, rape, so-called honour crimes and attacks on public finance and national security. Military Courts hear cases involving members of the security forces and apply the 1979 PLO Revolutionary Code. In 2006 a law was passed establishing a High Constitutional Court, but it has not yet been set up in practice.¹⁵ Civil courts hear civil cases and *Shari’a* (religious) courts hear cases under family and personal status law (such as marriage and divorce). The State Security Courts were abolished by the Minister of Justice in 2003.¹⁶

The Attorney General and prosecutors investigate and prosecute crimes, oversee the legality of detentions and investigate complaints by detainees. The Attorney General and the judges are nominated by the Higher Judicial Council, which is headed by the President of the High Court, but appointed by the PA President.

A traditional ‘*Urf* (customary) system of conciliation and mediation by clan/tribal leaders and other respected figures in the community has continued to exist and to function in parallel to the court system; for many Palestinians, this remains the preferred means through

¹⁴ The 45-day maximum may be further extended by an additional 45 days on application by the prosecutor to a higher court than that which authorized the first 45 days of detention.

¹⁵ Law No.3 of 17 February 2006.

¹⁶ The State Security Courts were set up by the late President ‘Arafat in 1995 and were used to try the political opponents detained in the waves of arrests in the 1990s in notoriously unfair trials. Palestinian jurists have argued that since these courts were set up by Presidential Decree, a decision by the Minister of Justice is not sufficient to abolish them and another Presidential Decree is required.

which to resolve family/clan feuds and other disputes, ranging from issues affecting family “honour” to murder, injury or financial issues. This mediation system has also been used as a basis for addressing clashes between political factions, including brokering cease-fires, negotiating safe passage for militants/leaders in danger, and resolving other cases of disputes between Fatah and Hamas which arose in the course of the bloody clashes which occurred in the Gaza Strip in the first half of 2007.¹⁷

Institutional and judicial vacuum in the Gaza Strip

After Hamas took control of the PA security installations in the Gaza Strip in June, President Abbas instructed the police and security forces not to report for duty in Gaza, on penalty of losing their salaries. On 10 July the Attorney General, who is responsible for investigating and prosecuting criminal cases,¹⁸ confirmed to Amnesty International that his office had not undertaken any activity in the Gaza Strip since mid-June.¹⁹

On 2 July the Chief Justice and President of the Higher Judicial Council and of the Supreme Court issued the following instructions to the presidents of the *bidaya* and *sulh* courts:

*“Due to the current situation in the Gaza Strip and due to the lack of a police force to assist and safeguard the implementation of judicial decisions, we request all judges and workers in the directorates responsible for implementing judicial decisions to suspend all decisions requiring police assistance for their implementations, in order to protect the independence and dignity of the judiciary and protect it from any interference that would threaten its independence”.*²⁰

Only the Sharia courts continued to function, but rulings which required action by the police could not be implemented due to the absence of a police force following President Abbas’ order to the police to stand down.

This exacerbated what was already a lawless situation. For several years, virtually none of those responsible for political killings and abductions – mostly carried out by armed groups linked to Fatah, and more recently also by Hamas’ armed wing and other groups, have been brought to justice. With security forces and successive attorney generals and prosecutors

¹⁷ Fatah and Hamas militants in the Gaza Strip told Amnesty International that the interventions and mediation efforts by other political factions, such as the Islamic Jihad and the Popular Front for the Liberation of Palestine (PFLP), in many cases avoided further bloodshed.

¹⁸ According to the Penal Procedure Law No.3 of 2001: “*The right to file and conduct a penal action is vested exclusively in the Public Prosecution*” (Article 1) and “*The Attorney General shall prosecute the penal action himself or through one of the members of the Public Prosecution*” (Article 2).

¹⁹ PICCR quotes the Attorney General confirming on 11 July that since the end of armed clashes in the Gaza Strip the office of the Attorney General had not taken up any cases there. See: PICCR Special Report 58: *Arrests outside the legal framework in the Gaza Strip*; issued on 10 September 2007 (in Arabic).

²⁰ Decision of the Chief Justice, Head of the Higher Judicial Council, dated 2 July 2007, addressed to the Presidents of First Instance and Arbitration (*sulh*) courts (translation of Arabic original).

mostly unable or unwilling to prosecute political cases, arrests and prosecutions tended to be limited to common-law cases, while crimes committed in the context of political and intra-clan/families clashes tended to be tackled through informal mediation efforts between the concerned parties conducted by respected community leaders, or else they were simply left unaddressed. This signal failure on the part of the PA, its security forces and the judiciary to investigate and bring to justice perpetrators of human rights abuses, contributed to a large extent to the lawlessness which became increasingly entrenched in the Gaza Strip, as well as in the West Bank.²¹

“A man, seemingly mentally disturbed, burst into the centre. We did not know what to do; there is no police any more and we did not want to turn to Hamas’ forces, but in the end we had to, as the man was being abusive and causing trouble, but we felt uncomfortable about it.” (NGO worker, July 2007)

“There is no police to investigate crimes and courts to judge criminals. There are people who obtained court rulings in their favour before 14 June which require the intervention of the police to be enforced; cases of land disputes, of divorced women whose husbands won’t pay their due and many other cases – but there is no police to enforce these ruling. Where are people supposed to take their grievances? Even if Hamas arrests criminals, what then? Do we really want them to start setting up courts and new systems? The judiciary and the institutions which are supposed to serve the citizens should be kept out of politics. This decision to stop the police and the courts from working has very negative implications. It is a big mistake.” (Human rights lawyer, July 2007)

These long-standing failures and short-comings underscored the need for urgent and far-reaching reforms – such as the appointment of non-partisan police and other officials, better training, the establishment of effective oversight and accountability mechanisms that could help stamp out abuses by the security forces, and measures to empower the judiciary and enhance its independence. Instead, President Abbas’ decision to freeze the activities of the police and the judiciary in the Gaza Strip resulted in an institutional and judicial vacuum that left the 1.5 million inhabitants of the Gaza Strip effectively without any law enforcement institution to which they could turn.²² It also opened the way for the Hamas de-facto administration to put in place alternative systems to fill this judicial and policing vacuum, which, however, lack adequate independence, impartiality, training, oversight and public accountability.

Prior to June 2007, the Gaza Strip’s residents faced great difficulties in obtaining justice or redress from the malfunctioning judicial institutions and mechanisms of the PA. Since the Hamas takeover, however, the situation has deteriorated further. Gazans now have no chance at all to obtain justice or redress through the law because the official institutions are

²¹ In the Gaza Strip the more limited presence of Israeli forces in the main population centres has allowed the PA greater operational capability to administer internal affairs.

²² In fact, some members of the police who support Hamas defied President Abbas’ orders and continued to work alongside the Executive Force.

absent. In the past, while the police and the courts of the PA rarely took action against security forces and armed militias responsible for “political” crimes such as killings and abductions, they did act in other types of cases, such as common law crimes, as well as to enforce the rulings of civil and religious courts.

Since June, the absence of PA institutions has left the residents of the Gaza Strip with no choice other than to take the law into their own hands or to turn to the politically-partisan security and law enforcement apparatus set up by Hamas. Ultimately, the vacuum encouraged Hamas to develop parallel systems and to take ad hoc measures outside the judicial and institutional framework.

Since July members of the security forces in the Gaza Strip have been receiving their salaries in full from the West Bank-based PA emergency government after many months, during which their salaries were paid only partly or not at all. However, the payment of salaries is conditional on the personnel not reporting for duty – in effect, they are paid not to work. Those who continued to work under the Hamas de-facto administration had their salaries stopped.²³ Thus, whereas for more than a year the security forces were expected to carry out their duties without receiving their salaries, they are now required not to work as a condition for receiving their salaries.

Proliferation of parallel systems outside the legal framework in the Gaza Strip

Hamas filled the void by deploying the Executive Force throughout the Gaza Strip. The rank and file members of this force are drawn from Hamas’ Qassam Brigades (see Chapter 4), who are trained to carry out attacks against Israeli targets and to fight Israeli forces during their incursions into the Gaza Strip - not to act as law enforcement officers. As was the case in the past, when political and personal loyalties – rather than skills and competence – were often the determining factor in the recruitment of members of the Fatah-dominated PA security forces and judicial apparatus, the Hamas de-facto administration has been recruiting Hamas supporters into its forces and other public institutions.

The Qassam Brigades have participated in attacks against demonstrators alongside the Executive Force and have also abducted people independently of the Executive Force and run two detention centers in the Gaza Strip. Neither the Qassam Brigades nor the Executive Force have any legal authority to arrest and detain people; the Qassam Brigades is an armed group which exists outside the framework of the law and the Executive Force is a force which is not authorized by law to carry out arrests and detain people. Such detentions are arbitrary, and violate both Palestinian law and international standards.

Since July 2007, Hamas has announced a series of new bodies or mechanisms to replace the PA security forces and judicial institutions that have refused to operate under or alongside the Hamas de-facto administration. According to the Palestinian Independent

²³ Only some members of the police who support Hamas defied President Abbas’ orders and continued to work, under the command of the Executive Forces.

Commission for Citizens' Rights (PICCR – the national human rights body),²⁴ the Executive Force set up a committee on 9 July to deal with the cases of detainees who had been held in Gaza central prison in al-Saraya security compound prior to the Hamas takeover of the compound.²⁵

On 21 July the Executive Force spokesman announced that Hamas had formed a legal committee to address the lack of functioning judicial institutions in the Gaza Strip and stated that this committee replaces the PA prosecution service “and prevents it from interfering in cases of the Palestinian public”.²⁶ However, it was not until 16 August that the Executive Force took over the offices of the PA Attorney General in Gaza City. Shortly afterwards, the General Director for Legal Affairs in the Justice Ministry of the Hamas de-facto administration announced that it had appointed eight prosecutors and 20 assistant prosecutors to replace those who had stopped working in mid-June.²⁷

On 16 August the Executive Force arrested the Attorney General, who had been in the West Bank since the beginning of the crisis and had recently returned to Gaza. In a testimony to the Palestinian Centre for Human Rights (PCHR), he said he had been taken from his office and beaten while being taken to the central prison, where he was told to sign an undertaking not to exercise any prosecution-related duties, travel to the West Bank or make statements to the media, and to stop “incitement” against the Hamas administration. He refused to sign the statement but was released after a short time. The Executive Force spokesman informed PCHR that the Attorney General had been detained for one hour on suspicion of smuggling legal files on cases of corruption and murder, an allegation which the Attorney General denied. Executive Force members also body-searched the Attorney General's assistants, erased pictures from their mobile telephones and threatened them at gunpoint. A lawyer with the Palestinian human rights organization al-Mezan was likewise briefly detained by the Executive Force when he attempted to photograph Executive Force members surrounding the Attorney General's office. He was also taken to al-Saraya security compound and held there for an hour before being released.

The head of the Executive Force, Jamal Jarrah, announced on 18 August that a new rapid response force was being formed and would be deployed imminently to deal with “collaborators” and with security issues requiring rapid intervention, such as drug smuggling.

²⁴ PICCR Special Report 58: *Arrests outside the legal framework in the Gaza Strip*, p.7, 10 September 2007 (in Arabic).

²⁵ Some 500 detainees were released from Gaza central prison when Hamas stormed the al-Saraya security compound on 13 June and dozens of them gave themselves up to the Executive Force in the following days and returned to the prison, seemingly out of fear that if they remained free the families of their victims would kill them in revenge. Subsequently Amnesty International learned from other former inmates, who had fled the central prison on 13 June and who had been detained there without trial, that they had been summoned by the Executive Force for questioning about their case and released within 24-48 hours.

²⁶ As quoted by Maan News on 21 July 2007.

²⁷ As quoted by Paltimes.Net on 30 August 2007, in Arabic:
<http://www.paltimes.net/arabic/?action=detile&detileid=7258>

On 27 August, the Secretary General of the Hamas de-facto administration, Muhammad Awad, announced the creation of three new Palestinian police forces – an internal security force, a beach force and a female force.

On 4 September the Hamas de-facto administration announced the establishment of the Supreme Justice Council, which is to be responsible for appointing judges, in co-operation with the Justice Department. This Council is intended to replace the Higher Judicial Council, which nominates the Attorney General and judges, for appointment by the PA President, and trains the judges. Such moves are inconsistent with the principle of the independence of the judiciary and are in breach of numerous Palestinian laws – notably the Judicial Authority Law.²⁸

Amnesty International is concerned that the bodies and mechanisms set up by the Hamas de-facto administration to carry out law enforcement and the administration of justice lack the necessary skills, independence, oversight and accountability to ensure that the rule of law is respected for both victims and accused; that human rights abuses are not committed; that victims have access to effective mechanisms to obtain redress; and that accused persons are afforded due process. To the contrary, it appears clear that perpetrators of human rights abuses continue to enjoy impunity, and that the Hamas de-facto administration lacks the political will to hold perpetrators of crimes to account, especially Hamas members, and to respect fundamental human rights, including the rights to freedom of expression, assembly and association. Essentially, the Hamas de-facto administration in the Gaza Strip is fast replicating and, indeed, exceeding many of the abuses and shortcomings for which it formerly denounced, on good grounds, the Fatah-dominated PA institutions, notably disregard of human rights by security forces and lack of political will to enforce the rule of law, leading to widespread lawlessness.

4. SECURITY FORCES AND ARMED GROUPS – BLURRED LINES

Security forces

Some 10 different security forces were set up by the PA in the second half of the 1990s, including the Preventive Security Service, Force 17, General Intelligence, Military Intelligence and Civil Police, comprising more than 30,000 members in all. For years, torture by PA security forces, notably the Preventive Security, was common against political detainees and detainees accused of “collaboration” with Israeli intelligence services.²⁹ Each

²⁸ The Judiciary Authority Law No.1 of 2002 was amended in 2005 by Law No.15, but the latter was ruled as unconstitutional in November 2005 by the High Court, in its capacity as the Constitutional Court. However, Law No.15 was never formally repealed.

²⁹ Large-scale arrests of political opponents by PA security forces were common until 2000, and virtually stopped after the outbreak of the *intifada* at the end of 2000.

security force ran its own detention centres, outside the legal framework, and in some cases detainees were held for years without trial or any effective means of remedy or redress.³⁰

In 2005 President Abbas consolidated the security forces into three branches: National Security, Internal Security and General Intelligence, each comprising several forces.³¹ General Intelligence includes Military Intelligence and the Military Police and is under the direct control of the PA President, as is the Presidential Guard/Force 17.³² National Security is defined as “a regular military body”³³ and includes several forces. Internal Security includes the Preventive Security, the Police and the Civil Defense. National Security and Internal Security are under the jurisdiction of the Ministers of National Security and the Interior respectively, but the heads of the two forces are appointed by the PA President.³⁴

After Hamas won the legislative elections and established a government in early 2006, it was not able to gain any measure of control over the security forces, some of which, notably the Presidential Guard/Force 17 and the Preventive Security, openly challenged the authority of the new government and carried out assassinations and other attacks against Hamas members.

The **Executive Force** was set up in April-May 2006 by the then Interior Minister in the Hamas government, who maintained that with no control over existing PA security forces, which remained essentially Fatah structures, the government had no law enforcement mechanism under its command and could not fulfil its duty and tackle the growing lawlessness and frequent abductions. The Executive Force is composed of members of the ‘Izz al-Din al-Qassam Brigades (Qassam Brigades) and Hamas supporters, and its leadership includes Major-General Tawfik Jaber, a former police chief under a Fatah government.

President Abbas objected to the creation of the Executive Force and called for it to be disbanded, but for more than a year he took no measures to force the then Hamas government

³⁰ For example, in May 2005 the PA released several detainees who had been held for up to 10 years without trial or in spite of court orders for their release in a section of Gaza City Prison run by Major-General Musa Arafat, the head of Military Intelligence, who was assassinated four months later. See: <http://web.amnesty.org/report2006/pse-summary-eng>

³¹ Defined in Article 3 of the Service in the Palestinian Security Forces Law No.8 of June 2005 as: “The National Security Forces and the Palestine National Liberation Army; the Internal Security Forces; the General Intelligence; and any other force or forces that are existent or to be established and which shall be within one of the three forces.”

³² Force 17 was established in the early 1970s as a special unit of the Fatah movement. When the PA was established in the early 1990s it became an official PA security force, reputed to be the most loyal and trusted by the late President Arafat. In 2005 it was renamed Presidential Security/Force 17 (*Amn al-Ri’asa–Quwwa 17*), but in English translations it is commonly referred to simply as the Presidential Guard in an apparent effort to discard the poor reputation of Force 17 at the international level.

³³ Article 7 of Law No.8 of 2005.

³⁴ Articles 8 and 11 of Law No.8 of 2005.

to comply with this instruction.³⁵ Meanwhile the Hamas government made no efforts to have the parliament, in which it held a majority, to introduce legislation to establish formally the Executive Force and to regulate its operation.³⁶ The Executive Force, therefore, continues to operate outside the framework of the law.

According to reports, there were negotiations between Fatah and Hamas about possibly merging the Executive Force with existing PA security forces, but no agreement to do this was ever reached. Assassinations, abductions and intermittent armed clashes between rival Fatah and Hamas gunmen became increasingly frequent, with Fatah's al-Aqsa Brigades and Hamas' Qassam Brigades acting as auxiliary militias to certain PA security forces and to the Executive Force.

Only after Hamas' Executive Force and the Qassam Brigades seized control of the PA security installations and other institutions in the Gaza Strip, did President Abbas issue a Presidential Decree outlawing the Executive Force.³⁷

Armed groups

Most Palestinian political factions have an armed wing or armed groups affiliated to them.³⁸ However, the inter-factional armed clashes and attacks have been almost exclusively between the armed wing of Fatah, the al-Aqsa Brigades, and the armed wing of Hamas, the Qassam Brigades, which are also the two largest armed groups.

The al-Aqsa Brigades were created by Fatah activists, including members of the PA security forces, notably Force 17 and the Preventive Security,³⁹ in late 2000/early 2001, shortly after the outbreak of the intifada (the Palestinian uprising against Israel's military occupation of the West Bank and Gaza Strip).⁴⁰ They first became known in Nablus, which has remained one of their main strongholds in the West Bank, and later became established in other towns, notably Jenin and Ramallah, as well as in the Gaza Strip. Their stated aim is armed resistance to Israeli occupation, including through the use of suicide bombings and other attacks against Israelis, including Israeli civilians, in Israel and in the OPT. However, in

³⁵ The PA President did not refer the matter to the courts nor did he issue a Presidential Decree outlawing the Executive Force, a measure which he took in June 2007, after Hamas seized control of the Gaza Strip.

³⁶ Since it was established after the passing of Law No.8 of June 2005, regulating the Palestinian Security Forces, the Executive Force's existence and role is not detailed in any laws.

³⁷ President Abbas issued two Presidential Decrees outlawing the Executive Force, on 16 June and 12 August 2007.

³⁸ Notably Islamic Jihad, the Popular Front for the Liberation of Palestine and the Democratic Front for the Liberation of Palestine. Other smaller armed groups have emerged in recent years in the Gaza Strip, such as the Abu al-Rish Brigades, a Fatah splinter faction, and the Army of Islam, an off-shoot of the Dughmush clan.

³⁹ Some members of the security forces also joined the Popular Resistance Committees, an umbrella group composed of militants from different Palestinian factions, mostly present in the Gaza Strip.

⁴⁰ Al-Aqsa Brigades claimed their first civilian victim in February 2001 – Lior Attiah, a 23-year-old Israeli resident of Afula, who was shot dead near the Palestinian village of Jalame in the West Bank.

recent years, notably since 2004-05, they have been increasingly responsible for abductions of fellow Palestinians and foreign nationals mostly with the aim of extracting concessions from the PA – such as obtaining jobs, securing the release of friends and relatives detained by the PA for criminal activities, or to register their disagreement with positions taken by the PA leadership in their negotiations with Israel. The al-Aqsa Brigades have also been responsible for the vast majority of killings of fellow Palestinians accused of “collaboration” with Israeli intelligence services and have also abducted and tortured people to force them to pay ransoms. The al-Aqsa Brigades have consistently been afforded impunity for human rights abuses – whether against Palestinians, foreign nationals or Israeli civilians.

Although Fatah and the PA have never formally recognized the al-Aqsa Brigades as the armed wing of Fatah, the Brigades have consistently identified themselves as Fatah’s armed wing and have never been disavowed – either by the current or former PA President, or by the Fatah leadership. On the contrary, PA Fatah leaders have often granted concessions and recognition to the al-Aqsa Brigades. For example, during his 2005 presidential election campaign, President Abbas was photographed being carried on the shoulders of Zakaria Zubeidi, the al-Aqsa Brigades leader in Jenin.⁴¹ Shortly after his election, President Abbas ordered the integration of al-Aqsa Brigades’ members into the PA security forces, where they would obtain official status and be paid by the PA.⁴² On 12 July 2007, President Abbas issued a Presidential Decree granting the Jerusalem Medal to Samih al Madhoun, a colonel in the Presidential Guard/Force 17 and leader of al-Aqsa Brigades in the Gaza Strip, who was brutally killed in June 2007 by Hamas gunmen, a day after he had boasted in a radio interview about burning 20 houses of Hamas supporters.⁴³

An unspecified number of al-Aqsa Brigades members have been integrated into the PA security forces over the years, notably into the Presidential Guard/Force 17; others have become members of the Brigades while already serving in the PA security forces. The ambiguous situation took on an added complexity from 2004 onwards, with the emergence of splinter groups within the ranks of the Brigades and their involvement in inter-factional fighting, first within Fatah itself and later against Hamas. Attacks by the al-Aqsa Brigades against Hamas members increased after Hamas gained control of several municipalities in the first Palestinian municipal elections in 2005 and prior to the January 2006 legislative elections,⁴⁴ and escalated further after Hamas’ victory in those legislative elections.

⁴¹ See photograph, dated 5 January, at: http://www.standwithus.com/news_post.asp?NPI=200

⁴² See AFP report: *Abbas calls for militants to be incorporated into security services*, 16 January 2005.

⁴³ Presidential Decree (Arabic) at: www.wafa.ps/arabic/printnews.asp?id=55895

⁴⁴ Hamas’ participation in the municipal election was a departure from Hamas’ previous refusal to participate in PA institutions. After its relative success in the first two rounds of municipal elections in December 2004 and May 2005, attacks by al-Aqsa Brigades caused disruption and cancellation of the third and fourth rounds in late 2005 in some areas. The fifth and sixth rounds, scheduled for 2006, never took place due to the increase in Fatah-Hamas armed confrontation after Hamas’ victory in the legislative elections.

The Qassam Brigades were established in the early 1990s,⁴⁵ reportedly under the leadership of Yahia Ayash, who was later assassinated by the Israeli army. Their stated aim is armed resistance to Israeli occupation, including through the use of suicide bombings and other attacks against Israelis, including Israeli civilians, in Israel and in the OPT. However, in recent years, notably since 2005, they have increasingly been involved in armed clashes with and attacks against Fatah members, notably in the Gaza Strip. They have also been responsible for some killings of fellow Palestinians accused of “collaboration” with Israeli intelligence services.

Unlike the members of the al-Aqsa Brigades, members of the Qassam Brigades and of Hamas have been periodically targeted by the PA and its security forces – notably in the mid- to late-1990s. In this period, hundreds of Qassam Brigades and Hamas supporters were arrested by the PA; many were tortured or otherwise ill-treated and imprisoned after unfair trials or held for prolonged periods without charge or trial. These detentions appeared to be motivated essentially by political considerations - intended to stifle dissent against the PA and also to respond to Israeli and international pressure on the PA to act against armed groups - rather than by a genuine desire to bring perpetrators of serious crimes to justice. From the beginning of the intifada in late 2000 until the Hamas takeover in Gaza in mid-June 2007, however, the PA generally failed to take action against the al-Aqsa Brigades, the Qassam Brigades or any other armed groups that carried out attacks against Israeli civilians, although such attacks against civilians constituted gross breaches of international law.

Proliferation of unlicensed weapons – a root cause of lawlessness

The unchecked proliferation and misuse of firearms and explosives has contributed greatly to the growing lawlessness and insecurity in the West Bank and Gaza Strip, and has had a disastrous impact on the lives of the civilian population. Hundreds of Palestinians, including children, have been killed by other Palestinians using firearms and explosives, either deliberately or by accident, in recent years.

The armed clashes in the Gaza Strip and the attacks in the West Bank were facilitated by the ready availability of firearms and explosives, which armed groups claim to use only in the context of armed resistance to the Israeli occupation, but which have been used with increasing frequency against other Palestinians, notably by Fatah’s and Hamas’ armed groups. Over the years, the growing lawlessness and the inaction of the PA security forces in the face of such violence has led many Palestinians not linked to armed groups to acquire weapons for their own protection. Such proliferation of firearms has in turn fuelled violence within Palestinian society and aggravated the consequences of confrontations, with minor disputes between neighbours often escalating into prolonged gun battles that endanger the lives of residents of entire neighbourhoods.

⁴⁵ The Qassam Brigades carried out the first suicide bomb attack on civilians in Israel in 1994, an attack that killed five people on a bus in Hadera.

The Firearms and Ammunition Law (2) of 1998 requires that no person may be in possession of a firearm unless they have obtained authorization from the Ministry of the Interior (Articles 2 and 3); that no one aged under 21 may possess or carry firearms (Article 5.a); that no one may own more than one firearm (Article 11); that firearms may not be carried in public areas, at conference, meetings, ceremonies or at wedding parties; and that it is absolutely prohibited to show off firearms (Article 14).

In practice, this law has rarely been applied. Adults and even children routinely carry and use unauthorized firearms in public places, including hospitals and schools. Busy streets in densely populated residential areas have frequently been the scene of gun battles between armed groups, rival security forces or feuding families, and armed individuals and members of the security forces frequently fire live ammunition in crowded public areas in celebration or protest, or simply to display their weapons. Such proliferation of weapons is unjustified and presents a real and continuing threat to the human rights of many Palestinians.

5. ABUSES IN THE GAZA STRIP

Unlawful killings and abductions

Both during and after the clashes that ended with Hamas' de-facto takeover in the Gaza Strip, Hamas gunmen have hunted down members of the PA's security forces and of the al-Aqsa Brigades, which they accused of being part of a group which had ordered and carried out assassinations of Hamas members.⁴⁶ High-ranking members of this target group who were captured by members of the Executive Force and Qassam Brigades were killed, while less prominent members or helpers were often shot in the legs in a deliberate policy to exact revenge and intimidate others.

Testimony of **F.H.**, a mechanic working with the Presidential Guard/Force 17:

"On Sunday 10 June in the late morning, at about 10.30-11am, I and my colleague, Mohammed Swerki, who worked as a cook, were sent to deliver food to our colleagues who were in the Bacri Tower [a tall residential building in Gaza City]. However, we went to the wrong building by mistake; we went to the nearby Ghifari tower, where there was a Hamas group. When they opened the door downstairs we told them we were from Force 17 and they took us in and tied our hands and blindfolded us and took us upstairs; I don't know if it was the top floor or one below. I don't know if they were Qassam Brigades or Executive Force; they were dressed in black and masked. They asked me for names and telephone numbers of officers in Force 17 and which weapons they had and I said I didn't know; I am a mechanic

⁴⁶ The group was reportedly led by Fatah's strongman in Gaza, Muhammad Dahlan, who was appointed as President Abbas' National Security Advisor earlier in 2007 but resigned after the June events in Gaza. He had led the crackdown on Hamas members in the mid-1990s, as head of the notorious Preventive Security Service in Gaza, where detainees were routinely tortured and some died as a result.

and my job was to repair cars and Mohammed was a cook; we were not involved in security issues. Then very quickly they left me and went to fight because they were being attacked by Force 17. Me and Mohammed were kept separate. At about 4 or 5 pm I heard screaming and the Hamas group came back to me and told me that Mohammed had fallen off the roof. They gave me water and allowed me to wash and pray. In the meantime some of my relatives had been alerted and there was intervention and someone came to get me and I was allowed to leave. Mohammed's body was found in the street below the building; his hands were tied and he was blindfolded. He was 26 years old; he was married but did not yet have children."

As the news of Mohammed Swerki's death spread it was rumoured that he had been thrown off the roof by Hamas gunmen, and masked Fatah gunmen quickly surrounded the home of Dr Ala' al-Rifati, dean of the business faculty at the Islamic University in Gaza City and abducted his brother, **Mohammed al-Rifati**, a 35-year-old imam and reported Hamas supporter. He was later found dead, his body riddled with bullets, near the PA security compound in the Ansar area of Gaza City.

Later that evening masked gunmen abducted **Husam Abu Qinas** when he was in a shared taxi returning home from work in Khan Yunis. They bundled him into a jeep reportedly belonging to the Presidential Guard/Force 17 and took him to the Mhanna tower (a tall residential building) in Gaza City and threw him off the roof, handcuffed. He had been shot in the head first, but it is not known whether he was still alive when he was thrown from the roof. Husam Abu Qinas, a 35-year-old tiler, married and expecting his first child, was religious but reportedly not a Hamas member. Both attacks were believed to have been carried out in revenge for the killing of Mohammed Swerki.

Gun battles lasting hours took place in residential neighbourhoods around the houses of leading figures of the al-Aqsa Brigades, PA security services and Fatah. The reckless use of rocket-propelled grenades (RPGs), rockets and other heavy weapons gravely endangered the safety of residents and passers by. Some of those involved in the fighting who were captured were summarily killed when they were *hors de combat* – including in and around hospitals. Others not involved in the fighting were abducted and deliberately killed while being held hostage.

Testimony of a relative of **Jamal Abu Jedian (Abu Maher)**, the 52-year-old Secretary-General of Fatah in the north of Gaza, a colonel in the Presidential Guard/Force 17 and leading commander of the al-Aqsa Brigades in the north of Gaza and a close associate of Muhammad Dahlan, the former head of the Preventive Security and President Abbas' strong man in the Gaza Strip:

"At about 4pm on 11 June Hamas gunmen besieged our house; there are six apartments in the house and some 50 people live here; many women and children. They took over the house diagonally opposite and used it to attack our house. They launched RPGs and rockets, which caused all this destruction and fire. Jamal was injured in the face by the explosion of a rocket and other relatives and bodyguards were also injured. We managed to get out from the back to go to the Kamal 'Adwan hospital, nearby. When we reached the hospital Hamas gunmen

attacked us there. They shot Abu Maher many times in the head.⁴⁷ Then they took 10 relatives and bodyguards [all young men] outside, near the hospital and shot them all in the legs. Two of them, Shadi Ahmed and Bassam Abu Ruqbeh, had both legs amputated; Samed Abu Jedian and Ala' Odeh had to have one leg amputated; others sustained fractures as the shooting was at close range."

A Hamas gunman was also killed and tens of people, including two women, were reported to have been injured during the battle around Jamal Abu Jedian's house.

On the afternoon of the same day, 11 June, armed clashes broke out between members of Hamas' Executive Force and members of the al-Masri clan, a well-armed clan that has been involved in bloody family feuds for many years. The clan is headed by the Head of the *Mukhabarat* (General Intelligence) in the Gaza Strip. The clashes took place at the family compound in Beit Hanoun, in the north of the Gaza Strip. After the killing of one of their members in the clashes, Executive Force members chased members of the al-Masri clan and caught up with them at Beit Hanoun hospital.

Testimony of **F A**, aged 24, mother of five young children:

"There was shooting outside the hospital and then Hamas gunmen went inside the hospital looking for my relatives. They took 'Id, a father of 20, his son Brahim, aged 21, and his nephew Faraj, aged 22, to a separate room and shot them dead; they shot them in the head and chest. When the gunmen shot and threw grenades outside the hospital my cousin Taghreed [aged 17 and in her second year at high school] was seriously injured in the hip and lower back. She may remain disabled from her injury. When I found Faraj and saw that he had been shot dead I ran after the gunmen, I screamed at them and one of them kicked me. I picked up a stone to throw at him and he shot at me; I was injured in the stomach; I am recovering now but it will take some time."

Children and bystanders caught in the crossfire

During the clashes several bystanders, including children, were killed or injured in the crossfire. **Shahed Thamer Miqdad**, a child aged 18 months, and her aunt, **Nida' Ahmad Miqdad**, 22, were seriously wounded on two consecutive days in their fourth-floor apartment in the Maggousi housing project in Gaza City as reckless armed clashes took place around the house of a Fatah spokesman, Maher Miqdad, between Hamas and Fatah gunmen.

Testimony of **Shahed's grandmother**:

"On 13 June at about 6pm Shahed was in this room with her mother; they were sitting down; then Shahed asked her mother for something sweet [habba] and her mother got up to get a sweet from the cupboard, while Shahed was standing in the middle of the room. At that point a bullet came through the window and hit Shahed in the head. The bullet hit her by her left eye and exited at the back of her head. She lost her left eye and is still in a serious condition."

⁴⁷ Jamal Abu Jedian was reportedly shot 41 times in the head. A doctor at the hospital was quoted by Reuters as saying: "Everybody is shooting at everybody", at: http://news.bbc.co.uk/1/hi/world/middle_east/6739691.stm

She still does not speak or move; we don't know if she will survive. The following morning at 9am Nida' was in the same room and a bullet came through the same window and hit her in the lower back. She is now recovering."

It is not clear whether the bullets that injured Shahed and Nida' were stray bullets from the clashes or whether the apartment was deliberately targeted, possibly by mistake or because other family members worked in the security forces.

Many students risked their lives to take key exams that began on 11 June, passing through checkpoints erected by gunmen and areas where armed clashes were taking place. For some, the journey cost them their lives.



Aftermath of armed clashes in Gaza City – residents were trapped while gunmen fought recklessly outside, ©AI

Testimony of a relative of **'Aisha Maher Al-Shawwa**, aged 17:

"'Aisha was on her way to school in a minibus; she was in her last year of secondary school and always had very high marks and school was very important for her. That morning she was scared but she did not want to miss her exams; and she went. The minibus was in the area near the Rasha al-Shawa centre (in Gaza City) and when it reached the corner of the

Abu Qas Supermarket two Qassam members on the corner told the driver to take care because there were snipers from the Preventive Security and the National Security on the Soussi building on Thaladini Street. As soon as the minibus turned a bullet came through the window from high above and hit 'Aisha in the back, travelling down and damaging vital internal organs. All the information we have obtained shows that the bullet was fired from the top of the Soussi building, where a squad of the Preventive Security and some of their colleagues from the National Security had taken position."

Musa Ahmad Abu 'Oda, aged nine, was fatally wounded by shrapnel from a rocket that exploded in the street near his house on 13 June. His 12-year-old sister, **Khouloud**, was injured in the left leg. The two children had taken advantage of a lull in the clashes to go out to buy sweets. Another passer by, 20-year-old **Ra'ed Muhammad Abu 'Obeid**, was also killed and 13-year-old **Mahmoud Mousa al-Sisi** was injured in the legs. According to the families of the three victims, the rocket had been fired from the *Mukhabarat* centre and was aimed at a jeep belonging to the Executive Force, but the car turned a corner and the rocket exploded in the street. According to other sources, the rocket was more likely to have been fired by Hamas militants at the *Mukhabarat* centre, and the stray bullet that killed 'Aisha Maher al-Shawwa could just as likely have been fired by Hamas gunmen. In these, as in many other cases, the reckless conduct of both sides ended in tragedy for uninvolved bystanders.

Peaceful demonstrators under fire

A peaceful march against the Fatah-Hamas confrontation, calling on both sides to stop the fighting, came under fire on the morning of 13 June in Gaza City. Amnesty International has been unable to establish whether the demonstrators were deliberately targeted or, rather, were also victims of the reckless use of fire which characterized the armed clashes. The demonstration had been organized by left-wing parties, the local *mukhtars* (notables), Islamic Jihad and the Egyptian delegation in Gaza.⁴⁸ It started from the Shaja'iya district and continued past the parliament building and along 'Omar al-Mukhtar Street, where it came under fire. Two demonstrators were killed and more than 20 injured, including 19-year-old **Mohammad Mahmoud Adas**, who was reported to have later died. **Taghreed Salah al-'Alia**, a 31-year-old clerk, was wounded and died shortly after, and 22-year-old **Shadi Tayseer al-'Ijla**, a psychology student and peace activist, was injured and died two days later.

Testimony of Shadi Tayseer al-'Ijla's mother:

"Shadi was very active in the community; he wanted to contribute to building a better society and to the peaceful resolution of conflicts. Last year he participated in another demonstration in Rafah calling for an end to violence. He was involved in workshops and teaching for children. Two days after he died UNRWA [the UN Relief and Works Agency] called to invite him to participate in activities in a summer camp for children. He was shot in the chest as he was helping another demonstrator who had been injured."

⁴⁸ Left-wing parties, the Islamic Jihad, local notables and well respected figures, and the Egyptian delegation were all involved in mediating between Fatah and Hamas, negotiating repeated ceasefires and intervening to defuse tensions in many confrontations.



Testimony of Taghreed Salah al-'Alia's mother:

"Taghreed always wanted to do good. She had recently taken a first aid course, because of the events, so that she could help treat the injured; she was able to help the doctor in the clinic at the Navy, where she worked as a clerk. That morning she was worried about going on the demonstration but she believed it was a good initiative. I told her that if I had not been feeling unwell due to my recent eye operation I would have gone with her. When she was shot she was bent over another demonstrator who had been injured. She was taken to the Shifa hospital nearby but after waiting for 45 minutes without getting any treatment her friend took her in a taxi to al-Quds hospital, but she died shortly after arriving there."

Taghreed Salah al-'Alia, fatally wounded in a peaceful demonstration on 13 June 2007 in Gaza City, ©AI

University students **M.** and his brother **A.** were both injured in the demonstration. **M.**, aged 19, was hit by a bullet in his right leg and sustained a broken shin, and 20-year-old **A** received a bullet in the back. They told Amnesty International that they did not know whether the shot came from Hamas or Fatah gunmen or whether the shots were directed at the demonstrators or at the gunmen who were near the demonstrators.⁴⁹

⁴⁹ See photo of Fatah gunman adjusting a high-calibre machine gun mounted on a pick-up truck near the demonstration, at:

<http://www.mctcampus.com/visuals/preview.htm?doc=KRT%2Fkrtphotos%2Fdocs%2F341%2F532>

photo of Fatah gunmen near the demonstrators, at:

<http://www.mctcampus.com/visuals/preview.htm?doc=KRT%2Fkrtphotos%2Fdocs%2F341%2F533>

and photo of demonstrators marching past Fatah gunmen manning a checkpoint, at:

<http://www.mctcampus.com/visuals/preview.htm?doc=KRT%2Fkrtphotos%2Fdocs%2F341%2F529>

‘Punitive’ shootings spread fear

As well as assassinations and abductions, both Fatah and Hamas security forces and gunmen attacked each other’s members or supporters to exact revenge or instil fear. Such attacks were especially widespread between late 2006 and June 2007. Abducting their opponents and shooting them in the legs became an increasingly common practice by both Fatah and Hamas gunmen. During and immediately after the last wave of armed clashes, throughout June 2007, such attacks were most commonly perpetrated by Hamas gunmen against hostages and survivors of armed clashes who were *hors de combat*. Earlier in the year, such attacks were often perpetrated by PA security forces and Fatah gunmen against Hamas members. In most cases investigated by Amnesty International, the shots were fired at very close range, clearly deliberately and intended to maximize injury, causing multiple fractures of the shin and thigh bones. In several cases the damage was so serious that the limbs had to be amputated.



One of the many victims of “punitive” shooting in the legs in the Gaza Strip, ©AI

Testimony of **T A**, a 25-year-old bodyguard to his uncle, the head of a Preventive Security regional division:

“On the morning of Tuesday 12 June 2007 I was going from my sister’s house, where I had spent the night, to my family home with a relative who my mother had sent to pick me up

because she wanted me to go home. I had my Kalashnikov and a grenade with me. When we reached the al-Garara junction (in the south of the Gaza Strip) a group of Qassam Brigades members, 20 or so of them, stopped our car and said to me 'you are the guard of XX'. They told me to get out of the car and made me spread my legs and said 'we have not even started with the Preventive Security.' They beat me up on the spot and then took me away from the side of the road, into a field and made me lie face down and asked me my name, my position and who I work for, etc. Then they put me in a car, a white Subaru, and once in the car they blindfolded me. They took me to a house or a building, I could not see. There they asked me why I had stopped working for the National Security Service and moved to the Preventive Security. They asked if I had other weapons and I said no but they kept insisting that I had. They asked me what my boss did and I said that I did not know but they did not believe me and kept insisting. They wanted to know about the RPGs and the rockets which had been used on the day of the clashes at my boss' house. I said that I did not know. They started to pinch my armpits with pliers and it was very painful. One of them told the others to kill me. Then they put me in the car again and put the barrel of the Kalashnikov into my mouth and pretended to shoot. Then they took me out of the car and took off my blindfold; we were opposite Nasser hospital in Khan Yunis. They put me on the ground face down and shot me twice in the right leg, one shot in the calf and one in the thigh. As they were going to shoot me in the other leg a woman who was passing with a child threw herself on top of my left leg and told them they would have to kill her before shooting me and they left. She was very brave and saved me. A couple of days after Hamas took control of Gaza (15 or 16 June) they sent me a paper at home asking for weapons and summoning me to bring any weapons to the 'Abdallah Bin Messa'oud mosque in al-Garara. I could not move and my father went in my place and challenged them for what their gunmen had done to me and they apologized. Since then they haven't come to bother me at home and I have not gone out; I will not be able to walk for weeks."

Testimony of **Mahmoud Abu Kersh**, 23, who worked in the family restaurant:

"On Friday 18 May 2007 at about 5pm I was with my brother Mohammed. He is 26 years old, married with a little daughter and also worked in our family's restaurant. We had come out from Shifa Hospital (in Gaza City) and were going on to al-Quds Hospital, to visit children with cancer, an activity we do for a charity. We were in a taxi in Mujamma al-Wuzara' Street when we were stopped by a group of members of the Preventive Security and Presidential Guards. They were in two white Velox Jeeps with dark windows, were masked and armed with Kalashnikovs and machine guns. There were about 20 of them and others arrived shortly after. They asked our family names and then took us first to the Presidential Guard centre. We were beaten for some time; they banged our heads against the wall and put our heads in the toilet. They were saying to my brother 'ukfur' [ordering him to blaspheme or renounce God] but he refused. Then they took us to the Preventive Security centre in Tal al-Hawa; we were blindfolded but I could see a little from under the blindfold. There we were put in separate cells; it was very dirty. The following day they put us both out in the sun for a bit but said that if we talked together we would be shot. They had beaten my brother with a shovel on the head and banged his head against the metal door and he was bleeding but they did not allow him to wash. They said they were going to kill one of us and shoot the other in the legs and we could

choose; I said they should kill me because my brother has a child and I am not married. The day after, on Sunday, they put us both in the boot of a car; we were still blindfolded and with our hands tied. At one of their checkpoints we heard them say they were going to kill us. When they stopped and got us out of the boot they told us to walk, but my brother could not walk; his legs seemed broken. They started to shoot near us and at us. One bullet ricocheted and broke one of my front teeth and then I was hit by a high velocity bullet in my left calf, one in my [outer] left thigh, one in my left knee, one in my right foot and three in my left shin; these three could not be taken out and will remain inside. My brother got at least five bullets in each leg; at the hospital they could not tell exactly how many bullets had gone through his left leg because there was virtually no flesh left and the bone was shattered. After a few days in Shifa hospital he was taken to a hospital in Egypt and he is still there. While we were detained our parents called my mobile phone and the Preventive Security replied that they were from the Qassam Brigades, but my parents knew it was not true because the taxi driver had been taken to the Presidential Guard centre and then released and he had alerted my parents. I think that they did this to us for revenge because one of our relatives killed a member of the Preventive Security.”

Testimony of **S A**, an officer in the National Security Forces, Special Force, aged 21:

“I went with a group of colleagues to the headquarters of the Preventive Security in Tal al-Hawa (in Gaza City) to help them to defend the position which was under attack by Hamas. When the place fell into the hands of the Hamas gunmen, on 14 June, they came in and most of us surrendered; only some kept shooting. We were about 25 in all. They put us all against the wall and told us to come forward and shot at us, especially aiming at the legs but as people fell they were hit in other parts of the body. I saw my colleagues fall to the ground; I didn’t know who was dead and who was injured; it was a massacre. Then the gunmen left and we stayed there, I don’t know for how long, until help arrived and we were taken to hospital. I heard that 17 of my colleagues died and the others were all injured.”

S A was hit by three bullets in the left leg, just above the knee. One of the bullets hit a main artery and his leg had to be amputated. As his medical condition worsened, he was taken to a hospital in Israel. He told Amnesty International that he intends to return to Gaza once he has recovered: “I am not afraid of going back home to Gaza. I have already been punished, so what else can they do to me?”

Testimony of a member of the ‘Ashour family:

“On 16 May at 6am a group of 40 members of the Preventive Security came to the house; most were in uniform and some were masked; all were armed. They asked for our son ‘Ali and we said that he was sleeping upstairs. They went up and took ‘Ali, who is 21 years old and in his second year at university studying social science, and then also took our other son, Mohammed, who is barely 18; he is in his last year of secondary school. They took them both to the Preventive Security headquarters nearby. Mohammed was released the following day at noon but was beaten to a pulp; he had injuries on his face, head, arms, legs and back, the back was especially bad; he couldn’t move for days. While they were detained we contacted everyone, including high level people in the Preventive Security, asking them to intervene.”

‘Ali ‘Ashour added:

“As soon as we were brought into the Preventive Security headquarters they beat us with Kalashnikovs on our heads; then they shot me in the right leg, just above the knee, from a distance of one and a half metres; I dropped to the ground. They took me to another room, blindfolded me and put me on the floor face down and questioned me for hours; they wanted names of Hamas gunmen but I didn’t know any and they kept hitting the leg where they had shot me. Then I collapsed and a nurse came from al-Quds hospital, who said they had to take me to hospital immediately and they did. At the hospital they took off my blindfold. The hospital was full of armed men, many from the Preventive Security. The doctor who looked at my leg said it was too serious and they should take me to Shifa hospital. They didn’t want to take me and sent me there in an ambulance.”

Testimony of N A, 30, a bodyguard of Fatah leader Maher Miqdad:

“On 26 May at 7.15am I took a shared taxi to go to work as usual and on Jala’ Street (in Gaza City) a white Mitsubishi cut in front of us and four armed and masked men got out; three of them had Kalashnikovs and one had a gun, but I don’t know if they were from the Executive Force or the Qassam Brigades. I was sitting at the back and they came to me directly and said ‘good morning N., can you please get out of the car.’ When I got out they put a bag over my head and put me in their car without saying anything to me or to the people who were in the taxi with me. They told me to give them whatever I had on me and I gave them my telephone and 8 shekels (US \$2). They said ‘how is Maher Miqdad and his guards? Do not worry, we have nothing against you, you are one of the respected people in Fatah and we will let you go soon.’ After a while we stopped in Nafak road and we got out of the car. They said ‘we are in front of your house, you will go in and close the door and don’t say anything and nothing will happen to you.’ Then two of them held me one on each side and another shot me twice in my left leg and once in my right leg. Then they took the bag off my head and left without saying a word, leaving me on the ground. They kept my telephone, which contained some 200 telephone numbers. None of the other guards of Maher Miqdad went anywhere since earlier in May, when the clashes intensified; Later one of them was killed and another one injured during the clashes. After that Maher Miqdad left Gaza.”

Testimony of **Dr Samir Musallam al-Akhras**, aged 49, father of seven children:

“I am a dentist and work as administrative director in primary dental care in a governmental clinic in Khan Yunis (in the south of the Gaza Strip), and also have a private clinic in the evening. On 29 January 2007 I was on holiday that day and went into the centre of Khan Yunis. I was driving in my car and approaching the Force 17 centre; there was no checkpoint but there was a group of men, some masked, wearing Mukhabarat (Intelligence Services) uniforms and armed, near the door of the centre. There were several cars in front of mine but they came straight to me. I told them ‘I am a doctor, what do you want from me?’ One of the masked men told me to get out of the car and I said that I wouldn’t. They opened the door and tried to pull me out and pulled my hands off the steering wheel and the car [automatic] moved forward a bit. They fired at the back of my legs, just below the knees and at my lower back. That bullet exploded inside my stomach and caused internal damage. They left me there and a

passing car took me to hospital. The doctors predicted that I would not survive because the internal damage in my stomach was so serious. I have still not recovered. The civil police came to take a statement and a picture of the car, but they never did any follow-up.”

Silencing dissent

The days and weeks following Hamas’ seizure of the PA security installations in the Gaza Strip, in mid-June 2007, saw a marked improvement in the overall security situation in the territory. Armed clashes ended, groups of masked armed men no longer filled the streets and the previously ever-present threat of abductions subsided. Hamas secured the release of the two longest-held hostages:⁵⁰ BBC correspondent **Alan Johnston**, a British national abducted four months earlier by the Dughmush clan and the Army of Islam group, and **Salim Sabra**, a Palestinian engineer from Gaza City who had been held hostage for more than a year by members of the Abu Khousa clan, one of whose members was a senior official in the PA government, who demanded a large ransom in exchange for his release. Both were released unharmed.



Salim Sabra and his family shortly after his release in June 2007 from more than 13 months’ disappearance in Gaza City ©AI

However, the lawlessness which reigned previously in Gaza was soon replaced by increasing repression, as the Executive Force and the Qassam Brigades continued to target members of PA security forces and the al-Aqsa Brigades, as well as other Fatah activists. Initially, such attacks appeared to target individuals against whom Hamas bore grudges, as

⁵⁰ The two longest-held hostages in the context of the inter-factional violence and lawlessness in the Gaza Strip. Hamas’ armed wing and another Gaza-based Palestinian armed group are still holding an Israeli soldier, Gilad Shalit, whom they captured from an Israeli military base near the Gaza Strip in June 2006.

well as to confiscate weapons. However, within weeks the Executive Force and the Qassam Brigades began breaking up demonstrations and gatherings of Fatah activists. They used undue force to break up protests organized by Fatah activists, and raided wedding or other celebrations where participants allegedly chanted the praises of Fatah or the al-Aqsa Brigades. People were harassed for displaying Fatah flags on the roofs of their homes or for having posters or video clips on their mobile telephones of leaders of Fatah and/or the al-Aqsa Brigades, notably of Samih al Madhoun. Journalists covering protest demonstrations and other incidents were attacked on several occasions and had their footage or equipment damaged or destroyed, to prevent them from reporting the violent attacks and arrests of demonstrators. Hamas spokespersons alleged that Fatah activists used violence against the Executive Force during the demonstrations, but the evidence indicates that the demonstrations were peaceful, except for some minor scuffles, and that the attacks by the Executive Force and Qassam Brigades were unwarranted and ostensibly intended to silence opposition to Hamas and to prevent reporting of the repression by the media.

Hundreds of activists, most of them Fatah members, were detained for participating in non-violent protests and demonstrations. Most were released within 24 to 48 hours but were required as a condition of their release to sign pledges not to participate in demonstrations or other protest activities. In many cases the Executive Force demanded that detainees pay fines or made the release conditional on the payment or promise of payment of up to US \$4,000 if they participated in future protest activities. Such conditions were first used by PA security services in the West Bank in June 2007 and were subsequently adopted by the Executive Force in Gaza.

One of the most serious attacks took place on 7 September, when the Executive Force and Qassam Brigades broke up large gatherings of people who were holding Friday prayers in open areas in the Gaza Strip following a call by Fatah and other PLO factions that the prayers should be held outside mosques in protest against what they alleged was Hamas' propaganda and control of Gaza's mosques. Demonstrators and journalists covering the event were assaulted with sticks and rifle butts, leaving scores injured. Members of the Executive Force fired in the air, apparently to intimidate those present. Journalists were targeted as they filmed, took photographs or interviewed Fatah activists; some had their tapes confiscated and their equipment damaged. Although some demonstrators reportedly threw stones at the Executive Force, the gatherings were mostly peaceful and the level of force used by the Executive Force was unwarranted and excessive. However, despite the Executive Force's efforts to prevent media reporting of its repressive actions, these were widely publicised in both Palestinian and foreign news media and prompted yet further protests by Palestinian and international media organizations. On 9 September deposed Prime Minister Haniyeh publicly expressed regret at the attacks on journalists by the Executive Force and stated that he had ordered an investigation into the incidents. Other Hamas officials similarly pledged their commitment to ensuring press freedom.⁵¹ However, no measures are known to have been taken to investigate the attacks and bring those responsible to account.

⁵¹ See: <http://www.maannews.net/en/index.php?opr=ShowDetails&ID=25257>



Mohannad Sami Qdeih, a mentally disabled 13-year-old child, killed outside his house by reckless fire by Hamas gunmen in Bani Suheila, south Gaza Strip, on 15 June 2007, ©AI

Hamas has sought to justify the crackdown by accusing Fatah activists of responsibility for bomb and shooting attacks against Hamas members, which have increased since August 2007. For example, on 1 September a bomb exploded in the car of Hamas member **Firas Taysis Abu 'Ida** near his home in Gaza City; the explosion did not cause any injuries. During the night of 3-4 September, another bomb exploded in the car of **Talal al-Dahshan**, a member of the Executive Force and aide to the former foreign minister in the Hamas government, outside his home in Gaza City. The explosion damaged several nearby houses, injuring a toddler in the head, but Talal al-Dahshan escaped injury. The same day another bomb exploded outside a building under construction in Rafah.

In addition to the bomb attacks, abductions and deliberate killings by unknown gunmen have also increased since August, targeting Hamas and Fatah members and others, though not with the same frequency as in the first half of 2007. On 6 September, unknown gunmen abducted **Tarzan** and **Ibrahim Dughmush**, two members of Preventive Security and of the Dughmush clan, which had been involved in the abduction of BBC journalist Alan Johnston. Ibrahim Dughmush managed to flee and was shot in the back, but Tarzan Dughmush's body was later found south of Gaza City; he had been shot in the head. Such attacks have provoked fears that widespread lawlessness such as prevailed in the Gaza Strip prior to June 2007 may be about to recur.

Armed confrontations have also repeatedly occurred when Executive Force members have attempted to carry out arrests, in some cases leading to bystanders being injured apparently because of excessive and reckless use of force by the Executive Force. According

to the UN Code of Conduct for Law Enforcement Officials, security forces “*may use force only when strictly necessary and to the extent required for the performance of their duty.*” Further, according to the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, “*intentional lethal use of firearms*” is only to be made “*when strictly unavoidable in order to protect life*”. The Executive force has disregarded these standards and the Hamas leadership has done nothing to put an end to such violent and dangerous behaviour; its inaction, effectively, has encouraged such abuses to continue.

Arbitrary detentions, abductions and torture by Hamas forces

Since mid-June the Executive Force has detained more than 1,000 people in the context of a politically-motivated detention campaign.⁵² In some cases, the Qassam Brigades have also abducted and detained people, operating alongside the Executive Force or on their own. Most of those detained were released within a few hours or days but some have been held for longer – in some cases reportedly for more than two weeks.

As stated in chapter 4, the Executive Force is not authorized by law to arrest and detain people, and therefore any detention by this force is arbitrary. The prohibition of arbitrary detention is considered a norm of customary international law (as detailed in chapter 3).

Moreover, Hamas forces have been holding detainees in at least 23 different locations in the Gaza Strip, most of them former PA security installations which are not authorized by law as detention facilities, in breach of the law which regulates prisons and detention centres.⁵³ By so doing, the Hamas de-facto administration in Gaza is perpetuating the long-standing practice of the PA security forces, which until June 2007 similarly flouted the law by holding detainees in a multitude of unauthorized sites.

According to information received by Amnesty International from released detainees and families of detainees, the International Committee of the Red Cross (ICRC) has been allowed access to places of detention across the Gaza Strip since the first days of the Hamas’ takeover in Gaza. The PICCR and other Palestinian human rights organizations have also been allowed to visit detention centres.⁵⁴

Former detainees testified to Amnesty International that they were subjected to torture and other ill-treatment during their detention, and such abuses are common, with detainees routinely being subjected to severe beatings. The PICCR and other Palestinian

⁵² The scope of this report does not include the detention of people accused of common law crimes.

⁵³ Law No.6 of 1998. The only authorized detention facility in the Gaza Strip is the central prison in Gaza City, which is used by Hamas forces to house common law detainees.

⁵⁴ On 10 September 2007 the PICCR issued a report detailing 23 places of detention visited by the organization’s lawyers and fieldworkers, and expressed concern about the detention by the Executive Force of Palestinians in locations which are not authorized for this purpose. According to the PICCR report, as of 3 September there were some 300 detainees in the Gaza Strip, of whom 80 had been in detention since before 14 June 2007, having been detained by the PA. The remainder included both common law and political detainees arrested after 14 June.

human rights organizations, including the PCHR, al-Mezan and al-Dameer, have all reported receiving complaints of beatings and torture or other ill-treatment from released detainees who still bore injuries and bruises consistent with the abuses alleged. Other forms of torture or ill-treatment have also been reported, including forcibly shaving detainees' heads, tying detainees in painful positions (*shabeh*), and threatening them, including that they will be killed or shot in the legs.

Testimony of **A B**, 21 years old:

"I was arrested by the Executive Force on 26 June in Khan Yunis. There were several of them in two blue police jeeps. They took me to their headquarters in the former Israeli settlement of Gush Katif near the Tuffah area. There they beat me badly, all over the body. On the first day they just beat me and did not ask me any questions. Then they asked me what I did and I told them that I worked in the police. They beat me so badly that the day after my arrest they had to take me to the hospital for treatment. The ICRC came to visit the centre on 27 June but I was in another room and did not see them. I was released after three days. They dropped me off near my home in the middle of the night. I still don't know why they arrested and beat me. There were nine others detained in the same place, mostly common law cases; one of them was accused of stealing a mobile phone and another was there because they wanted information about his brother who is accused of killing someone in a dispute between families."

Some people have been detained and tortured to force them to hand over their weapons. Immediately after its takeover in the Gaza Strip, Hamas announced that the Executive Force would remove all "unauthorized" weapons from the streets and collect all weapons used for inter-Palestinian fighting and gang rule, but that they would not confiscate "personal" weapons (which people may keep for self-defence purposes) or weapons used for "resistance against the occupation."⁵⁵

Testimony of **Tariq Mohammed Asfour**, aged 43, former policeman, father of 11, from Khan Yunis:

"The Executive Force and the Qassam Brigades came to my home at the end of June and told me to get dressed and took me to a field and tied my hands behind my back. None of them were masked. They beat me for six hours with metal wires, sticks and a shovel. They beat me for 10 minutes at a time and told me 'Dahlan and Madhoun, where are they now, they can't help you now.' They said that I had shot at Hamas people and killed them and I said it was not true. They kept asking about my brother's weapons and I told them that I didn't have them. My brother was in the al-Aqsa Martyrs' Brigades and he had left Gaza before that. In the end

⁵⁵ The crackdown seems to have targeted a small percentage of armed groups and individuals. Several people, including Fatah supporters and members of the PA security forces told Amnesty International that they had been allowed to keep their weapons or that their weapons had been confiscated but returned after checking their provenance, or that they had been asked to hand over weapons but were left alone after they were able to prove that they no longer had these weapons. Others reported that they or their relatives managed to hold on to some of their weapons by hiding them and lying about what was in their possession.

they put 10 nails into my legs (shin) with a hammer. I admitted that I had one gun which I had buried in the garden where the dog is kept and I called my son to dig it out and bring it. When I collapsed they gave me cold water and rushed me to Nasser Hospital and told the doctor to make me better and send me home.”

On 7 July the Palestinian news agency Maan News reported that its editor-in-chief had received a threatening telephone call from a Hamas spokesperson after publishing an article in Arabic detailing the case of Tariq Mohammed Asfour.⁵⁶

Testimony of **M A**, aged 25, unemployed:

“I was arrested in the evening of 29 September in the street near my house (in the south of the Gaza Strip) with a friend and we were taken to the Executive Force centre nearby. They said they wanted the weapons I have but I told them that I don’t have any. They insisted that I do and accused me of making trouble against them. They told me to take down the Fatah flag on top of my house. They beat me with sticks and ropes and one of them kicked me and punched me. They continued beating me for a long time, maybe half an hour. When I couldn’t move any more they put me in a cell on my own. The day after they asked me again about the same things and beat me again; I was bruised and in pain from the previous day and I collapsed quickly and they left me and then they released me and told me to watch out and that I had been warned.”

At least two detainees have died while being detained by the Executive Force in the Gaza Strip since 15 June. **Walid Abu Dalfa**, 45, was arrested with his brother on 9 July 2007 from their home and was detained in al-Mashtal security compound (formerly the General Intelligence compound), controlled by the Qassam Brigades. On 15 July his body was brought to Gaza City’s Shifa hospital, bearing marks of torture. His brother, who was arrested with him, and a second brother arrested three days later, testified to the PCHR that all three had been tortured in detention and that Walid had died as a result. According to the PCHR, whose representative was present at the post mortem examination, the body bore “bruises on the hands and the legs, haematomas in the legs and signs of stranglehold on the neck.”⁵⁷

On 10 July **Fadhel Dahmash**, 31, died in the custody of the Executive Force in Gaza central prison, where he had been held since 6 July on suspicion of “collaborating” with Israeli intelligence services. Fadhel Dahmash was first abducted on 5 July by members of the al-Quds Brigades, the armed wing of Islamic Jihad, which released a video showing a man getting out of an Israeli military jeep, taking off his military uniform and putting on civilian clothes. The PCHR called on the al-Quds Brigades not to harm Fadhel Dahmash and to hand him over to the PA. Fadhel Dahmash’s brother informed the PCHR that his brother had been released by the al-Quds Brigades the same day, after he had been tortured, but that he was arrested by the Executive Force the following day, 6 July. Later that morning, according to hospital records, while in the custody of the Executive Force, Fadhel Dahmash was briefly admitted to hospital. On 10 July his body was taken to Gaza City’s hospital, accompanied by a letter from the director of Gaza central prison stating that Fadhel Dahmash had suffered

⁵⁶ See: <http://www.maannews.net/en/index.php?opr=ShowDetails&ID=23728>

⁵⁷ See: <http://pchrgaza.org/files/PressR/English/2007/60.2007.htm>

heart failure and difficulties in breathing.⁵⁸ According to the PICCR, Fadhel Dahmash's body bore marks of torture; however, to date Amnesty International has been unable to obtain information about the cause of death.

After persistent reports of torture and other ill-treatment of detainees by the Executive Force, its leader, Jamal Jarrah, acknowledged that members had used violence and committed abuses. In an interview with Palestinian media on 19 August, he was quoted as saying:

"We try to minimize violations and avoid them through the training of our members...there were some minor cases [of torture], which we have admitted and we condemn any such practices...The Executive Force has formed investigation committees in order to investigate all the violations and seriously address all the cases in the prisons."

However, no information has been made public by the Executive Force or by the Hamas de-facto administration in Gaza about the findings of any investigations that have been conducted or any measures that have been taken to prevent further abuses, and reports of torture and other ill-treatment of detainees have continued to be received by Amnesty International and by Palestinian human rights organizations.⁵⁹

6. ABUSES IN THE WEST BANK

Crackdown on Hamas supporters

The armed confrontations between Fatah and Hamas in the Gaza Strip have had severe repercussions throughout the West Bank. The al-Aqsa Brigades, Fatah's armed wing, which have had stronger structures in the West Bank than their Hamas counterparts for years, carried out scores of attacks on Hamas supporters and presumed sympathizers in the West Bank in revenge for Hamas' attacks on Fatah in the Gaza Strip. Attacks included killings, abductions, arson and shooting attacks on houses, businesses, charities and media outlets linked to Hamas, as well as on others whom they considered to be critical of Fatah. Most attacks took place at the same time and immediately following the last round of bloody clashes between Fatah and Hamas in the Gaza Strip, in the second week of June 2007, but sporadic attacks against both people and property have continued.

As the wave of the al-Aqsa Brigades revenge attacks against Hamas was under way, in mid-June, PA security forces launched a crackdown on Hamas supporters and presumed sympathizers, and arrested hundreds. The PA alleged that those arrested were planning to set up an Executive Force and launch attacks against PA security installations in the West Bank, as had happened in the Gaza Strip. However, the aim of the arrest campaign, which targeted Hamas sympathizers, not activists, seems to have been mainly to intimidate Hamas supporters.

⁵⁸ See: <http://pchrgaza.org/files/PressR/English/2007/57.2007.htm>

⁵⁹ See: PCRH's statement of 27 August 2007, at: <http://www.pchrgaza.org/files/PressR/English/2007/109-2007.html> and PICCR Special Report No. 58 of 10 September 2007 (in Arabic).

In mid-July senior PA security officials told Amnesty International that virtually all those detained in the previous four weeks, some 300 to 400 people, had been released within a few days after pledging not to get involved with Hamas – an indication that they were not being investigated for any crimes. People detained in the same period told Amnesty International that they had not been subjected to any serious questioning about their activities, but rather were told to condemn the Hamas takeover in Gaza and warned or threatened that they should not get involved with Hamas and/or the Executive Force.

Arrests of known or presumed Hamas supporters have continued, reaching more than 1,000 by early October. Reports of torture or other ill-treatment of detainees, rare in the first weeks, subsequently increased, as did violations of the laws regulating detention.

The ongoing campaign of arrests of Hamas supporters by PA security forces has shown that when the PA deems it necessary it can secure the necessary cooperation of the Israeli security forces to allow its PA security forces to arrest, detain and move detainees between towns and villages throughout the West Bank. For years, the PA has claimed that the presence of Israeli forces in and around Palestinian towns and villages made it impossible to detain Palestinians involved in attacks against Israeli civilians.⁶⁰

In addition to the large-scale arrests of Hamas supporters, the PA took other measures against Hamas supporters in the West Bank, including a decision by the PA emergency government to close more than 100 charities linked to Hamas,⁶¹ and PA security forces used violence against protest demonstrations and at public gatherings of Hamas sympathisers. On 9 September PA security forces violently broke up a large gathering of Hamas students outside Hebron University, beating students and journalists and preventing the latter from documenting the incident and confiscating equipment. Several journalists and students were injured and some 10 students were arrested. On 22 September the police used tear gas to break up a demonstration in the centre of Ramallah by women calling for the release of their relatives who were being held as detainees in PA custody. Some of the women also complained that they had been forcibly pushed back by the police.

As well, the PA government and security forces have failed to take action against members of the al-Aqsa Brigades who have been responsible for abductions, killings and attacks against Hamas supporters and their property and against news media linked to Hamas.

⁶⁰ Though true to a varying degree, depending on the extent of the presence of Israeli forces in a given area at a given time, the curtailment of PA security forces' ability to operate in the West Bank has often been used by the PA as a pretext for its failure to act against Palestinian armed groups responsible for attacks on Israeli civilians, abductions and other attacks against Palestinians, Israelis and foreigners.

⁶¹ On 28 August 2007 PA Prime Minister Salam Fayyad, announced his government's decision to close 103 charitable associations linked to Hamas, alleging that they had committed "*legal, administrative, or financial violations*" of the law on Benevolent Societies and Non-governmental Institutions (Law No. 1 of 2000). The total number of Palestinian non-governmental organizations (NGOs) in the West Bank and Gaza is reported to be well in excess of 2,000, and the fact that the NGOs affected were linked to Hamas raised concerns that the law was applied selectively in order to target Hamas.

Continued impunity for Fatah armed groups

President Abbas issued two decrees outlawing “the Executive Force and militias belonging to the Hamas movement.”⁶² A third decree outlaws “all armed militias and military and para-military groups of any kind,”⁶³ but does not mention the al-Aqsa Brigades - the largest and most active armed group in the West Bank which has been responsible for the vast majority of intra-Palestinian killings and attacks within the West Bank - or any other armed groups.⁶⁴

The PA’s arrest and detention of more than 1,000 presumed Hamas supporters who, PA security forces have acknowledged, are mostly not accused of any crime, stands in stark contrast to its failure to arrest and bring to justice members of al-Aqsa Brigades responsible for unlawful killings, hostage-taking, arson and other attacks against people and property. Even though those responsible for such attacks were often known in their communities, acted in full view of the security forces and often boasted about their actions in the media, they have not been arrested and no legal proceedings are known to have been brought against them.

In meetings with an Amnesty International delegate in June and July 2007, senior officials in the Military Intelligence, Preventive Security and Presidential Guard/Force 17 could not provide any information about a single case of arrest or other measures taken against members of the al-Aqsa Brigades for deliberate killings, hostage-taking, or other attacks against people and property, nor did they seem interested in pursuing such cases. They acknowledged that some members of the al-Aqsa Brigades are also members of the security forces, notably of the Presidential Guard/Force 17.

⁶² Presidential Decrees issued on 16 June and 12 August 2007.

⁶³ Presidential Decrees issued on 26 June 2007.

⁶⁴ Other armed groups in the West Bank, all of which are small and generally not involved in inter-factional Palestinian violence, include the Islamic Jihad, the PFLP, the DFLP, and the PRC.



Aftermath of an attack by Fatah gunmen in Nablus in June 2007, ©AI

The impunity enjoyed by the al-Aqsa Brigades increased the atmosphere of fear and intimidation among people who are not members of Hamas but who are or may be perceived as sympathizers. Several victims of attacks by the al-Aqsa Brigades told Amnesty International that they did not wish it to become known that they had reported the attacks or that they had identified the perpetrators. Some said that they had not lodged complaints with the security forces because they considered it to be pointless or because doing so could expose them to retaliation by the Brigades. Others said that the security forces were present when the attacks occurred but did not act to stop the attacks or apprehend the perpetrators. Other still said that gunmen had obstructed the fire-fighters' interventions. A university lecturer whose car was shot at some 60 times by members of the al-Aqsa Brigades in June in Nablus told Amnesty International that when he reported the attack to the police he gave the names of the two members of the group who carried out the attack, but the police refused to write down the names in the complaint report.

Armed attacks against presumed Hamas supporters

Family of Anis Hisham Anis Sal'us, who was abducted and killed in Nablus on 14 June 2007,
©AI

Anis Hisham Anis Sal'us, a 37-year-old tailor from Nablus, married with two young children, was abducted by a group of armed masked men as he was leaving the mosque near his home in Nablus on 14 June 2007, after the evening prayer. He was driven to a place between the old and new Askar refugee camp and shot dead. His family was first alerted by witnesses that he had been abducted and shot, and later heard on television that he had been killed. When the family went to the morgue to identify the body they saw that he had been shot in the head, chest and stomach. According to the family, no autopsy was carried out. The family took the death certificate from the hospital to the police but were not contacted for any follow up and are not aware of any investigation.

Jamal Salim 'Arif al-Usta, a 46-year-old father of four, was abducted by a group of armed masked men as he was coming out of a mosque in Nablus on 16 June 2007. He was bundled into a car and taken to a location where he was beaten before being set free. The following day four armed masked men went to his workplace and shot him in the head and

left him for dead. He was reported to have died but, in fact, he was seriously injured and went into a coma and survived.

Munir Abdallah Abd al-Majid Umar, head of the Ministry of Higher Education office in Tulkarem, aged 49, married and father of six:

“In the morning of 3 July 2007 I was kidnapped from my office by masked gunmen. At about 11.30am four armed masked men in civilian dress entered my office by force and asked for my ID. They smashed up things in the office and asked me to stand against a wall, beating me and insulting me all the while. They warned me not to come to my office again and not to do my job. They told me to leave within five minutes and then changed their minds and took me away in a plain car without number plate. In the car they beat me repeatedly on the back of the neck and threatened to kill me while pointing a gun at me. About 500m down the road they threw me out of the car and fired just above my head, and then drove off. Usually there are two policemen outside the office but on that morning they weren't there. I have contacted the Preventive Security and asked them to carry out an investigation.”

Shaher Sa'ed, Secretary-General of the Federation of Palestinian Labor Unions and President of the Institutions Committee in Nablus:

*“At approximately 2.30pm on Tuesday 10 July 2007, I accompanied a group of Italian union activists, on a visit to witness the conditions of Palestinian workers, to eat lunch at Asfoura Restaurant in Rafidya Quarter in the west of Nablus. As we were sitting in the restaurant, I was surprised by four masked gunmen demanding at gunpoint that I leave the guests and accompany them. They took me in their car to an area near Melehes Shoe Factory in Tunisia Street in Rafidya. They told me that they are a militia that isn't affiliated with any party. They demanded that I resign from the Union and Institutions Committee in the city. They accused me of collaborating with Hamas, and of working with Hamas. I was abducted for about 90 minutes with the purpose of delivering this message.”*⁶⁵

Ahmad Khaldi, former Justice Minister (in the Hamas government) and lecturer at al-Najah University in Nablus, was similarly abducted and threatened on 22 June 2007 by gunmen who accused him of being close to Hamas.

Testimony of **Rabi'a Hussein Rabi'a**, lawyer and member of Ramallah municipal council:⁶⁶

“During the night of 13-14 June at about 1am I was at home with my family and I received an alarm call about my office; the alarm system is connected to the police, so they are alerted as soon as the alarm goes off. I telephoned the police and they said that they would check and call me back and shortly after they called and asked me to go to my office. My wife came with me. There were police cars in the street outside the building. The door into the building was open and in the stairs there was smoke and no light. We went upstairs to my office and found that the metal door which protects the front door had been taken off but the front door

⁶⁵ Testimony given to PCHR.

⁶⁶ He notes that he ran for the council on a Hamas list because he wanted to be involved in local politics but has never been a member of Hamas.

remained in place and locked but inside the office was on fire. The arsonists had seemingly not been able to break down the door and had thrown petrol under the door and set fire that way. The surveillance cameras inside the office recorded the fire, which caused significant damage. Almost immediately five masked armed men appeared and said they were from the al-Aqsa Martyrs' Brigades and told me to go with them. When I asked why and where they told me to shut up. They took me downstairs and to the car park across the road, forced me into the back of a car and put a bag over my head and held me on each side. There were other cars, both official security forces' cars and unmarked ones and there was shooting in the air. They took me to a place somewhere in the open air and a man who sounded and smelled drunk asked me what I thought of the events in Gaza and I said that both sides were wrong. They asked me to condemn Hamas and I said I didn't know enough about the details of what happened in Gaza. Then they asked me to call my wife and tell her that I was OK, which I did. Then they tied my hands and put me in the boot of a car and took me to another place and said it was a place to investigate collaborators. They asked me why I was elected to the municipal council on the Change and Reform electoral list [the name of the party under which Hamas ran in the elections]. I said that I had proposed a joint list but it didn't happen and I ran on the Change and Reform list because there were good and moderate people and wanted to do something good at the municipal level. I am clearly not a Hamas member. Then they put me in a car again and put my head down. They were speaking on walkie-talkie, saying to be careful as there were Israeli forces in the area. We arrived at a building and walked up three or four floors; I still had a bag over my head and could not see. There they took my belt, watch, wallet and also my glasses, without which I cannot see. By then it must have been 4 or 4.30am. They told me to go to sleep. Other detainees were brought into the room and I heard the voice of my younger brother. He had gone to my office to look for me after my wife called him and had been taken from there. Me and the others in the room were allowed to take off the hoods to pray but had to put them back after. My brother complained of a headache and they asked him if he wanted to be shot in the head or in the legs. There was another man in the same room and five others in the next room. They brought us water and some food. I was blindfolded, not hooded anymore. They were dressed in plain clothes except one who was in uniform. Some were polite and said they had orders to detain us, while others were aggressive. They said that they had killed Zahar and Siyam [two Hamas leaders in Gaza]. The following day, a Friday, we were allowed to pray together and that afternoon they gave us food. They told us we would be released and gave us our stuff back, but as they were taking me downstairs they roughed me up; held me by the neck and pushed me against the wall and pointed a gun to the back of my head. Another detainee was sick and he fainted and they [the jailers] took some money from me to send him to hospital... When we got downstairs they took the blindfold off and I was in a very dirty room with four bunk beds. We were again searched and our belongings were again taken from us but this time we filled in forms stating what was taken from us. On the form it was written "Istikhbarat" [military intelligence]. I realized the other six and I had been the whole time in the Istikhbarat building in the Um Shraib area of Ramallah. We were not blindfolded and officers in plain clothes said we were at the Istikhbarat station and were safe but said we had to stand when they entered the room. It was dirty and we asked for water and we cleaned the room. Then I wrote a list of things I needed from the shop, toothbrush, soap, etc and they brought us some of the things. I was told

by the head of the centre that those who had taken him were not officials. I was released with another detainee that day [15 June] at 11pm. During my detention my wife had contacted high level officials to alert them about my case. My brother and another detainee were released the following day. The last one of our group was released on 25 June. But while I was detained there I heard others being brought in. And after my release I heard about others. One is a young man who is supposed to get married next month, who was arrested on 16 June [the latter was released on 1 July].”



Aftermath of an attack by Fatah gunmen in Nablus in June 2007, ©AI

Several weeks later Rabi'a Hussein Rabi'a reported that he had resigned from the Hamas-run municipal council due to repeated threats.

The head of the Military Intelligence centre in Ramallah confirmed to Amnesty International that Rabi'a Hussein Rabi'a was abducted by members of al-Aqsa Brigades but maintained that he was handed over to Military Intelligence officers before reaching the Military Intelligence compound. He stated that the identity of the gunmen who abducted Rabi'a Hussein Rabi'a was not known and that therefore no measures could be taken against them.

Testimony of **Hassan al-Titi**, a journalist and owner of the main foreign media centre in Nablus:

“On 17 June 2007, just after 9pm a group of masked gunmen stormed my house and burned the first floor of the house, which houses the Palestine Media Center, an independent media centre that is part of Palestinian Telecommunication Group. All the equipment was destroyed. Upstairs from the office is my home and luckily my wife and children were out or they could have been hurt in the fire. My office is the only place with the facilities for live transmission and everyone uses it. The office is not linked to any one satellite channel; rather, it provides

media services to all news agencies and satellite channels. The attack was obviously the result of incitement against al-Jazeera Satellite Channel, which has been accused of pro-Hamas bias. However, I am a correspondent of al-Jazeera; at times I report to al-Jazeera on incidents in Nablus, as I report to many other media.”

In the same week, more than a dozen attacks on the pro-Hamas news media were carried out, ranging from burning down and destroying premises, to seizing and burning newspapers before they could be distributed, and attacking and threatening journalists.

Testimony of **S A**, President of a Women’s vocational centre in Nablus (presumed to be linked to Hamas):

“Armed men came at about 11.30 on the evening of 14 June; they were in three cars and set fire to the centre. A colleague who lives upstairs from the centre saw everything but could do nothing to stop them or the fire. By the time the fire brigade arrived everything had burned down. There was mostly embroidery and papers and it burned quickly. This was a women’s centre which has existed since 1998. We trained women in embroidery, which was then sold, or prepared food for companies and government institutions for Ramadhan parties and other celebrations, ran courses in self-confidence and communication skills for girls aged 14 to 18, and ran a crèche for babies in the area. The centre provided income for some 90 women and families, poor women for whom the income made a difference.”

Testimony of **Ali Dado**, owner of a large carpet shop in Tulkarem (formerly active in Hamas, some 14 years ago):

“On 12 June 2007 at around 12.30am, armed men shot at the shop and broke some windows. On 14 June at around 10.30pm a group of armed masked men in uniform came to the house when only my mother and youngest son were at home, while I was in hospital in Ramallah. Ten of them entered the house and eight official cars surrounded the house. They wanted to detain me and in my absence searched the house and threatened to kill my son. A few hours later, at around 3am a group of seven or eight masked men went to my carpet shop and set it on fire, while shooting in the air. The fire brigade was prevented from putting out the fire immediately by the men shooting at it, but were subsequently allowed to put out the fire which had spread to neighbouring shops. My brother received a call that our shop was on fire and on his way there he passed armed masked men who warned him not to go to the shop. He waited a while before going and by the time he got there everything had burnt down. He called the fire brigade and they told him they had been prevented from putting out the fire by armed masked men. He called the police and they said it was not their responsibility and told him to call the General Security. The Police and Preventive Security came past but later, at around 5am. The loss is an estimate US \$1-1.5million. I have lodged a complaint but am not aware of any investigation.

The PA has sought to minimize the scale and seriousness of attacks perpetrated by the al-Aqsa Brigades against Hamas supporters or other Fatah critics and their property, seemingly justifying them as an understandable reaction to the attacks by Hamas on Fatah in the Gaza Strip. No investigations are known to have been carried out into such attacks, which have continued with impunity.

On 24 July 2007 Muhammad Raddad, a 21-year-old student and member of the student council at al-Najah university in Nablus, and a Hamas supporters, was reportedly shot in the head at very close range by a member of a Fatah youth group some of whose members are involved with al-Aqsa Brigades in the course of a scuffle between Fatah and Hamas students at the university campus. He died three days later.

Between 7 and 10 September, the al-Aqsa Brigades carried out three separate attacks in Nablus and Tulkarem. In the evening of 7 September, masked gunmen blew up two ambulances at the Zakat Hospital in Tulkarm. The previous day two gunmen had threatened the hospital and ordered the administrators to dismiss any staff hired by the Hamas government.

In the evening of 9 September, four masked gunmen wearing al-Aqsa Brigades T-shirts abducted **Abd al-Fattah Fayez Sa'id**, a merchant from Tulkarem, and took him to a nearby field. They threw him to the ground and questioned him about his relationship with Hamas, beating him with sticks and gun butts during the interrogation. The gunmen then took his ID card, house keys and money, and left him.

On 10 September at around midday gunmen from the al-Aqsa Brigades forcibly closed the office of the Prisoners' Club (*Nadi al-Asir*) in Nablus. The Director of the Club, Ra'ed Amer, told PCHR that some 20 gunmen stormed into the office and ordered it closed, telling him that the closure was a message to the PA and other parties whom they accused of neglecting their duties towards prisoners.

Arbitrary detentions, torture and other ill-treatment

In the first weeks after the arrest campaign began in June credible reports of torture were rare. Reports of ill-treatment were also infrequent and mostly related to the time of arrest and transfer to the place of detention rather than during interrogation. However, there was a discernible pattern of intimidation, with detainees unwilling to discuss their arrest and detention citing fear of repercussions. By the end of July, reports of torture and other ill-treatment during detention had increased and by early October in every case reported to Amnesty International there was credible evidence that detainees had been subjected to torture or other ill-treatment.

Most of the detentions were arbitrary because they were carried out by security forces, notably Preventive Security, who are not authorized by law to detain suspects;⁶⁷ because detainees were held in locations that are not authorized by law as places of detention; and because the detentions were not authorized by the prosecutors and judges within the timeframe stipulated by Palestinian law.

⁶⁷ The security forces authorized to carry out arrest are the Police (Article 21, Part 2 Chapter 1 of the Penal Procedures Law No. 3 of 2001 defines the "Officers invested with judicial powers") and the Military Intelligence (Article 12, Chapter 2 of the General Intelligence Law No.17 of 2005). Since June most arrests have been carried out by forces other than the Police.

At the end of June an Amnesty International delegate met the head of the Jneid Presidential Guard/Force 17 compound in Nablus, where most of those arrested in the Nablus area were detained. Colonel Abu 'Ali al-Turk gave Amnesty International a copy of a form which detainees were asked to sign before being released, which states:

*"In the name of God, the compassionate and merciful, I the undersigned... have no relation, from close or afar, with the organization of the Hamas movement and will not get involved in it in the future. I condemn the criminal actions which were committed by the 'Izz al-Din al-Qassam Brigades and the Executive Force belonging to Hamas in the Gaza Strip against our people and against the PA installations, and I consider them criminal and murderous gangs against the Palestinian cause."*⁶⁸

Similar forms, with slightly different wording, were in use throughout the West Bank. The demand that a detainee, often held outside the framework of the law, should sign an undertaking not to have any relation with Hamas – which has never been outlawed by the PA – and should condemn events which they had not witnessed as a condition for being released, is but one indication of the arbitrary nature of such detentions.

The PICCR and some Palestinian human rights organizations have been given access to most of the detention centres, but only a minority of the hundreds of detainees held there have been interviewed by these organizations in detention due to time and resource constraints, and to the quick turnover of detainees. The ICRC has also visited detention centres. Former detainees told Amnesty International that they had not revealed that they had suffered torture or ill-treatment, either to visitors or to prosecutors, for fear that their treatment would worsen. Many of those contacted by Amnesty International either refused to speak about their treatment in detention or spoke only on condition that their details would not be made public, saying that they feared being re-arrested or otherwise targeted.

In none of the cases known to Amnesty International were the families of the detainees informed of their relatives' arrest and whereabouts. Detainees' families either guessed because they knew which security force had carried out the arrests, or were informed unofficially by friends or relatives in the security forces or by released detainees. In some cases detainees held for longer periods have been allowed to receive visits from their families, mostly arranged through personal contacts rather than through established visiting procedures.

Testimony of **O H**, aged 21, from Nablus:

"On 18 June, I received a call from Preventive Security summoning me. I contacted a neighbour who is an officer in Preventive Security and was taken to the Preventive Security building, where I spent the first night. They told me to hand in my weapons and asked some basic questions. The next morning I was transferred in an unmarked car to Jneid security compound. The treatment in Jneid was completely different. On arrival I was hit on the head and shoulder with a Kalashnikov and made to stand for about an hour on one leg with my arms raised [shabeh]. I was held alone in a filthy cell with no light. The first night I slept on the concrete floor with no mattress. I was forced to stand on one leg with my arms raised

⁶⁸ Original in Arabic on file at Amnesty International.

every night. At night the guards banged on the doors to prevent us from sleeping and insulted us and Hamas leaders. Guards also entered my cell, which had no light, and shone a blue light in my eyes. I was questioned twice in all, in a washroom. I sat facing the wall and they took off my blindfold and they sat behind me so I didn't see them. They asked if I am Hamas, if I am Executive Force, about Gaza events, about my relations with some individuals, and if he has weapons. They asked about my job in a local Hamas TV station and then I was told to sign a paper denouncing Hamas and the Gaza events. I signed in order to get out and was released two days later, on 23 June. When I was released they threatened me saying that they may call me back and that they can't protect me from masked men. During my detention I saw the prison doctor for an eye problem, the ICRC visited but only to take down the name and telephone number of my family, and an AP journalist also visited."

Another detainee who was held in the same place during the same period told Amnesty International that he had been subjected to similar torture or other ill-treatment, but others who had been held there told the organization that they had not been beaten or ill-treated.

N A, 36-year-old father of two held at Jneid detention centre from 19 to 24 June 2007, said:

"On arrival in Jneid they hit me on the head and shoulder with a Kalashnikov and made me stand for about an hour on one leg with my arms raised. I was held alone in a cell which was filthy with faeces, cockroaches and no light. The situation made me ill; I became very tense and broke down. I suffered from this once before. I was taken to hospital and kept there for a day and a night. Some 10 masked gunmen accompanied me to the hospital. Then I was taken back to Jneid and to the filthy cell. They cleaned the cell before the ICRC came; the ICRC only took names and contact details for the families. Once a guard came in and pressed his boot down on my head. At night the guards kept banging on the doors so I couldn't sleep; they cursed Hamas leaders and I also cursed Hamas in order to get rid of the guard and be able to sleep. They called me a kafir [infidel] several times. They told me that to get released I must sign a paper denouncing Hamas and what they did in Gaza and I signed so I could get out. Before releasing me they told me they can't protect me from masked gunmen."

N E, a Hamas supporter who was released on 15 August after 47 days of detention by the Preventive Security in Bethlehem and Ramallah, told Amnesty International that he was tied in an uncomfortable position, forced to stand for several hours at a time, and subjected to sleep deprivation in order to pressure him to "confess" to activities in which he had not been involved – notably the creation of an Executive Force in the West Bank and possession of weapons. Upon his release he was hospitalized and found to have internal bleeding. He required treatment for other injuries too, notably to his limbs. He was never taken to court, as required by Palestinian law, and in the last days of his detention, when he was eventually due to appear before a judge, he was transferred by Preventive Security in Bethlehem to another Preventive Security post in the Betounia area of Ramallah. While there a judge in Bethlehem ordered his release but he was not freed until several days later. After his release he stopped receiving his salary from the Ministry where he worked. He was told he had been dismissed because of his arrest, even though he was not charged with any offence.

Violation of laws regulating detention

Amnesty International has learned of several other cases where Preventive Security have moved detainees from the north and south of the West Bank to the Preventive Security centre in Betounia (Ramallah), instead of complying with the judges' orders to release them, or to prevent them from appearing before a judge. The security forces' refusal to comply with judges' release orders have become increasingly frequent since August. As well, most detainees have not been brought before a judge within the 72-hour period stipulated by Palestinian law, if at all.

Pre-charge detention is regulated by the Penal Procedures Law.⁶⁹ This law requires detention to be reviewed by a prosecutor within 24 hours of the arrest (Article 34). The prosecutor may then extend the individual's detention for a further 48 hours. If the detainee is not released after this 72-hour period, a judge must review the case (Article 51). The judge may extend pre-arraignment detention initially for up to 15 days (Articles 62-63) and thereafter any further extension up to a maximum of period of 45 days must be reviewed by a judge every 15 days. Upon request of a prosecutor to a higher court, the detention of an individual may be extended further for a period not exceeding an additional 45 days. The law also grants detainees prompt and unhindered access to legal counsel (Article 46).

However, in the 30-day period during which the state of emergency declared by President Abbas was in force, from 14 June to 13 July 2007, detention was regulated by Article 112 of the Basic Law, which stipulates: "*Any detention done in accordance with the decree of the emergency situation, shall be reviewed by the Attorney General or by the concerned court during a period not exceeding fifteen (15) days from the date of detention.*" The application of Article 112 of the Basic Law over this 30-day period, if it had been implemented, would have supplanted the provisions of the Penal Procedures Law to the extent that the first review of the detention would have taken been conducted by the Attorney General by the fifteenth day of detention (rather than by a prosecutor after the first 24 hours and a judge after the first 72 hours of detention and thereafter). However, according to information available to Amnesty International, several people detained prior to 13 July and for longer than 15 days were not brought before the Attorney General.⁷⁰

Ibrahim Yousef al-Sheikh, an 18-year-old student was arrested on 4 September at the Salesian college where he studies in Bethlehem and taken to the Preventive Security

⁶⁹ Penal Procedure Law No. 3 of 2001.

⁷⁰ On 6 July 2007 President Abbas issued a presidential decree placing all crimes against internal and public security under the jurisdiction of the military courts. The decree stipulated that it was applicable from the date of issue. However, on 10 July 2007 the Attorney General told Amnesty International that any cases related to the Fatah-Hamas infighting which occurred after the declaration of the State of Emergency on 14 June 2007 were no longer within his brief and were to be dealt with by the Military Attorney General – indicating that the decree was being applied retroactively, even though there is no provision in the Basic Law or any other laws allowing such a measure. In any case, the validity of this decree expired on 13 July 2007, when the State of Emergency ended and the provisions of the above-mentioned Penal Procedure Law No. 3 of 2001 became once again applicable – though in practice routinely ignored.

centre in the town. He was not brought before a judge until 16 September, nine days after the expiry of the 72-hour period at the end of which detainees must appear before a judge or be released. The judge ordered his release but he remained in detention at the time of writing, 40 days after his arrest, in violation of Palestinian law. Two of his relatives, Brahim Qasem al-Sheikh and Bakir 'Ali Qasem al-Sheikh, were arrested on 8 and 6 September, respectively. They did not appear in front of a judge until 23 September, a delay of at least 10 days, and were both ordered released by the judge but remained in detention at the time of writing, more than three weeks later, and were reported to have been tortured.

Isma'il 'Abdelkarim Mohammed Isma'il, a 31-year-old house painter and father of five young children, was arrested from his home in Beit Iba, near Nablus, on 25 August; he had still not appeared before a judge more than six weeks later. He remained in detention at the time of writing and was reported to have been tortured.

A fourth relative, **Hussein al-Sheikh**, a lawyer working with *Nadi al-Asir*, the Prisoners' Club, a NGO which provides support and legal counsel for Palestinians detained by the Israeli authorities, was detained on 14 September by Preventive Security in Bethlehem; three days later he appeared before a judge who ordered his release, but he was not released until 30 September, after several colleagues intervened on his behalf. After his release he told Amnesty International that during his detention he had been subjected to sleep deprivation and *shabeh* and that he had lost 14 kilos in weight during the two weeks in detention. On 11 October he was arrested by Israeli forces and remained in Israeli custody at the time of writing. A fifth member of the family, **Mustapha Taha al-Sheikh**, a 19-year-old student, was similarly arrested by Israeli forces on 11 October, two days after having been released from the Preventive Security centre in Bethlehem, where he had been detained without charge or trial for two weeks. Several other people were similarly arrested by Israeli forces shortly after Preventive Security was compelled to release them, after periods of arbitrary detention. By mid-October, a pattern was emerging in which a number of people who had been detained by PA security forces beyond the limits of Palestinian law and in breach of judges' orders to release them, were detained by Israeli forces after their release from PA custody, suggesting a degree of increased "security" cooperation between the PA's Preventive Security and Israeli forces.

CONCLUSION AND RECOMMENDATIONS

The lawlessness which has increasingly gripped the West Bank and Gaza Strip in recent years, culminating in the unprecedented inter-factional violence which occurred in the first half of 2007, is to a large extent the result of the prolonged and systematic failure of the PA to uphold and enforce the law, to curb the proliferation of unlicensed weapons in the hands of private individuals and groups, and to hold both armed groups and members of the PA security forces who commit human rights abuses accountable for their crimes. Lawlessness has been stimulated by an increasingly entrenched climate of impunity, which has served only to fuel abuses and to bring the PA's law enforcement and judicial institutions and mechanisms into disrepute within the wider Palestinian community they are supposed to serve.

Amnesty International recognizes that the PA's ability to fulfill its law-enforcement and administration of justice duties has been severely constrained by outside factors resulting from the ongoing Israeli occupation of the West Bank and Gaza Strip, including repeated attacks by the Israeli army against PA security installations and other institutions and restrictions imposed by Israel on the movement and operational capability of the PA security forces in the areas under the PA jurisdiction. Notwithstanding this reality, the organization believes that the PA has too often used these constraints as a pretext to justify its lack of political will and its failure to act against Palestinian armed groups and powerful interest groups responsible for serious crimes – whether against other Palestinians or against Israeli civilians and foreigners.

Amnesty International considers that urgent, concrete steps are now needed to address this systematic failure and to begin to impose respect for the rule of law in the areas of the Occupied Palestinian Territories which fall under the jurisdiction of the PA. In particular, Amnesty International makes the following recommendations:

To the PA and the Hamas de-facto administration in the Gaza Strip:

Establish a Commission of experts

- Agree to the establishment of an independent, impartial and non-partisan commission of experts to investigate human rights abuses committed by both parties, their forces and armed groups in the context of the inter-factional clashes which have been occurring since the beginning of 2006.
- Undertake to cooperate with such a commission and to facilitate its mission.
- Undertake to take the necessary steps to address the findings and recommendations of the investigation, which should be made public.

To the PA:

End impunity

- End the impunity which persists, including by issuing clear instructions requiring all PA security forces to uphold the law and respect human rights, and by instructing them that members of armed groups and others who commit offences are to be apprehended and brought to justice regardless of what political faction or clan to which they belong.

End arbitrary arrests and detentions

- Ensure that all those arbitrarily detained are released, that arbitrary arrests cease immediately and that no one is deprived of their liberty except in accordance with procedures and on grounds prescribed by law. Notably, arrests and detention should only be carried out by security forces which are authorized to do so by law.

End torture and other ill-treatment

- Ensure that all detainees are treated humanely and held only in detention centres authorized by law, and that their detention is promptly reviewed by a judge, in compliance with Palestinian law and in line with internationally recognized standards, and that they are either charged with a recognizably criminal offence and promptly brought to trial in line with international standards for fair trial and without recourse to the death penalty, or released;
- ensure that the families of those detained are informed promptly of the place of detention of their relatives and that detainees are allowed prompt access to their families and lawyers;
- require that all detainees are examined by an independent doctor as soon as possible after they are arrested and regularly thereafter throughout their detention;
- ensure that those making a complaint of torture or other ill-treatment and any witnesses to such abuse are adequately protected against possible reprisals, intimidation or harassment, and take firm action if such harassment or other abuses takes place;
- ensure that all allegations of torture or other ill-treatment of detainees are investigated promptly and independently, that anyone found responsible is brought to justice, and provide reparation to the victims;
- put in place urgently a mechanism to ensure independent, impartial and non-partisan oversight and accountability of the security forces, including regular inspections of detention centres without advance notice to the detaining authorities;
- issue clear instructions to all members of the security forces that anyone who abuses their power or fails to carry out their duty to enforce the law, taking into account their duty to protect and uphold human rights, will be subject to disciplinary measures or criminal prosecution.

Investigate and ensure justice for other abuses

- Ensure that all unlawful killings, abductions and any other attacks against civilians, be they Palestinians, Israelis or nationals of other countries, are investigated promptly, thoroughly and impartially, and that those responsible for such crimes are brought to

justice in proceedings which comply with internationally recognized standards for fair trial and without recourse to the death penalty.

End the proliferation of weapons used to commit human rights abuses

- Take measures to ensure that no groups or individuals, including the al-Aqsa Martyrs' Brigades, are allowed to use or carry firearms or ammunition in a manner that may jeopardize the security of the civilian population.

Restore the rule of law in the Gaza Strip

- Instruct the Attorney General, prosecutors, judges and police force to resume discharging their duties in the Gaza Strip.

De-politicize PA security forces

- Establish clearly defined criteria and procedures for the recruitment and training of members of the PA's security forces to ensure that they are free from partisan political control, effective and accountable to the community they serve, receive appropriate training and operate according to appropriate professional principles and standards, and deliver an impartial criminal justice system which conforms to human rights standards. Anyone who does not uphold these principles should be held accountable.

Strengthen judicial independence

- Take measures to ensure the independence of the judiciary, including that members of the judiciary are protected from political or other pressure or physical attacks, that they receive adequate training and resources to enable them to fulfil their professional duties, and that they are appointed solely on the basis of their training or qualifications in law, professional competence and integrity, without discrimination on grounds of their political or other opinions or other prohibited grounds.

Review and improve systems for the administration of justice

- Establish a review mechanism to examine the role of the General Prosecution and security forces and the reasons underlying their failure to adequately carry out their responsibilities to maintain law and order, taking fully into account their duty to protect and uphold human rights, and recommending measures to address these failures; such a mechanism should be composed of independent and impartial experts with the necessary skills, experience and credibility.

To the Hamas de-facto administration in the Gaza Strip:

End abuses

- End the widespread abuses which continue to be committed in the Gaza Strip by the Executive Force and the Qassam Brigades, including by issuing clear instructions requiring all members of the Hamas security forces to uphold the law and respect human rights.

End arbitrary arrests and detentions

- Ensure that all those arbitrarily detained are released, that arbitrary arrests cease immediately and that no one is deprived of their liberty except in accordance with procedures and on grounds prescribed by law. Notably, arrests and detention should not be carried out by forces which are not authorized to do so by law.

End torture and other ill-treatment

- Ensure that all detainees are treated humanely and held only in detention centres authorized by law, and that their human rights are fully respected;
- ensure that the families of those detained are informed promptly of the place of detention of their relatives and that detainees are allowed prompt access to their families and lawyers;
- require that all detainees are examined by an independent doctor as soon as possible after their detention and regularly thereafter throughout their detention;
- ensure that those making a complaint of torture or other ill-treatment and any witnesses to such abuse are adequately protected against possible reprisals, intimidation or harassment, and take firm action if such harassment or other abuses takes place;
- ensure that all allegations of torture or other ill-treatment of detainees are investigated promptly and independently and that anyone found responsible is held accountable, and provide reparation to the victims;
- allow unhindered access to independent, impartial and non-partisan monitors to all places of detention, including regular inspections without advance notice;
- issue clear instructions to all members of the Hamas forces that anyone who commits human rights abuses will be held accountable.

Restore the rule of law in the Gaza Strip

- reverse with immediate effect any measures aimed at replacing the Attorney General, prosecutors, judges and the Higher Judicial Council; allow these officials to resume their functions immediately; and issue a clear and unambiguous pledge to ensure that their security will not be at risk, that they will be protected, and that they will not be obstructed in the independent, impartial and professional discharge of their duties.

End the proliferation of weapons used to commit human rights abuses

- Take measures to ensure that no groups or individuals, including the 'Izz al-Din al-Qassam Brigades, are allowed to use or carry firearms or ammunition in a manner that may jeopardize the security of the civilian population.

To the al-Aqsa Brigades and Qassam Brigades:

- Immediately end unlawful killings, abductions, hostage-taking, torture or other ill-treatment of captives, attacks on people and property, threats and intimidations against individuals.

To the International Community:

- Immediately cease the sale or transfer of weapons to any parties until guarantees can be secured that such equipment will not be used to violate human rights and international humanitarian law.
- Put respect for human rights at the core of the agenda in discussions with all the Palestinian parties and hold all of them accountable to the same human rights standards.
- Ensure that emergency assistance essential to fulfilling fundamental human rights is never used as a bargaining tool to further political goals. Notably, refrain from imposing sanctions that negatively affect the provision of humanitarian assistance and ensure that the Palestinian population in the Gaza Strip is not punished for the positions and actions of the Hamas de-facto administration.
- Ensure that Israel, as the Occupying Power, fulfils its obligation to provide for the protection and welfare of the Palestinian population and refrains from imposing sanctions which violate their human rights.