



Internal Fight

Palestinian Abuses in Gaza and the West Bank

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Glossary

Al-Aqsa Martyrs Brigades	Armed group affiliated with Fatah
Executive Force	Security force in Gaza established by the Hamas government in 2006
Fatah	Chief political organization of the Palestine Liberation Army
General Intelligence Service (GIS)	Domestic intelligence agency now limited to the West Bank, which reports to President Abbas
Hamas	Islamic Resistance Movement
Israel Defense Force (IDF)	Israeli armed forces
'Izz al-Din al-Qassam Brigades	Armed wing of Hamas
National Security Force	Security force of the Palestinian Authority now run by Fatah in the West Bank and by Hamas in Gaza
Internal Security Force (ISF)	Security force in Gaza established by Hamas in September 2007, which deals with domestic security and reports to the Minister of Interior
Palestinian National Authority (PA)	Government of the Occupied Palestinian Territory as mandated in the Oslo Accords
Palestinian civil police	Police in both Gaza and the West Bank who report to the respective Ministers of Interior
PCHR	Palestinian Centre for Human Rights, human rights group operating in the West Bank and Gaza
PICCR	Palestinian Independent Commission for Citizens' Rights, established in 1993 as the human rights commission of the PA, renamed the Independent Commission for Human Rights (ICHR) in May 2008
Palestinian Legislative Council (PLC)	Legislative body of the Palestinian National Authority
Presidential Guard	Security force now limited to the West Bank, which reports to President Abbas

Preventive Security Organization

Security force now limited to the West Bank, which reports to the Minister of Interior

PLO

Palestine Liberation Organization

shabah

Arabic term for painful stress positions used as torture

I. Summary

“If you don’t want to talk your body will talk.”

—Interrogator in the West Bank to a suspected Hamas member

“They took me out and opened fire on my legs.”

—Fatah security member in custody of Hamas forces

This report documents serious human rights abuses over the past year by the competing Palestinian authorities in Gaza and the West Bank, run by Hamas and Fatah, respectively. Over the past 12 months, Palestinians in both places have suffered serious abuses at the hands of their own security forces, in addition to persistent abuses by the occupying power, Israel.

The specifics differ, but the Hamas-run authority in Gaza and the Fatah-dominated authority in the West Bank have both tightened their grips on power over the past year. As a result, Palestinians in both Gaza and the West Bank have experienced a marked deterioration in respect for human rights and the rule of law.

Since June 2007, when Hamas forcefully seized control in Gaza, it has conducted arbitrary arrests of political opponents, tortured detainees, clamped down on freedom of expression and assembly, and violated due process rights enshrined in Palestinian law. The victims have frequently been leaders, activists and supporters of Fatah, especially those with suspected ties to a security force or those who sought to undermine Hamas rule after its electoral win in January 2006.

In the West Bank, the Fatah-dominated authorities have committed many of the same abuses, with victims being the activists, leaders and supporters of Hamas and affiliated institutions. Fearful of a Hamas takeover of the West Bank, security forces have detained hundreds of people arbitrarily, tortured detainees, and closed media and organizations that are run by or sympathetic to Hamas. The West Bank security forces have operated with significant support, financial or otherwise, from the United States, the European Union and Israel.

In both Gaza and the West Bank, Palestinian authorities have frequently failed to hold accountable security force members implicated in serious abuse. Neither authority is known to have prosecuted any of its own forces for the serious abuses committed during the heavy fighting in Gaza in June 2007, including summary executions, maiming and torture. Since then, too few security force members or commanders have faced justice for using excessive force, ill-treatment or torture against detainees.

In Gaza, the Hamas-run government has apparently improved its record in recent months, after reforming the security forces and judiciary under its control. Security is better and reports of human rights abuses are down, when compared to the catastrophic year of 2007, local journalists and human rights groups say. Nevertheless, local groups still record serious human rights abuses on a regular basis, including deaths in detention, which require the urgent attention of the Hamas authorities and any outside donor that provides Hamas with financial or political support.

In the West Bank, local human rights groups also report slight improvements in recent months. But serious violations persist with impunity, including torture. These violations must be addressed by President Mahmoud Abbas and Prime Minister Salam Fayyad, as well as the international donors who have given or committed millions of dollars to West Bank security forces.

Most reports of abuses received by Human Rights Watch and local human rights groups in Gaza blame the police or the Internal Security Force, which deals with political and security-related crimes. For most of the period covered in this report, Hamas Prime Minister Ismail Haniya was also minister of interior, but the key security official in Gaza was Said Siyam, an influential Hamas leader and interior minister during the Hamas-led government from March 2006 to March 2007. In late April 2008, Haniya reappointed Siyam to his former position as minister of interior.

In the West Bank, complaints of abuse are mostly directed at the Preventive Security Service (PSS) and the General Intelligence Service (GIS), both of which monitor and control the political factions and militias. The head of Preventive Security in the West

Bank is Ziyad Hab al-Rih, who formally reports to Minister of Interior Abdel Razak al-Yahya and, through the minister, to Prime Minister Fayyad. Head of the General Intelligence Service is Tawfiq Tirawi, who reports directly to President Abbas. Under Article 39 of the Palestinian Basic Law, the president is the commander-in-chief of all Palestinian forces.

Preventive Security did not have the right to make arrests or run detention facilities under Palestinian law prior to November 20, 2007, when President Abbas issued a decree giving them these powers. The decree says Preventive Security must respect the rights enshrined in “Palestinian laws and charters and international treaties” but it also limits transparency by stating that “the information, activities and documents pertaining to the work of the Preventive Security shall be considered confidential and cannot be disclosed to anyone.”

In general, abuses in Gaza by Hamas forces tend to be of shorter duration but more intense: arbitrary detentions accompanied by severe beatings and, as in two cases documented by Human Rights Watch, gunshots to the legs. In at least three cases, detainees have died, apparently from torture. In the West Bank, the security forces generally hold detainees arbitrarily for longer periods but with less severe physical violence. In two known cases, one of them documented in this report, a detainee died, apparently from torture.

In the West Bank, methods of abuse documented by Human Rights Watch that can amount to torture included: mock executions, kicks and punches, and beatings with sticks, plastic pipes and rubber hoses. The most common form of torture was forcing detainees to hold stress positions for prolonged periods, known in Arabic as *shabah*, causing intense pain and sometimes internal injury but no physical mark. Such positions include standing for hours with feet apart and hands tied behind the back, standing with one leg and one arm raised, or sitting on the edge of a chair with hands tied to the feet.

Victims, lawyers and human rights activists in the West Bank spoke to Human Rights Watch of an apparent cooperation between Fatah forces and Israeli security, who share the common aim of restricting or eliminating Hamas. Many of the men arrested

this past year by Palestinian forces in the West Bank were previously in Israeli detention for suspected Hamas ties. Israeli forces arrested or rearrested some of these men after their release from Palestinian detention.

Officials in both Gaza and the West Bank adamantly deny that their forces make arrests on a political basis, saying they only target people who used or were planning to use violence. But the vast majority of arbitrary arrests and torture cases documented by Human Rights Watch and Palestinian human rights groups are of political activists or supporters from the opposing political side, especially those suspected of having worked for or supported the adversary's security force. Human Rights Watch documented more than one dozen cases, and heard of many more, in which the authorities in Gaza or the West Bank released a detainee after forcing him to sign a document—often after torture—saying he would cut ties with the rival organization (Fatah in Gaza or Hamas in the West Bank). Many of these people were never charged with a crime, which suggests a political motivation behind the arrest.

Compounding the problem, the criminal justice systems in Gaza and the West Bank are deeply flawed. In Gaza, after President Abbas ordered judges and other officials to boycott judicial bodies in June 2007, Hamas began appointing new prosecutors and judges, although it lacked the legal authority to do so, and many have inadequate experience. Lawyers and human rights groups in Gaza have condemned what they call political interference in the judiciary, particularly the forced removal of top officials and their replacement with individuals considered sympathetic to Hamas. In the West Bank, security forces have at times refused to release detainees, despite court orders to do so. In both places, authorities frequently failed to bring detainees before a prosecutor within the 24 hours required by law. Lawyers have faced difficulty accessing their clients and authorities frequently failed to inform detainees of the reason for their arrest.

In both Gaza and the West Bank, the only local organization with a mandate to visit prisons and detention facilities regularly is the Palestinian Independent Commission for Citizens' Rights (PICCR), the human rights commission of the Palestinian Authority (PA), which in June 2008 changed its name to the Independent Commission for Human Rights (ICHR). According to the organization, the authorities

in both Gaza and the West Bank reduced its access after June 2007, although in recent months access in Gaza has improved. In both places, ICHR must pre-arrange its visits and prisoners are sometimes moved, apparently to avoid inspection.

Access to detention facilities for independent monitors would provide transparency and a degree of oversight to criminal justice systems that are opaque, and in some cases it might save lives. In February 2008, PICCR twice asked the General Intelligence Service in the West Bank for permission to visit its detention facility in Ramallah. The GIS failed to reply. On exactly the day PICCR wanted to visit, an imam and Hamas member named Majid al-Barghuti died in the facility, apparently from torture.

The International Committee of the Red Cross (ICRC) does have regular access to detention facilities in both Gaza and the West Bank, and it raises its observations on detention conditions and detainee treatment with the respective authorities. Because ICRC reports are not made public, however, the problems they have identified or raised remain unknown.

Many of the abuses documented in this report have been exacerbated by the destruction Israel inflicted on Palestinian security installations and criminal justice facilities since the second Intifada began in 2000, as well as restrictions on movement imposed by Israel on Palestinian security forces in the West Bank. In addition, the Palestinian security system is burdened by a legacy of multiple and often overlapping services, lack of independent oversight and the absence of witness protection. With little investigative experience and no forensic facilities, security forces continue to rely on a confession-based system, which encourages the physical and psychological abuse of detainees.

None of these burdens, however, justify the abusive behavior of security forces in Gaza and the West Bank. Direct orders to commit abuses, or the lack of political will to stop them, have caused additional suffering to a people already enduring ongoing violations as a result of the Israeli occupation. The widening gap between Gaza and the West Bank has paralyzed the legislative process and desperately needed legal reform.

The international community has contributed to the negative trend. Since the Hamas takeover of Gaza, foreign governments active in the region—in particular the US and EU Member States—have pursued a two-prong approach: isolate and pressure Hamas in Gaza while aiding and promoting Fatah in the West Bank. The report does not address the political decision to isolate Hamas, but it criticizes governments that have pledged US \$8 billion to the Palestinian authority in the West Bank, including millions in training and aid for its security forces, for their inadequate attention to the abusive practices of those forces. The focus of outside support is clearly on strengthening the forces loyal to Abbas as a counter-weight to Hamas, despite the abuses that these forces routinely commit. On the political front, these foreign governments regularly, and correctly, condemn Hamas for its abusive behavior, but they remain silent on equally serious abuses by forces under the control of their ally in the West Bank.

Aid to Hamas authorities in Gaza is a similar concern, although little is known about how much is given and by whom. According to US, Israeli and Fatah officials, Hamas receives aid from Syria and Iran. If these countries do support the Gaza security forces, then to avoid complicity they should condition their aid on concrete and verifiable steps to reduce the serious human rights violations documented in this report. Governments that support Hamas politically should publicly condemn the movement's abuses and press it to enact reform.

The report recommends that the authorities in both Gaza and the West Bank prioritize the protection of human rights in all their activities. Hamas and Fatah leaders should publicly commit to eliminating torture, and enforce that claim by vigorously prosecuting members of the security forces who use or order the use of torture against detainees. Individuals who are arrested and denied their due process rights should be released. Lawyers and mandated human rights organizations should be granted unimpeded access to detention facilities to visit clients and monitor conditions.

On the international level, the substantial aid and assistance committed to West Bank security forces by western and Arab governments should be conditioned on concrete steps to reduce arbitrary arrests, torture and due process abuses. No aid

should go to units implicated in human rights abuses. More aid and training is needed to encourage reform of the criminal justice system that promotes transparency, accountability and civil control. International donors to the Hamas-run security forces in Gaza should condition their aid on the same steps, with regular monitoring to ensure that Hamas works to end abuses of human rights.

In both Gaza and the West Bank, the human rights abuses documented in this report—arbitrary arrests, torture, unlawful detentions and denial of access to a lawyer— amount to violations of Palestinian law. The Palestinian Basic Law, considered the interim constitution, guarantees the right to equal treatment before the law, freedom of expression and association, and fundamental due process rights. Torture is forbidden.

All of the abuses documented in this report are also prohibited in a wide body of international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Both the Hamas and Fatah authorities claim to be the legitimate leaders of the Palestinian Authority. Not being a state, the PA cannot sign or ratify these treaties, but PA officials have repeatedly pledged to respect their standards. As a political party and armed group, Hamas has publicly committed itself on numerous occasions to respect international human rights norms.

Methodology

This report is based on research conducted during two trips to Gaza and three to the West Bank between October 2007 and April 2008. During that time, Human Rights Watch conducted lengthy interviews with 19 people in the West Bank who were victims of human rights abuses, as well as witnesses to those and other abuses. The cases came from in and around the towns of Nablus, Jenin, Ramallah, Bethlehem and Hebron. In Gaza, Human Rights Watch interviewed 20 victims of human rights abuses at the hands of Hamas forces, as well as witnesses to those and other abuses. Human Rights Watch selected the victims to interview primarily from three sources: media accounts, reports of local human rights organizations and the staff of local human rights organizations who knew of cases. In both Gaza and the West

Bank, Human Rights Watch also spoke with a wide array of human rights activists, lawyers, judges, journalists, government officials and security force commanders. Their comments and observations are footnoted in the report.

Interviews were mostly conducted in Arabic and English with an interpreter, although some interviewees spoke English. The interviews in detention facilities (Gaza Central Prison in Gaza, the Preventive Security facility at Bituniya and the military intelligence facility in Jenin) were conducted in private. In both Gaza and the West Bank, many of the victims feared retaliation and did not want their full names to appear in print. In those cases, the name is either withheld or initials are used, depending on the request. Among those interviewed by Human Rights Watch, more people requested anonymity in the West Bank, perhaps because they feared arrest by Palestinian and Israeli forces. In general, Fatah in Gaza operated more openly than Hamas in the West Bank which is primarily underground.

On May 23, 2008, Human Rights Watch submitted a list of detailed questions to the offices of Prime Minister Ismail Haniya in Gaza and President Mahmoud Abbas in the West Bank, asking them to respond for the purposes of this report. Prime Minister Haniya's office replied on June 4 and its answers are reflected at relevant points in the report. As of July 10, President Abbas's office had failed to reply. On June 20, Human Rights Watch submitted questions to the office of Lt. Gen. Keith Dayton, US Middle East Security Coordinator, about US funding and training for security forces in the West Bank. As of July 10, his office had not replied.

II. Background

January 2006 Elections

In January 2006, Hamas won Palestinian National Authority (PA) elections in Gaza and the West Bank, defeating President Mahmoud Abbas's Fatah party, which had long dominated Palestinian politics and ruled the PA since its formation in 1994. Out of 132 seats in the Palestinian Legislative Council (PLC), Hamas won 74 (in addition to four by Hamas-supported independents), compared to 45 for Fatah.¹ Independent candidates and smaller parties split the remaining 13 seats.² Two months later, Hamas formed a government headed by Ismail Haniya as prime minister.

Citing Hamas's refusal to recognize Israel, renounce violence, and accept the terms of previous agreements, Israel and the Middle East "Quartet" responded by imposing sanctions.³ Israel withheld US \$50-60 million of tax revenue that it collected on behalf of the PA and severely restricted Palestinians' freedom of movement, particularly into and out of the Gaza Strip. Over time it arrested dozens of Hamas officials, including ten ministers and 43 members of the PLC.⁴ Due to the

¹ In June 2005 the PA adopted a mixed electoral system, dividing the 132 legislative seats between majority vote and proportional representation. Hamas won 45 of the 66 seats distributed by majority system and 29 of the 66 seats distributed proportionally. Of the 74 seats won by Hamas, 27 belonged to PLC members resident in Gaza and the remainder to members living in the West Bank. Fatah won 17 of the 66 seats distributed by majority system and 28 of the 66 seats distributed proportionally. Out of the 45 seats won by Fatah, 16 belonged to PLC members resident in Gaza and the remainder to members living in the West Bank. Although no women were elected by majority vote, women did win a segment of the proportional vote—six on behalf of Hamas (three each from Gaza and the West Bank) and eight on behalf of Fatah (three from Gaza and five from the West Bank). "Election Profile: Palestinian Territories," IFES Election Guide, <http://www.electionguide.org/election.php?ID=565> (accessed June 19, 2008); "The Final Results of the Second PLC Elections," Central Elections Commission—Palestine, <http://www.elections.ps/template.aspx?id=291> (accessed June 19, 2008).

² Independent candidates won four seats, Martyr Abu Ali Mustafa three seats, The Third Way two seats, The Alternative two seats and Independent Palestine two seats. "Election Profile: Palestinian Territories," IFES Election Guide.

³The "Quartet," composed of the United States, the European Union, Russia, and the United Nations, cut financial and other aid to the Palestinian Authority. Japan also suspended financial aid to the PA. The US and EU have both declared Hamas a terrorist organization.

⁴ "Annual Report 2007," Palestinian Centre for Human Rights, http://www.pchrgaza.org/files/Reports/English/pdf_annual/Summary-Eng.pdf (accessed May 28, 2008). According to Khalida Jarrar, chairperson of the Palestinian Legislative Council's Committee on Prisoners, 43 of the 74 elected Hamas PLC members were in Israeli detention as of late February 2008 (42 men and one woman). Of the 55 Hamas PLC members from the West Bank, only nine were free, and two of them were wanted by Israel and in hiding. In total, 48 PLC members, or more than one-third, were in Israeli prisons (43 from Hamas, four from Fatah and one from the Popular Front for the Liberation of Palestine (PFLP)). (Human Rights Watch interview with Khalida Jarrar, Ramallah, February 26, 2008.)

arrests and political disagreements between Fatah and Hamas, the PLC has not convened with a quorum since February 2006.

After the elections, tension between Fatah and Hamas escalated quickly on the political and security fronts. Periodic clashes erupted between security forces and affiliated militias from both sides as attempts to form a coalition government failed. Hamas complained that security forces loyal to Fatah were not submitting themselves to the authority of the new interior minister. In April 2006, it announced the creation of a new security force called the Executive Force (*Al-Quwwa al-Tanfiziyya*), which it said was needed to supplement the police. President Abbas decried this step as the creation of a parallel police force, and urged Hamas to integrate its forces into official structures. Hamas refused and in January 2007, two days after Executive Force members killed a senior Fatah security official in Gaza, President Abbas declared the force illegal.⁵

On February 9, 2007, following Saudi mediation, Fatah and Hamas signed the Mecca Agreement under the auspices of King Abdullah Ben Abdul Aziz, in which they pledged to pursue dialogue and political pluralism and to form a unity government the following month, with Haniya remaining as prime minister and Fatah and others joining as ministers. The infighting and clashes resumed nevertheless and the newly formed unity government remained weak during the three months that it existed, from March to June 2007.

Israel and outside powers, especially the United States and European Union, exacerbated the divide between Fatah and Hamas by pressuring one side and bolstering the other, even during the brief unity government period, offering contacts and funds only to Fatah, other non-Hamas parties, President Abbas and the security forces under his control. In early 2007, the US announced more than \$80 million in aid for Fatah security forces in the West Bank. Israel, meanwhile, tightened its

⁵ Wafa Amr, "Abbas Declares Hamas Force Illegal," Reuters, January 6, 2007. The declaration was verbal and not legally binding until Abbas issued a presidential decree formally banning the Executive Force on June 16, 2007.

closure of Gaza's borders, over which it has near total control, including restrictions on the supply of electricity and fuel, in violation of international humanitarian law.⁶

Throughout April and May 2007, armed clashes between Hamas and Fatah security forces resumed in Gaza, with each side accusing the other of fomenting chaos to undermine the unity government. In early May, the politically independent interior minister Hani al-Qawasmeh resigned, saying he lacked the requisite authority. The fighting worsened, despite repeated attempts to establish ceasefires.

June 2007 Fighting

Clashes peaked in mid-June 2007, when Hamas forces seized control of Gaza's security facilities and government buildings.⁷ For eight days the fighting was intense, and both sides engaged in serious violations of international humanitarian law, such as torturing and summarily executing captured and incapacitated fighters, including those inside hospitals, unnecessarily endangering civilians by fighting from populated areas, and blocking medical access to the injured. Hamas security forces, including members of the Executive Force and the `Izz al-Din al-Qassam Brigades, shot several captured Fatah security members multiple times in the legs – a practice that continued over the following months (see two cases in this report of men from Gaza City).⁸ By the end of the battle on June 13, Hamas had taken control of all major security installations and most government institutions in the Gaza Strip.

In total, 161 Palestinians died during this period, including 41 civilians, according to the Palestinian Centre for Human Rights, among them seven children and 11 women.

⁶ The closure of Gaza escalated in June 2006, after fighters from Hamas and other armed groups attacked an Israeli military post in Israel near the border with Gaza, killing several soldiers and capturing Israeli Corporal Gilad Shalit (see "Release the Hostages," Human Rights Watch news release, July 5, 2007, <http://hrw.org/english/docs/2007/07/05/isrlpa16354.htm>). On June 28, Israel attacked Gaza's sole power plant, rendering the plant's six transformers inoperable, and it has continued unlawfully to reduce fuel and electricity supplies ever since (see "Act of Vengeance: Israel's Bombing of the Gaza Power Plant and its Effects," B'Tselem report, September 2006, http://www.btselem.org/Download/200609_Act_of_Vengeance_Eng.doc (accessed May 28, 2008) and "Gaza: Israel's Energy Cuts Violate Laws of War," Human Rights Watch news release, February 7, 2008, <http://hrw.org/english/docs/2008/02/07/isrlpa17994.htm>).

⁷ Hamas claims that it was responding to a Fatah attempt to oust it from power. See David Rose, "The Gaza Bombshell," *Vanity Fair*, April 2008, <http://www.vanityfair.com/politics/features/2008/04/gaza200804> (accessed July 4, 2008).

⁸ "Armed Palestinian Groups Commit Grave Crimes," Human Rights Watch news release, June 13, 2007, <http://hrw.org/english/docs/2007/06/13/isrlpa16156.htm>.

At least 700 were wounded.⁹ Despite the gravity of the abuses committed by both sides, neither Hamas nor Fatah authorities have made any apparent effort to investigate the crimes committed by forces under their control.

Two Authorities

On June 14, President Abbas dismissed Prime Minister Haniya, dissolved the National Unity Government, declared a state of emergency, and appointed an emergency government run by Salam Fayyad, a leader of the Third Way party, who is still prime minister in the West Bank today. He denounced Hamas for having staged a “coup.”

Experts in Palestinian law and independent members of the PLC have questioned the legality of the Fayyad government.¹⁰ According to the interim constitution, the Palestinian Basic Law, the president can dismiss a prime minister (article 45) but the dismissed government continues to function as a caretaker government until a new government is formed and receives a vote of confidence from an absolute majority of the Palestinian Legislative Council (article 67).¹¹ To date, the Hamas-majority PLC has not met to confirm the Fayyad government, largely due to the 43 Hamas members in Israeli detention. As such, Haniya’s cabinet should remain as a caretaker government (article 78).

Despite these legal concerns, Israel, the EU and the US welcomed Abbas’s decision, with US Secretary of State Condoleezza Rice saying Abbas had exercised his “lawful authority.”¹² As EU president, the German government said it “emphatically supports

⁹ “Black Pages in the Absence of Justice: Report on Bloody Fighting in the Gaza Strip from 7 to 14 June 2007,” Palestinian Centre for Human Rights report, October 2007, http://www.pchrgaza.org/files/Reports/English/pdf_spec/Gaza%20Conflict%20-%20Eng%209%20october..pdf (accessed May 18, 2008).

¹⁰ See, for example, Nathan J. Brown, “What Can Abu Mazin Do?,” Carnegie Endowment for International Peace, June 15, 2007, <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=18738&prog=zgp&proj=zdl,zme> (accessed June 16, 2008).

and “Getting the PLC Out of the Freezer—an Interview with Dr. Mustafa Barghouti,” Ma’an News Agency, June 10 2008, <http://www.maannews.net/en/index.php?opr=ShowDetails&ID=29847> (accessed July 7, 2008).

¹¹ “Opinion of Lawyer Who Drafted Palestinian Law,” Reuters, July 8, 2007, and Nathan J. Brown, “What Can Abu Mazin Do?,” Carnegie Endowment for International Peace.

¹² “Hamas Takes Full Control of Gaza,” BBC, June 15, 2007, http://news.bbc.co.uk/2/hi/middle_east/6755299.stm (accessed June 15, 2008). According to one media report, quoting a US State Department memo, in late 2006 the US government pushed the Palestinian president to dissolve the Haniya government, assuring him that in return the United States would “support

President Abbas's decision, in keeping with the Palestinian Basic Law, to dismiss the government and to appoint a caretaker government for the Palestinian territories."¹³

On June 16, 2007, Abbas issued a decree that formally declared the Executive Force and Hamas militias illegal because they engaged in "armed mutiny" and ordered punishment for anyone "proven to have any kind of relations or connections with these militias."¹⁴ The decree set the tone for a crackdown against Hamas and its supporters in the West Bank that continues to this day.

Hamas rejected the emergency government and considers Ismail Haniya the legitimate prime minister to this day. It replaced Fatah and other government ministers in Gaza with its officials and refers to itself as the "dismissed government" or the "caretaker government." Many journalists and analysts, as well as the United Nations, call it the "de facto government" in Gaza, which recognizes Hamas's control in the territory.

As with the Fayyad government, experts question the legality of the Hamas government in Gaza. Although Hamas won the January 2006 PA elections, it unlawfully used its militia to seize control of government institutions. Regardless of their legality, however, the authorities in Gaza and the West Bank have both claimed legitimacy and exercise respective de facto internal control. As such, they should abide by Palestinian law and international human rights law.

The Ramallah-based authorities have continued to refuse recognition of the Hamas government in Gaza. They ordered a boycott of the security, judicial and other government sectors, ordering employees to stay home from work if they wanted to get paid. President Abbas and Fatah, along with the US and most European governments, demanded that Hamas relinquish control of Gaza. They have

[him] both materially and politically by lifting [US] financial restrictions, coordinating with Gulf states to ensure prompt delivery of promised aid, and working with the Israeli government towards a resumption of revenue transfer." (David Rose, "The Gaza Bombshell.")

¹³ "EU Presidency Statement on the situation in the Palestinian territories," CFSP statements, June 15, 2007, http://www.eu2007.de/en/News/CFSP_Statements/June/0615Palaestina.html (accessed June 23, 2008).

¹⁴ "On Considering the Executive Force and the Militias of Hamas Movement as Outlaws," Presidential Decree, June 16, 2007, <http://www.jmcc.org/goodgovern/07/eng/presidentdecreeso7.htm> (accessed May 28, 2008).

supported Israel's border closures and unlawful restrictions on the supply of electricity and fuel, which amount to collective punishment under international law.

According to Palestinian security officials in the West Bank, since June 2007, Israel has assisted them in their common fight against Hamas.¹⁵ The cooperation has generated resentment among some Palestinians. According to one human rights activist Human Rights Watch interviewed, reflecting a common view among Palestinians in the West Bank, the forces under President Abbas are the “subcontractor of the occupation.”¹⁶

According to Israel and the US, Hamas has received funding, weapons, and training from Syria and Iran.¹⁷ A Fatah intelligence official has also pointed the finger at Iran.¹⁸ Hamas has rejected the claims. According to the US, Hamas also conducts fundraising in some Gulf countries, and receives donations from Palestinians around the world and from private donors in Arab states.¹⁹ Human Rights Watch cannot confirm these claims, but Iran has in the past offered to support the Hamas-run PA.²⁰ The leader of Hamas, Khalid Meshal, is currently based in Syria.

Consolidation and Control

Since June 2007, Hamas has consolidated its control and established a Gaza administration, filling the vacuum left by the Abbas-ordered boycott. Despite a lack of experience in running government affairs, it managed to reduce the crime and chaos endemic in 2006 and the first half of 2007.²¹

¹⁵ Human Rights Watch interviews with Abd al-Salam al-Souqi, Jenin head of military intelligence, Jenin, October 23, 2007 and Ziyad Hab al-Rih, West Bank head of Preventive Security, Ramallah, October 24, 2007.

¹⁶ Human Rights Watch interview with human rights activist, Jenin, October 23, 2007.

¹⁷ “Remarks by US Security Coordinator LTG Keith Dayton: Update on the Israeli-Palestinian Situation and the Palestinian Assistance Programs, House Foreign Affairs Middle East and South Asia Sub-Committee,” May 23, 2007, http://www.globalsecurity.org/military/library/congress/2007_hr/070523-dayton.htm (accessed June 23, 2008) and Steve Erlanger, “Israeli Says Iran is Training Hamas Men,” *New York Times*, March 6, 2007, <http://www.nytimes.com/2007/03/06/world/middleeast/06mideast.html> (accessed July 7, 2008).

¹⁸ “Palestinian Official: Iran Training, Funding Hamas Militants,” Associated Press, June 24, 2007.

¹⁹ “Country Reports on Terrorism 2007, US Department of State, April 30, 2008, <http://www.state.gov/s/ct/rls/crt/2007/> (accessed July 7, 2008),

²⁰ “Iran Offers Hamas Financial Aid,” BBC, February 22, 2006, http://news.bbc.co.uk/1/hi/world/middle_east/4739900.stm (accessed July 7, 2008).

²¹ “Ruling Palestine I: Gaza Under Hamas,” International Crisis Group report, March 19, 2008.

Hamas began by reorganizing the security forces under its control. Immediately after the fighting ended in June 2007, the armed wing of Hamas, the `Izz al-Din al-Qassam Brigades, began policing the Gaza Strip, making arrests and running detention centers, including the al-Mashtal facility in Gaza City previously run by the PA's General Intelligence Service. As an armed group rather than an official law enforcement agency, under Palestinian law it had no power to arrest or detain. As documented in this report, both the Qassam Brigades and the Executive Force engaged in arbitrary detentions, torture and inhumane and degrading treatment of detainees, many of them affiliated or suspected of affiliation with Fatah security forces.

Under criticism for using the Qassam Brigades as an internal security force, in September 2007 Hamas created the Internal Security Force (ISF), which assumed control of the al-Mashtal facility. Hamas presented the ISF as a new force but lawyers, journalists and human rights activists in Gaza consistently told Human Rights Watch that most of its personnel came from the Qassam Brigades. In October 2007, Hamas dissolved the Executive Force, and absorbed its personnel into the police. Hamas appointed a former Fatah security officer, Tawfiq Jabber, as police chief, reporting to the minister of interior. In fact, the police and ISF were widely believed to be controlled by a senior Hamas official, Said Siyam, who served as minister of interior in the Hamas-led government from March 2006 to March 2007. In April 2008 Prime Minister Haniya again appointed him minister of interior.

Since June 2007, Hamas also has taken steps to restructure the judiciary, often in violation of Palestinian law. To replace those who left their jobs after the Abbas-ordered boycott, Hamas appointed politically loyal judges and prosecutors, who lack both experience and independence. Hamas claims they were forced to make these appointments to ensure the functioning of the judicial system after the boycott.

Despite the ceasefire between Israel and Hamas in June 2008, Palestinian armed groups have continued to fire rockets indiscriminately into civilian areas in Israel,

and Hamas has declined to make them stop. These attacks are serious violations of international humanitarian law.²²

In the West Bank, security forces and militias controlled by Fatah, including the Fatah-allied Al-Aqsa Martyrs Brigades, began an offensive against suspected Hamas individuals, organizations, and media, determined to prevent a repetition of the Hamas takeover in Gaza. In the process, these forces committed numerous abuses, such as arbitrary detentions, torture, and assaults on private property. They arrested hundreds of people suspected of supporting Hamas, and released them only after they signed documents that they would sever ties with Hamas. To date, Human Rights Watch knows of no security force member who has been investigated or prosecuted for these unlawful acts.

Abuses by West Bank security forces have continued over the past year, with a special focus on Hamas and its supporters, real or suspected. The Preventive Security and General Intelligence Service have been most responsible for arbitrary detentions as well as ill-treatment and torture.

The struggle between Hamas and Fatah has had a major impact on Palestinian lives. For the first time since Israel occupied Gaza and the West Bank in 1967, more Palestinians in the occupied territory died in 2007 as a result of internal Palestinian fighting (at least 490) than from Israeli attacks (at least 396).²³ In Gaza alone, 454 people died in internal violence (188 of them in June), compared to 301 killed as a result of direct conflict with Israel.²⁴ The cleavage has paralyzed the Palestinian Legislative Council, allowing power to be concentrated in the respective executive powers, and blocking desperately needed legal reform.

²² "Civilians Bear Brunt of Attacks," Human Rights Watch press release, February 29, 2008, <http://hrw.org/english/docs/2008/02/29/isrlpa18177.htm>.

²³ "United Nations Humanitarian Monitor," United Nations Office for the Coordination of Humanitarian Affairs, December 2007, http://www.ochaopt.org/documents/Humanitarian_Monitor_Dec_07.pdf, (accessed June 19, 2008). Included in the number of Palestinian deaths are those caused by factional violence, family feuding, internal demonstrations, and shooting of alleged collaborators with Israel. The numbers for PICCR are higher: 585 people killed from internal fighting and 412 from direct conflict with Israel. (Numbers provided to Human Rights Watch by PICCR and from Wafa Amr, "Human Rights Abuses Seen Up in Gaza and W. Bank," Reuters, May 27, 2008.)

²⁴ "United Nations Humanitarian Monitor," United Nations Office for the Coordination of Humanitarian Affairs, December 2007.

The annual reports of PICCR (now ICHR) show the deterioration well. In 2007, the organization recorded nearly double the number of abuses from the previous year. Torture made the biggest jump, increasing from 52 cases in 2006 to 274 in 2007 (154 cases in Gaza and 120 in the West Bank). The ill-treatment of detainees increased from 104 reported cases in 2006 to 146 cases in 2007 (19 in Gaza and 127 in the West Bank).²⁵ Reports of violations in both Gaza and the West Bank declined in the first months of 2008, but it remains unclear whether this positive trend will continue throughout the year.

Mid-2008 saw potential for progress as Hamas and Fatah discussed possible reconciliation. On June 4, President Abbas announced the formation of a committee of senior Palestinian officials to prepare for “national dialogue” with Hamas and called for implementation of the Yemeni initiative.²⁶ Later that month, Israel and Hamas agreed to a six-month ceasefire after indirect negotiations brokered by Egypt and encouraged by the US. The truce, which went into effect on June 19, requires Israel to cease military operations in Gaza and gradually lift the border closures in return for Hamas’s commitment to halt rocket fire from Gaza, end weapons smuggling into the territory, and take steps to free captured Israeli soldier Gilad Shalit.²⁷ As of early July, however, both sides had failed fully to respect the truce, with Israel shooting at Palestinian farmers trying to access their land in Gaza near the security fence and Hamas failing to stop armed groups from shooting rockets at civilian targets in Israel.²⁸

²⁵ The 2006 report does not break down the abuses between Gaza and the West Bank.

²⁶ “Palestinian President Abbas Calls for Renewed Dialogue with Hamas,” Associated Press, June 4, 2008. The Yemeni initiative is a Yemeni-sponsored reconciliation plan agreed to by Hamas and Fatah in March 2008.

²⁷ Griffe Witte and Ellen Knickmeyer, “Israel, Hamas Agree on Gaza Strip Truce; Accord Would Be Phased In, With Cease-Fire Beginning as Soon as Tomorrow,” *Washington Post*, June 18, 2008.

²⁸ “Protection of Civilians Weekly Report, 18-24 June 2008,” United Nations Office for the Coordination of Humanitarian Affairs, http://www.ochaopt.org/documents/Weekly_Briefing_Notes_265_English.pdf (accessed July 8, 2008), Roi Mandel, “UN: Israel Violated Truce 7 Times in One Week,” YNet News, <http://www.ynetnews.com/articles/0,7340,L-3560972,00.html> (accessed July 7, 2008) and Joseph Krauss, “Israel Reopens Gaza Crossings Three Days After Rocket Attack,” Agence France-Presse, July 6, 2008. See also “Weekly Report On Israeli Human Rights Violations in the Occupied Palestinian Territory, 26 June – 02 July, 2008,” No 27/2008,” Palestinian Centre for Human Rights, http://www.pchrgaza.org/files/W_report/English/2008/03-07-2008.htm (accessed July 7, 2008).

III. West Bank: Abuses against Hamas

After Hamas's violent takeover of the Gaza Strip in June 2007, Fatah and the Palestinian Authority feared a similar fate might befall the West Bank. They took immediate steps to crack down on Hamas members and institutions, with the political and financial support of Israel, the United States and European Union, which likewise wanted to see Hamas's influence in Palestinian politics reduced or eliminated.

"Yes, we were concerned that something may happen here like in Gaza," the head of Preventive Security in the West Bank Ziyad Hab al-Rih told Human Rights Watch. "Our arrests and measures against Hamas came because of threats to our existence here and our political interests."²⁹

The Fatah-dominated security forces moved swiftly in coordination with allied militias, notably the Al-Aqsa Brigades. Operating with impunity, fighters from the brigade openly attacked the offices of Hamas PLC members and Hamas-affiliated organizations and media outlets.³⁰ Across the West Bank, security forces arbitrarily detained Hamas or Hamas-affiliated officials.

²⁹ Human Rights Watch interview with Ziyad Hab al-Rih, Ramallah, October 24, 2007.

³⁰ The attacks during this time are not the focus of this report, but are well documented by Palestinian and international human rights groups. See "Annual Report 2007," Palestinian Centre for Human Rights, "The Status of Palestinian Citizens' Rights During 2007," Palestinian Independent Commission for Citizens' Rights and "Torn Apart by Factional Strife," Amnesty International report, October 2007, <http://www.amnesty.org/en/library/info/MDE21/020/2007> (accessed May 19, 2008).



Pro-Fatah gunmen outside the office of Hamas legislators in Nablus on June 14, 2007. They looted and burned the office without police interference. © 2007 Abed Omar Qusini

Rabi'a H. Rabi'a, a lawyer and member of the Ramallah Municipal Council, who is not a member of Hamas but won his seat running on the Hamas list, was one of those

arbitrarily arrested.³¹ Rabi'a told Human Rights Watch that, on the night of June 13, the alarm in his office went off, so he called the police and went to the office with his wife. The office was on fire but policemen were making no effort to douse the flames, he said. Human Rights Watch viewed a video taken by Rabi'a's surveillance camera that night which showed the office filled with smoke.

While Rabi'a was there, about five masked and armed men arrived, saying they were from the Al-Aqsa Brigades, and told him to come with them. Rabi'a explained what happened next:

They took me to the parking lot next to the office. They were masked. They said shut up, we're al-Aqsa. My wife tried to intervene but they told her to shut up and pointed their guns at her. There were lots of military and civilian vehicles around. They forced me into a Volkswagen Golf, put a sack on my head and cocked their guns. They shot in the air. They took me to a place far away and asked me what I thought about Gaza. I knew nothing. They took me in the trunk of a car, braking hard as they drove...

Then they took me to a building upstairs, I think it was military intelligence. There was a room with no one there. They took off my jacket and everything out of my pockets. Two others came, including my brother. We were not beaten but I heard others [getting beaten.] I stayed one and half days in that room, always with a sack on my head. They only took it off when I went to the bathroom. When the sack was off I saw six people there: my brother, Majid Saker, Yazid Abu Ghosh, Loay Quran, Sameh el-Ramawi and Iyaz Qattawi.³²

Rabi'a was released in the late evening of June 15. His brother was released the following day with one of the other detainees.

³¹ Hamas ran for the elections as the Reform and Change Party. Three party members won seats on the council: Rabi'a, Khaldoun Khader and Nehayah Hamad.

³² Human Rights Watch interview with Rabi'a H. Rabi'a, Ramallah, October 24, 2007.

Human Rights Watch interviewed one of those detained with Rabi'a and his brother. The man, Iyaz Mohamed Qattawi, said he was arrested on June 14 and taken by men who identified themselves as Al-Aqsa Brigades members to the military intelligence headquarters in Ramallah. He stayed there for ten days without seeing any judge, he said, although he experienced no other maltreatment. On June 15 he said he saw six or seven other men, including Rabi'a and his brother.³³

On June 16, armed men affiliated with Al-Aqsa attacked the PLC offices of Hamas members in Nablus. According to Muna Mansoor, one of five Hamas PLC members from the town, "uncontrolled members of Fatah" fired on her office on seven different occasions before setting it on fire. "Every time they shot we called the police and the governor and we sent letters and I spoke about it in the PLC that we needed security. Nothing was done."³⁴ Armed men similarly attacked Hamas offices in Jerusalem, Ramallah, Bethlehem and Hebron, she said.

The open attacks on Hamas offices soon abated but the arbitrary detentions continued, sometimes with torture. First the West Bank security forces targeted Hamas members and supporters who they believed had arms. Abed al-Salam al-Souqi, head of military intelligence in Jenin, explained: "As a consequence of what happened in Gaza, we took steps to make sure it didn't happen here. We arrested a number of Hamas members."³⁵ Head of Preventive Security al-Rih agreed. "We have information they were preparing to do the same thing here as they did in Gaza," he said. "This is based on confessions."³⁶

On August 28, 2007, the West Bank authorities announced that they would close 103 organizations and associations because they had committed "legal administrative or financial violations." The authorities denied that any political motives lay behind the decision. "We don't look at who is Fatah and who is Hamas," Fadwa al-Sha'r, General Director of NGO Administration at the Ministry of the Interior, told Human

³³ Human Rights Watch interview with Iyaz Mohamed Qattawi, Ramallah, October 20, 2007.

³⁴ Human Rights Watch interview with Muna Mansoor, Nablus, October 21, 2007. In addition to Mansoor, Hamas won four other PLC seats in Nablus. At the time of the attack, three of these PLC members were in Israeli prisons and one was wanted by Israel and in hiding.

³⁵ Human Rights Watch interview with Abd al-Salam al-Souqi, Jenin, October 23, 2007.

³⁶ Human Rights Watch interview with Ziyad Hab al-Rih, Ramallah, October 24, 2007.

Rights Watch. “We look at the legal process.”³⁷ Nevertheless, all of the organizations had been registered after Hamas won the elections in January 2007. Palestinian human rights activists and lawyers defending some of the banned organizations told Human Rights Watch that the process had a clear political edge.³⁸ In total, the Hamas-led government had registered 125 organizations in the West Bank.

Over time, Fatah’s targets expanded to a wider selection of suspected Hamas activists and supporters who the authorities claimed might possess arms or somehow support an armed group. Security officials denied that they targeted non-violent political activists. “We target military activity or funding aimed at spreading unrest,” al-Rih said. “We don’t arrest anyone for political affiliation.”³⁹ A ministry of interior report on arrests after June 2007 stressed this view. “It is fair to say that not a single incident of arrest was without proper procedure,” the report said.⁴⁰ The evidence documented in this report and from other human rights organizations in the West Bank strongly refutes this claim.

According to Hamas, over the past year security forces in the West Bank are responsible for “killings, abductions and torture of Hamas members, and the destruction and burning of their institutions.” In particular, Prime Minister Haniya’s office told Human Rights Watch, security forces had committed the following abuses against Hamas members from June 14, 2007 to June 4, 2008: six killings,⁴¹ 56 shootings, 28 assaults or beatings, 1,936 kidnappings or abductions, and 297 attacks on Hamas institutions or property.⁴² Human Rights Watch was not able to confirm these numbers and a request to President Abbas’s office for information about law enforcement activity since June 2007 went unanswered. Regarding arrests

³⁷ Human Rights Watch interview with Fadwa al-Sha’r, Ramallah, October 24, 2007.

³⁸ Human Rights Watch interview with Shawan Jabarin and Naser al-Rayyes, al-Haq, Ramallah, October 18, 2007.

³⁹ Ibid.

⁴⁰ “West Bank Arrests after the Declaration of the State of Emergency in Palestine,” Palestinian National Authority Ministry of Interior Special Report, November 2007.

⁴¹ According to Hamas, the killed people are: Alsaloor Annes in Nablus on June 14, 2007; Alsurooji Hani in Nablus on June 16; Widad Mohamed in Nablus on July 20; Mazouz Radwan in Qalqilya on August 15; Baradie Hisham in al-Khalil on August 28; and Majid al-Barghuti in Ramallah on February 22, 2008. Human Rights Watch did not investigate the first five cases but the killing of Majid al-Barghuti is documented in this report and a Human Rights Watch press release (“Punish Imam’s Death in Custody,” Human Rights Watch press release, April 4, 2008, <http://hrw.org/english/docs/2008/04/04/isrlpa18425.htm>.)

⁴² Letter to Human Rights Watch from the office of Prime Minister Ismail Haniya, June 4, 2008.

and releases, Hamas said it could not provide any numbers because of its inability to follow cases in the West Bank. According to one media report, as of late June 2008, 54 Hamas members were imprisoned in the West Bank, but this number is unconfirmed.⁴³ In addition, the arrest of a Hamas member or supporter is not in itself a human rights abuse if the arrest is carried out according to the relevant law, including charging the detainee with recognizable crimes. West Bank security forces have consistently maintained that the Hamas members they arrest have illegally possessed weapons or otherwise violated the law.

In November 2007, the West Bank interior ministry opened the Palestinian Security Sciences Academy (PASS) in Jericho with funding from the EU and Saudi Arabia to train officers from the various security forces (see chapter, Role of International Donors). Some items on the academy's website speak openly of suppressing Hamas rather than the general goal of law and order or arresting militant groups. According to a news item on the website announcing the academy's opening, the cadets "are the vanguard of Palestinian President Mahmoud Abbas's campaign to prevent the West Bank from falling to Hamas."⁴⁴ According to the website, Abbas's measures are targeted:

He's closed dozens of Hamas charities, fired Hamas preachers, arrested hundreds of Hamas activists, including many gunmen, confiscated weapons and last weekend [October 2007] issued an anti-money laundering decree meant to dry up millions of dollars in donations from abroad.⁴⁵

Most of the arrests since June 2007 have been conducted by Preventive Security, the General Intelligence Service or military intelligence. Under Palestinian law, Preventive Security did not have the right to make arrests or run detention facilities prior to November 20, 2007, when President Abbas issued a decree giving them

⁴³ "Hamas, Fatah to Release Hostages They Hold," Xinhua, June 24, 2008, http://news.xinhuanet.com/english/2008-06/24/content_8431462.htm (accessed July 4, 2008).

⁴⁴ "Palestinian Officers' School Opened," November 4, 2007, Palestinian Academy for Security Sciences website, <http://www.pass.ps/site/index.php?action=shownew&newsID=12&lang=en> (accessed May 18, 2008).

⁴⁵ Ibid.

these powers.⁴⁶ Article 8 of the decree says Preventive Security must respect the rights enshrined in “Palestinian laws and charters and international treaties” but it also limits transparency by stating that “the information, activities and documents pertaining to the work of the Preventive Security shall be considered confidential and cannot be disclosed to anyone.”

The PLC has not approved the decree because it has not convened with a quorum since February 2006 but, according to the Basic Law, presidential decrees have the power of law until the PLC convenes and rejects them.⁴⁷

By the end of 2007, a pattern of abuse had emerged in relation to detentions and arrests of suspected Hamas officials and supporters. First, many of the arrests were unlawful. They often occurred without a warrant when a warrant could have been obtained, as required by Palestinian law.⁴⁸ In some cases, the arresting officials were masked, did not identify themselves and did not tell the person of the reason for their arrest. Families frequently got no information on the location of the relative who had been taken away.

Second, arrested individuals sometimes encountered maltreatment at the time of arrest or torture during interrogation. In two cases, one of them documented below, torture apparently led to a detainee’s death.⁴⁹ Torture is strictly forbidden under article 13 of the Palestinian Basic Law, which demands that all persons deprived of their freedom “receive proper treatment.” The Basic Law also provides that all

⁴⁶ “Regarding the Preventive Security Apparatus,” enacted November 20, 2007. The decree has no number because it has not been published in the Official Gazette.

⁴⁷ Article 60 of the Palestinian Basic Law states: “The President of the National Authority shall have the right in exceptional cases, which can not be postponed, and while the Legislative Council is not in session, to issue decisions and decrees that have the power of law. However, the decisions issued shall be presented to the Legislative Council in the first session convened after their issuance, otherwise they will cease to have the power of law. If these decisions were presented as mentioned above, but were not approved, then they shall cease to have the power of law.”

⁴⁸ Article 11 of the Palestinian Basic Law states that it is unlawful to “arrest, search, imprison, restrict the freedom, or prevent the movement of, any person, except by judicial order in accordance with the provisions of law.”

⁴⁹ The case documented in this report is that of Majid al-Barghuti (see chapter, “West Bank: Abuses Against Hamas). The other case, according to PICCR, occurred on May 16, 2007, when the Ramallah GIS arrested Fouad Ibrahim Issa, age 52. They informed the family the following day that he had died. (Human Rights Watch interview with Randa Siniora, Ramallah, February 26, 2008.) Human Rights Watch did not investigate the case.

statements or confessions obtained through duress or torture are “considered null and void.”

Based on Human Rights Watch interviews with victims, methods of torture used over the past year include: mock executions, kicks and punches, and beatings with sticks, plastic pipes and rubber hoses. In one case from February 2008, for example, a 36-year-old man who requested anonymity said he had campaigned for Hamas in the elections and was subsequently summoned to the General Intelligence Service headquarters in Ramallah. After questions about the Hamas organization and leaders, the beating began:

They took me into a room and told me to lie down. One guy put my legs over a chair. He put my legs over the back. Two interrogators came with water pipes. They asked the military guy to sit on my legs and they beat me on the bottom of my feet... I pushed the military man aside and they beat me all over, with no questions.⁵⁰

The GIS released the man after ten days without filing any charges, after he signed a document in which he promised to break all ties with Hamas. He was never accused of a crime, brought before an investigative judge, or provided access to a lawyer.

⁵⁰ Human Rights Watch interview, name withheld, near Ramallah, February 25, 2008.



The General Intelligence Service (GIS) in Ramallah detained this man, released three days prior to this photo, for ten days in early 2008. Interrogators beat him while he hung from a hook, he said. © 2008 Fred Abrahams/Human Rights Watch

The most common form of torture reported by victims and local human rights organizations to Human Rights Watch was keeping detainees in stress positions for prolonged periods, known in Arabic as *shabah*, causing extreme pain and sometimes internal injury but leaving no physical mark. Such positions include standing for hours with feet apart and hands tied behind the back, standing with one leg and one arm raised, or sitting on the edge of a chair with hands tied to the feet.⁵¹

In September 1999, Israel's High Court of Justice ruled that the Israel Security Agency could not use physical means during interrogations, including the use of stress positions. However, the court also said that interrogators could not be held criminally liable if they used "physical pressure" against a detainee who was considered a "ticking bomb." According to Israeli and Palestinian human rights

⁵¹ For photographs of typical shabah positions, as used by Israel's General Security Service, see the website of the Israeli human rights group B'Tselem: http://www.btselem.org/English/Photo_Archive/List.asp?x_Concatenate=20&z_Concatenate=LIKE,'%25,%25' (accessed May 19, 2008).

organizations, despite the ruling, torture against Palestinian detainees still takes place, including *shabah*.⁵²

On May 23, 2008, Human Rights Watch asked President Abbas's office to explain its official position with regards to *shabah*. As of July 10, the office had not replied.

Third, security forces have denied many detainees access to a lawyer—a right guaranteed in article 14 of the Basic Law. In the cases documented by Human Rights Watch and other human rights organizations, officials failed to bring detainees before a prosecutor within 24 hours, as required by Palestinian law.⁵³ When judges did review cases and ordered detainees released, the security forces sometimes refused to comply. In October 2007, PICCR protested this practice as “unlawful” and “transgressing the independence of the judicial authority.”⁵⁴

Head of the Preventive Security al-Rih acknowledged that his forces sometimes ignored a judge's order to release a detainee, but he argued this was consistent with the law. “Usually he's released after a court decision,” he said. “In exceptional cases, we refuse and we transfer the person to military intelligence.” He added, “Sometimes we feel there's something serious or dangerous, so we appeal through our legal advisor.”⁵⁵

According to Palestinian human rights organizations and available statistics, the overwhelming majority of detained individuals were released without trial, usually after signing a confession and promising to end their involvement with Hamas.

⁵² “Absolute Prohibition: The Torture and Ill-treatment of Palestinian Detainees,” B'Tselem and Hamoked, May 2007, http://www.btselem.org/English/Publications/Summaries/200705_Utterly_Forbidden.asp (accessed June 14, 2008). See also “Torture by the General Security Service,” B'Tselem, http://www.btselem.org/english/Torture/Torture_by_GSS.asp (accessed June 14, 2008) and the work on torture by the human rights group Addameer at <http://www.addameer.org/detention/torture.html> (accessed July 10, 2008).

⁵³ Under the Palestinian penal procedures law, police can hold a person without charge for up to 24 hours. At that point they must bring a detainee before a prosecutor, who may extend detention for up to 48 hours. After 72 hours, a judge must review the case. He or she can extend pre-charge detention for 15 days, renewable by a judge for a maximum of 45 days. During this time, detainees are allowed prompt and unhindered access to legal counsel.

⁵⁴ According to PICCR (now ICHR), between September 26 and October 1, 2007, the security forces in Jenin refused to release six people whom the court had ordered released on bail: Mahdi Murshed Baker, Mohammed Emad Makhoul, Mohammed Adel Fawzi Salah, Daoud Bassam Salamah Khamaysah, Hifthi Mohammed Kamel Zeid, and Yusef Tawfiq Mahmoud Abu-Alrub. Two others were similarly held by the Bethlehem GIS: Khaled Youssef Hasasnah and Rami Khaled Hasasna. (“PICCR Demands an Immediate Release of Detainees in Response to Judiciary Decisions,” PICCR press release, October 9, 2007.)

⁵⁵ Human Rights Watch interview with Ziyad Hab al-Rih, Ramallah, October 24, 2007.

Preventive Security commander al-Rih acknowledged this point when he told Human Rights Watch: “If a person confesses, he’ll be released.”⁵⁶ Some of the people whose cases are documented in this report were released in this way.

Human rights activists and lawyers point to the high number of releases without charge as an indicator of the arbitrary nature of those arrests. “The problem is not only how criminal trials are conducted, but if trials are conducted at all,” an Austrian judge who was advising the Palestinian civil police on rule of law issues under an EU program told a journalist.⁵⁷ According to the head of the Nablus prison, in late March 2008, roughly 22 of the prison’s 172 inmates had been convicted in court. Of Jericho’s 51 detainees, only 13 had received sentences.⁵⁸ A human rights activist in Hebron told Human Rights Watch that in his town there had been very few trials and, as of March 1, no known convictions.⁵⁹ An official with the EU’s EUPOL COPPS program, which works with the civil police (see chapter on Role of International Donors), told Human Rights Watch that, in his estimation, 80 percent of all detainees were pre-trial.⁶⁰

Those who did get a judicial review were often brought before a military rather than civilian court, lawyers and human rights activists said. The West Bank authorities argue that these are security cases, but such individuals could be tried in civilian courts for arms possession or other violations of Palestinian law.

Taken together, these abuses deeply trouble some Palestinian lawyers and human rights activists working in the West Bank. “There is no contact with the outside world because they [detainees] have no lawyer or family visits,” said Sahar Francis, director of the group Addameer, which mostly deals with Palestinian prisoners in Israeli jails but over the past year has also been addressing detention by Palestinian forces in the West Bank. “It’s a kind of isolation, sometimes 20 or 30 days.” Based

⁵⁶ Ibid.

⁵⁷ Adam Entous, “Prison Shortage Mars Palestinian Security Campaign,” Reuters, April 1, 2008.

⁵⁸ Ibid.

⁵⁹ Human Rights Watch interview with human rights activist, Hebron, February 27, 2008.

⁶⁰ Human Rights Watch telephone interview with Jose Vericat, EUPOL COPPS spokesman, June 17, 2008.

on interviews with individuals after detention, Addameer has documented a pattern of *shabah*. “All of our cases are of people suspected of being Hamas,” Francis said.⁶¹

Khalida Jarrar, who is allowed to visit some detainees in Palestinian facilities as a member of the PLC’s monitoring and human rights committee, echoed these concerns. “I met prisoners in detention for 40 or 50 days without going before a court or seeing a lawyer or a family member,” she said.⁶² The prisoners told her stories of beatings, prolonged isolation and the use of *shabah*.

Local human rights organizations have recorded human rights abuses by all of the West Bank security forces, but the least problematic force appears to be the civil police, which deals primarily with common crimes. The most abusive forces, local groups say, are the Preventive Security or General Intelligence Service. Most of the abuses documented in this report were committed by one of these two forces.

Preventive Security, commanded by Ziyad Hab al-Rih, was integrated in 2005 into the ministry of interior, currently run by Abdel Razak al-Yahya, who reports to Prime Minister Fayyad.⁶³ The GIS, commanded by Tawfiq Tirawi, reports directly to President Abbas. Under article 39 of the Palestinian Basic Law, the president is the commander-in-chief of all Palestinian security forces.

Arrests in the West Bank have involved an apparent cooperation between Palestinian security forces and Israel, who share the common aim of restricting or eliminating Hamas. According to Preventive Security chief al-Rih, his forces and Israel have “the same goal with different objectives.” He added: “Coordination takes place within the framework of the interests of both people.”⁶⁴

⁶¹ Human Rights Watch interview with Sahar Francis, director of Addameer, Ramallah, February 26, 2008. According to Addameer, more than 750 Palestinians are in Israeli prisons on administrative detention without charge or trial.

⁶² Human Rights Watch interview with Khalida Jarrar, PLC member, Ramallah, February 26, 2007.

⁶³ Preventive Security was formed in 1995 to suppress internal subversion and support the peace process. It primarily monitors political parties and factions. “Planning Considerations for International Involvement in the Palestinian Security Sector,” Strategic Assessments Initiative report, July 2005, http://www.strategicassessments.org/ontherecord/sai_publications/SAI-Planning_Considerations_for_International_Involvement_July_2005.pdf (accessed May 20, 2008).

⁶⁴ Human Rights Watch interview with Ziyad Hab al-Rih, Ramallah, October 24, 2007.

The cases in this report and those collected by Palestinian human rights organizations suggest a degree of intelligence sharing between West Bank Palestinian forces and Israel. Palestinian forces frequently detained individuals who had previously spent time in Israeli detention on allegations of affiliation with Hamas. After their release from Palestinian detention, Israeli forces sometimes arrested these people again. According to Muna Mansoor, the Hamas PLC member from Nablus, from June to mid-October 2007, 53 people released by Palestinian forces were subsequently arrested by Israeli security.⁶⁵ Human Rights Watch could not confirm these numbers.

Since June 2007, Palestinian human rights groups have encountered increased restrictions on their work by Palestinian authorities. “After what happened in Gaza, our work became more complicated, more risky,” one human rights activist in the West Bank said.⁶⁶ “The authorities are less cooperative since June,” another activist said.⁶⁷ “They paid more attention to our complaints before June [2007], but now they tell us, ‘Why don’t you focus on Gaza.’”

In particular, Palestinian authorities in the West Bank have restricted local human rights groups from monitoring places of detention. When mass arrests began in June 2007, a coalition of groups wrote to the ministry of justice and various security agencies to request access, but they received no reply.⁶⁸

The exception is ICHR (formerly PICCR), which has a legal mandate to monitor the human rights practices of the PA in Gaza and the West Bank.⁶⁹ But even ICHR has faced restrictions on its work. Spontaneous visits were not allowed; they all required

⁶⁵ Human Rights Watch interview with Muna Mansoor, PLC member, Nablus, October 22, 2007.

⁶⁶ Human Rights Watch interview with human rights activist, Nablus, October 22, 2008.

⁶⁷ Human Rights Watch interview with human rights activist, Jenin, October 23, 2008.

⁶⁸ Human Rights Watch interview with Sahar Francis, Ramallah, February 26, 2008. The requests were sent in July and August 2007 through the organization al-Haq.

⁶⁹ The PICCR was established in 1993 by presidential decree by then-President Yasser Arafat with a mandate “to follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights.” (Palestinian Independent Commission for Citizens’ Rights, <http://www.piccr.org/index.php> (accessed June 14, 2008). In addition, article 31 of the Palestinian Basic Law provides for the establishment of an independent commission for human rights.

prior coordination with the authorities. Visit requests were sometimes denied, and at times approved visits were cancelled without explanation. Prior to visits, prisoners were sometimes moved, apparently to hide them from inspection.⁷⁰

The denial of access is not an abstract concern: in one case a visit might have saved a life. As documented below in the case of Majid al-Barghuti, ICHR twice requested permission to visit the Ramallah GIS facility in which al-Barghuti was being held on the days when he was apparently being tortured. The GIS failed to reply. According to ICHR, the authorities denied its investigators access to the intelligence detention facilities in Ramallah and Jericho from December 2007 to March 2008.⁷¹

At the same time, victims have become more afraid to talk. “We sense fear in families and among detainees to talk,” Sahar Francis of Addameer said. “Most request anonymity and some families don’t report out of fear.”⁷² A human rights activist in Hebron agreed. “For every person who reports abuse or maltreatment there are two who don’t report because they are afraid or they don’t see the use,” he said.⁷³

The concerns about underreporting due to fear extended into 2008, which may influence the reduced number of reported abuses so far this year. On May 6, the Palestinian Centre for Human Rights documented two cases: the arbitrary arrest and torture in Qalqilya by Preventive Security of an unnamed victim and the search without warrant of the home of Kholoud Rashad Riziq El-Masri, a Nablus municipal council member, coupled with the arrest of her husband, Ammar Amin Riziq El-Masri. “Fieldworkers are finding it difficult to convince victims of providing testimonies; or they are asking for their identities to be withheld,” PCHR said when presenting the cases.⁷⁴

⁷⁰ Human Rights Watch interviews with Randa Siniora and Mu'een Barghouthi, ICHR, Ramallah, April 15, 2008.

⁷¹ Human Rights Watch interview with Mu'een Barghouthi, Ramallah, April 15, 2008.

⁷² Human Rights Watch interview with Sahar Francis, Ramallah, February 26, 2008.

⁷³ Human Rights Watch interview with Hebron human rights activist, February 27, 2008.

⁷⁴ “PCHR Calls for Investigating Arbitrary Arrests and Torture by Security Forces in the West Bank,” Palestinian Centre for Human Rights press release, May 7, 2008, <http://www.pchrgaza.org/files/PressR/English/2008/44-2008.html> (accessed May 28, 2008).

The vast majority of abuses in the West Bank documented in this report have gone unpunished. “In general, there are no procedures against security force members who use torture or abuse,” Mu'een Barghouthi, a Ramallah-based lawyer with ICHR said. He added: “In very few cases an abusive person is transferred. That’s all.”⁷⁵

In one case in Nablus documented by ICHR, military intelligence conducted an investigation after a complaint and determined that its forces had used torture against a detainee. A commander issued a written apology to the victim and promised to discipline the responsible persons, but ICHR did not know if this promise was fulfilled. According to Barghouthi, in a few cases, abusive security force members confessed and still avoided punishment.

On May 23, Human Rights Watch wrote to President Abbas’s office, requesting information on security force members who had been punished for having committed a human rights abuse, such as using excessive force, making an arrest without a warrant, using ill-treatment or torture against a detainee, denying a detainee the right to a lawyer, or refusing to release a detainee after a court order. As of July 10, Abbas’s office had not replied.

In interviews, security force commanders told Human Rights Watch that some force members have been punished. “If there are problems such as torture, we hold people responsible. People have been fired,” said Abed al-Salam al-Souqi, head of military intelligence in Jenin. “It depends on the seriousness of the offense. If it’s serious, the punishment must be proportionate.”⁷⁶ According to al-Souqi, 23 military intelligence officers have been imprisoned over the past year because they “assaulted someone outside.” None of those cases involved torture or maltreatment during interrogation.⁷⁷

Preventive Security chief al-Rih denied any systematic wrongdoing by his forces and said all those who violate the law are punished. He explained:

⁷⁵ Human Rights Watch interview with Mu'een Barghuti, Ramallah, April 15, 2008.

⁷⁶ Human Rights Watch interview with Abd al-Salam al-Souqi, Jenin, October 23, 2007.

⁷⁷ Ibid.

I believe a prison is not a resort. During interrogation a person should be subjected to a degree of maltreatment. They are not here for fun. But this is done in accordance with the law and under the direction of the office of the civilian and military prosecutor. And we are only targeting members who pose a threat – those with weapons. We have not targeted the party leadership or charity organizations. We also have medical controls, including a medical clinic. There is a daily check for every detainee.⁷⁸

Al-Rih stressed that his forces did not use “any physical force against detainees to extract confessions.” He said “the maximum we can do is restrain their movements,” but he denied that his forces used *shabah*:

In case any officer commits a violation – torture or maltreatment – we have special bodies to take disciplinary steps against that person to ensure he does not do what he did again and to convey a message to others that they are not free to act as they want, above the law.

According to al-Rih, “dozens” of Preventive Security officers had been punished for using torture or excessive force, but he declined to provide Human Rights Watch with a detailed list. He also said many claims of abuse were the result of Hamas propaganda.

The head of military intelligence in Jenin, Abed al-Salam al-Souqi, agreed with al-Rih’s points. “There are some violations carried out by individuals, but this is not supported by policy,” he said. “ Hamas is strong in its propaganda.”⁷⁹

According to the Ministry of Interior’s Democracy and Human Rights Unit, most of the punishments of forces under its control are administrative: denial of promotion, demotion, and, on occasion, imprisonment. Between June and September 2007, the authorities arrested 188 individuals from different security forces, the head of the

⁷⁸ Human Rights Watch interview with Ziyad Hab al-Rih, Ramallah, October 24, 2007.

⁷⁹ Human Rights Watch interview with Abd al-Salam al-Souqi, Jenin, October 23, 2007.

unit told Human Rights Watch in October 2007. However, this figure represents punishment for all abuses, such as drug use, theft and dereliction of duty, and not only for the use of excessive force, torture, or other human rights abuses. The ministry did not provide Human Rights Watch with a breakdown of the offenses for which security force members have been punished.

“There are no severe human rights violations against people being arrested by our security organs,” said Haitham Arar, head of the Democracy and Human Rights Unit. “But there will be some cases. If anyone complains we’ll look at this.”⁸⁰

Below is a selection of human rights abuses by West Bank security forces documented by Human Rights Watch, in reverse chronological order.

Torture and Death in Custody of Imam Majid al-Barghuti

On February 14, 2008, members of the General Intelligence Service arrested Hamas member Majid al-Barghuti, the 42-year-old father of eight and the imam of a mosque in the village of Kobar, outside Ramallah. Eight days later, he was pronounced dead, apparently from injuries sustained during torture.

The family retrieved al-Barghuti’s body on February 24. Photos taken of the body that day, viewed by Human Rights Watch, show deep and extensive bruising on the legs, feet and back, consistent with marks caused from beatings. Both wrists had lacerations, apparently from handcuffs.

In response to al-Barghuti’s killing, the Palestinian Legislative Council formed an ad hoc committee to investigate his death. The committee released its report on April 3, concluding that al-Barghuti had been tortured and the Palestinian Authority was responsible for his death. The committee called on the PA to hold the responsible members of the GIS legally accountable and to ensure that torture in Palestinian Authority custody comes to an end.

⁸⁰ Human Rights Watch interview with Haitam Arar, Ministry of Interior’s Democracy and Human Rights Unit, Ramallah, October 21, 2007.

President Abbas subsequently ordered an internal investigation, called for the perpetrators to be punished and for the general prosecutor's office to increase inspections of all detention facilities.⁸¹ However, despite repeated inquiries, Human Rights Watch is unaware of any GIS member being held accountable for the death.

According to a witness, al-Barghuti was arrested in the afternoon of February 14 from outside his mosque in Kobar. "Four persons got out of a large vehicle and ran towards the imam, who was wearing an *abaya*," he said. "I thought they were Israeli forces because they used to come that way. I saw no weapons."⁸² They pushed al-Barghuti into the vehicle and another four men got out of another car with pistols, he said. The witness recognized one of the men as being from the GIS because they knew each other in an Israeli prison. The witness tried to use his personal contacts over the following days to learn information about al-Barghuti's fate, but without success. The family likewise tried to learn where their relative had gone, calling offices and personal contacts in intelligence, to no avail.⁸³

Eight days later, on February 22, the family learned that al-Barghuti was being treated at al-Khaled Hospital in Ramallah. The brother went to the GIS headquarters in Ramallah but guards there refused to provide any information. Later that day, the family learned that al-Barghuti had died.

The head of the hospital, Jamal al-Tarifi, told the media that al-Barghuti was dead upon arrival. He declined to say whether doctors observed marks on the body or other signs of possible torture.⁸⁴

West Bank officials told the media that al-Barghuti had died of heart failure,⁸⁵ but the family disputed that claim. "He wasn't sick, he suffered no health problems," al-Barghuti's brother said.

⁸¹ *Al Quds* (in Arabic), March 18, 2008, <http://www.alquds.com/node/18544> (accessed June 14, 2008).

⁸² Human Rights Watch interview, name withheld, Kobar, February 25, 2008.

⁸³ Human Rights Watch interview with Moufak al-Barghuti, Kobar, February 25, 2008.

⁸⁴ "Abbas Orders Probe into Hamas Preachers' Death," Reuters, February 23, 2008.

⁸⁵ Khaled Abu Toameh, "Hamas, Rights Groups Claim PA Tortured Imam to Death," *Jerusalem Post*, February 24, 2008.

Human Rights Watch interviewed two men who said they had witnessed GIS members torturing al-Barghuti in custody. Both men had been in custody at the GIS Ramallah headquarters at the time. They said they saw and heard al-Barghuti being beaten and then denied medical care.

One of the men, who claimed GIS officers also beat him extensively while he was hung from a hook on the wall, said he saw al-Barghuti in custody and then heard the security forces threatening and beating him. “We know you are with Hamas, where are the weapons?” he quoted them as saying. He said he saw al-Barghuti at various times over several days handcuffed to a wall with his hands behind his back. Human Rights Watch saw lacerations on both wrists of the witness, which he said were from metal handcuffs digging into his skin.

The other witness, interviewed separately, said he saw al-Barghuti in a variety of stress positions. In one position, Al-Barghuti had his hands tied behind his back and was hanging from the wall with his toes just touching the ground. In another position, his arms were tied behind his back and he was forced to stand with one leg in the air. The man said he also heard sounds of al-Barghuti getting beaten with a plastic pipe. “He kept yelling ‘God help me!’,” the man said.

After three days in detention, both men said, they heard al-Barghuti telling the guards that he was vomiting blood. GIS officers took him to the hospital for a few hours and then brought him back. “I saw him,” one of the witnesses said. “His feet and hands were black and blue. He was shivering and his eyes were rolled back. He was being held up by two guys.”

Following disclosure of al-Barghuti’s death, President Abbas called for the attorney general to conduct an investigation, but other government statements at the time asserted that al-Barghuti had not been abused in custody. On February 26, Minister of Information Riad al-Malki told the media that the government will “take all the necessary measures after the report of the [PLC] ad hoc committee,” but he explicitly

denied that al-Barghuti's death resulted from torture.⁸⁶ Other officials said that al-Barghuti suffered from a heart attack.⁸⁷

In addition to torture, West Bank security forces committed other violations of Palestinian and international law in their handling of the case. Al-Barghuti, as well as the other two men in custody at the same time, were not informed of the reasons for their arrest, allowed to see a lawyer, or brought before an investigative judge. Al-Barghuti also seems to have been denied prompt medical care.

The inability of human rights organizations to monitor detention facilities may have contributed to al-Barghuti's death. On February 6, ICHR sent a fax to the head of the GIS's legal department, Fawwaz Abu Zir, to request permission to visit GIS facilities across the West Bank. The letter specifically requested to visit the Ramallah facility on February 19, when al-Barghuti was being held there. On February 14, after ICHR again inquired, the GIS said they had never received the fax. On February 17, ICHR sent another request by hand but GIS never replied.⁸⁸

According to al-Barghuti's brother Moufak, Israel had arrested Majid on five previous occasions, for suspected Hamas ties. Since June 2007, PA security officers had also summoned him twice for questioning.

On April 4, Human Rights Watch wrote to President Abbas and other top West Bank officials to express concern about the Majid al-Barghuti case, and to request that they implement the recommendations of the PLC ad hoc committee, including the issuance of clear instructions to all security services that they stop the use of torture in detention facilities and grant better access to detention facilities for PLC bodies and Palestinian NGOs. Human Rights Watch wrote to President Abbas's office again on May 23, 2008, requesting information about the al-Barghuti investigation, but to date has received no replies.

⁸⁶ *Al-Ayyam*, February 26, 2008.

⁸⁷ Khaled Abu Toameh, " Hamas, Rights Groups Claim PA Tortured Imam to Death."

⁸⁸ Human Rights Watch interview with Mu'een Barghouti, Ramallah, April 15, 2008.

A.W. in Nablus

In October 2007,⁸⁹ military intelligence officials summoned A.W., a student in Nablus, to their office in the al-Makhfiyya neighborhood of Nablus. He went. At first the officials treated him well, he said, but then they started to ask aggressively whether he had filmed images of his neighbor's apartment which were shown on the Hamas affiliated al-Aqsa Television. One week before, PA security forces had tried to arrest the neighbor, who was not home at the time, and they damaged a lot of his furniture. A.W. explained:

Then they started maltreating me. They took me to a very small cell... and when my father came back to get me, they said I would be staying. My hands were tied behind my back and they put a sack on my head. They forced me to stand and they shouted if I sat. I stayed like that until *iffar*, and they didn't let me pray until then.⁹⁰ Then they brought some food. I was surprised they were treating me like a criminal. They kept calling me a member of the Executive Force [*tamfithiya*]. They took me out for two hours and then they put me back in the cell.

Investigators from Jneid prison came. One was very tough. He made me take off my shoes. I was handcuffed to a chair. He raised my legs onto a metal table. He asked a guard to bring something to teach me how to be polite. He brought a soldier's belt and he started to beat me on the bottom of my feet. He saw it was not painful so he started hitting the top of my feet. The one hitting me told the guard that he's not feeling the belt and we don't want him going out and saying we don't know how to interrogate people. The guard went out and got a stick. He started using it on the bottom of my feet...

During the interrogation they were asking about my affiliation to Hamas and student organizations. They wanted me to give the names of some people in Hamas. They asked about the newspaper *A/-*

⁸⁹ Precise date redacted to protect the source.

⁹⁰ The sunset meal breaking the fast each day of the month of Ramadan.

Haqinah, a Hamas paper. They said I work for it. They asked me who in Hamas had weapons. They asked my opinion about what's happening in Gaza and if I was with or against Hamas. They asked about funding sources of the Islamic Bloc at the university.⁹¹

A.W. stayed in the custody of military intelligence for three days, and was then transferred to Jneid prison in Nablus, run by Preventive Security. When he got there, he said, he heard the screams of other detainees. About 80 other prisoners were in Jneid at the time, he estimated based on brief conversations with other detainees, most of them Hamas members from Nablus. A.W. spent 13 days there, with occasional beatings. He was held in solitary confinement in a cell about two meters by two meters. The cell had a strong light, he said, that never went out, and one small window.

“When I was there I saw the beating and torture of others and I felt I was not maltreated,” he said. In particular, he recalled seeing a detainee named Omar Darawsheh:

He was there 68 days, and he's still there [as of October 22, 2007]. Once we thought he had died from the beating. They put a sack over his head and made him squat up and down. He said he had asthma but when he stopped [squatting] they beat him. We thought he died. He passed out for two hours and they lay him on a bed.

One day before Eid, the feast day marking the end of Ramadan, A.W. said, the guards told all of the prisoners to clean themselves and their cells. The next day Jneid received a delegation from the International Committee of the Red Cross (ICRC). The prisoners were instructed not to tell the ICRC anything about their conditions, A.W. said.

A.W. was released in mid-October 2007, having lost eight kilograms.

⁹¹ Human Rights Watch interview with A.W., Nablus, West Bank, October 22, 2007.

B.D. in Nablus

On one evening in September 2007, around 7:30, a group of masked men who said they were from Preventive Security came to the home of B.D., a 29-year-old father of three in Nablus. He told Human Rights Watch that they took him to their headquarters in the Ta'awun neighborhood where they interrogated him about his involvement with Hamas. "They asked if I was Hamas? What is my status in Hamas? They said, 'We know you're a member of the Executive Force.' I said it's not true."

B.D. said he was blindfolded and forced to stay in various stress position:

The *shabah* took various forms. I had to raise my hands with a leg over a chair and if I put my hands down they beat me. They made me crouch 500 times, which is called *qurfusa*. And I had to spread my legs apart and hold my arms out.⁹²

B.D. was given food and allowed to pray, and the next day he was taken to Jneid prison, where they asked the same questions about his relations to Hamas. "They used sticks and plastic pipes on my body, and sometimes they kicked me on my back," he said. "It was two to three people at a time. My hands were cuffed behind me and tied to a door knob, while one guy pushed my head down. I was also hung from some pipes on the ceiling."

The interrogations and abuse continued for 18 days, he said, followed by nine days without abuse. B.D. felt strong pain in his legs and asked for a doctor. A doctor came and said he should go to a hospital. Preventive Security officials refused, B.D. said, because he had too many signs of beatings on his body. "They said we can't take you until these signs go away," he said.

After 27 days in detention, B.D. said, he was granted a "temporary release." The head of Preventive Security in Nablus, Akram Rjoub, came to him and made him sign two statements that he would not talk to the media or to any human rights group, he said, and that he would not be a member of any "enemy force" [*tanthim mu'aadi*]. He

⁹² Human Rights Watch interview with B.D., Nablus, West Bank, October 22, 2007.

was released in mid-October. At no point during the man's detention did he see a lawyer or an investigative judge.

According to B.D., his uncle is a member of Hamas. Preventive Security summoned his uncle for questioning in mid-October, and the family had not seen him since.

Teachers in Jenin

On the morning of September 17, 2007, five teachers were driving to work in a village outside Nablus when they were stopped by armed members of a security force who did not identify themselves. The unknown forces arrested all five teachers without a warrant and took them to Jneid prison in Nablus, run by Preventive Security, where they were apparently interrogated and beaten for about eight days, before being transferred to the military intelligence detention facility in Jenin. Human Rights Watch spoke separately and in private at the facility with two of the men after they had spent 29 days in Jenin, as well as with the brother of one of the detainees, who was visiting his brother. The brother, who said he witnessed the arrest, said about seven armed men in civilian clothes, some of them masked, stopped the teachers' car as it approached the village of Talluza.⁹³ One of the arrested teachers explained what happened in Jneid when they arrived:

They used a stick and a belt. It started from the first moment I entered Jneid. I was handcuffed during the beating to prevent me from defending myself. They made me bend over with my hands behind my back. They took a rope over a pipe and they hung me from my arms, which were cuffed behind my back, until it was very painful. This was all while we were fasting during Ramadan. They poured cold water on us too. Twice they beat me on the bottom of my feet for about two hours and they asked me to jump while I was cuffed and hooded.⁹⁴

The interrogations continued for eight days, the teacher said, with questions about his relations to the Executive Force. The beatings took place about once a day and

⁹³ Human Rights Watch interview with brother of teacher, Jenin, military intelligence detention facility, October 23, 2007.

⁹⁴ Human Rights Watch interview with teacher, Jenin, military intelligence detention facility, October 23, 2007.

sometimes at night. “You were arrested because we don’t want to have a Gaza here,” the teacher said one of the interrogators told him.

After eight days, the teacher was transferred to the military intelligence detention facility in Jenin. He said the treatment at the facility was good, no beatings, although he had still not been brought before a judge. He saw a lawyer, he said, after about 20 days.

The teacher was hopeful that he would soon be released because he had signed a document stating that he would not take part in any banned organizations and would cooperate with the Palestinian Authority.

He had spent a few months in an Israeli prison earlier in the year, he said, because they accused him of membership in Hamas. “I’m very worried about getting arrested again by the Israelis,” he said. “I expect it because many people have had this experience.”

The second teacher interviewed by Human Rights Watch told a similar story about his arrest and treatment in Jneid. “I was beaten with a stick and slapped while in stress positions. They punched me in the face,” he said. “They asked about my military affiliation and my relationship to the Executive Force and where I kept my weapons. I was hung by a rope.”⁹⁵ He continued:

On the eighth day they forced me to strip from about five until the next day. I was only with [wearing] my briefs in a stress position and then [they] beat me severely with a hose for about two hours. You could see the marks. They left me like that from 5 p.m. until dawn. They also poured cold water on me while beating me.

The teacher, who also expected to be released soon, said he had spent two periods in Israeli prisons: for 35 days in 1996 and for 14 months starting in 1997. Both times he was accused of membership in Hamas.

⁹⁵ Human Rights Watch interview with teacher 2, Jenin, military intelligence detention facility, October 23, 2007.

Ashraf Othman Muhammad Bader in Hebron

On September 17, 2007, according to Ashraf Bader, Israeli authorities released him from prison after five-and-a-half years for affiliation with Hamas. Two months later he was detained by Preventive Security in Hebron and held for eight days, during which time he said he was beaten and ordered to confess his connections with Hamas.

According to Bader, Preventive Security summoned him to their office in Hebron on November 20. He met a person who identified himself as Abd al-Azim al-Atrash, who asked questions about Bader's work and family, and then about his political activities: was he active in Hamas, did he give them money? After some time, other men joined the interrogation and started to beat him:

They started to hit me all over my body. They were shouting and swearing at me. They said I belong to Iran, to Hamas, to the Executive Force in Gaza, and they would do what's necessary for a person like me.

They were punching and kicking me and they hit me with a chair. Then they took me to the bathroom. A man identified himself as Jihad Abu Omar, head of Preventive Security for Hebron city. He told me to take off my clothes and my socks and shoes. It was November and very cold. He asked for a man to come and beat me. Four to five men came with masks and they started to hit me all over. They put my leg on a chair and hit me with a belt and sticks on my legs and the bottom of my feet. I don't know for how long. When they finished I couldn't stand.⁹⁶

After the beating, Bader said, the officers carried him to an interrogation room, where they ordered him to confess. Then they took him to a small cell, about three meters square, which had a small window and was very cold. They tied his hands behind his back and put a bag over his head for some time. He stayed there for four days, he

⁹⁶ Human Rights Watch interview with Ashraf Othman Mohamed Bader, Hebron, February 27, 2008.

said, without the bag on his head but his hands were constantly tied, sometimes in front and sometimes in back. They untied him to eat and pray.

On the fourth day, according to Bader, he met a man from the legal department of Preventive Security. Bader related that he had been beaten and the man said he would file a report. After that, Bader was allowed to rest for some hours on a mattress in another cell. But he was then brought back to the cold cell, where officers told him that he had to confess or the interrogation would continue. He spent three more days in that cell, with a mattress brought in for the sixth and seventh days.

On the seventh day, there was a sudden change, and the officers said the arrest and the beatings had been a mistake, and Bader was free to go. They allowed him to leave. "I never saw a lawyer or a court," Bader said.

On December 17, 2007, ICHR (then PICCR) sent a letter to Preventive Security in Hebron about Bader's case. Preventive Security wrote a reply, signed by Jabril Bakri, then the deputy and currently head of the force, viewed by Human Rights Watch. It said:

When we invited Ashraf he attacked the person who met him and this is the only reason we detained him. When in interrogation, he refused to speak about anything or answer questions or even to respond to our greetings. Thus, he refused to cooperate with the interrogation completely. So this is the reason we had to apply the legal procedures.

As for the treatment inside the interrogation system, he was not subject to any kind of violence or torture. This is based on the daily examination and daily medical reports done every morning.

As this complaint of torture is not based on any medical report or testimony, this claim is denied.⁹⁷

The letter concluded that Preventive Security had the right to sue Bader for lying to ICHR.

About one month after his release from Preventive Security detention, Bader was detained by Israeli forces. They came to his home around 1:30 a.m., he said, and ordered him to meet with an official from the Israeli Security Agency, Shabak. At the meeting, the Israeli official started by saying: “How are you? We heard you were in a PA prison.” The Israeli wanted to know what Preventive Security had asked him and “What was better, Israeli or Palestinian jails?” After a short time, they let Bader go with a warning to “respect the law and behave.”

N.T. in Ramallah

In early September 2007, N.T. was walking from his store in the Ramallah industrial zone at around 2 p.m. when he noticed he was being followed by a car.⁹⁸ Two men in civilian clothes got out, he said, and told him they were from Preventive Security. They showed no identification, but they handed him a summons and said he had to report immediately to Preventive Security.

N.T. took a taxi to the Ramallah headquarters, where he was photographed and left to stand in the corridor until about 4 p.m. Finally someone came and, without introducing himself, began to ask questions about the man’s family and friends. “He asked if I knew why I was there,” N.T. recalled. “I said no, and he said, ‘Because you’re Hamas.’” N.T. said he was not a member of Hamas but that he did spend two periods of preventive detention in Israeli jails—three months in 2002 and one year in 2005—on suspicion of being a member of Hamas.

⁹⁷ At the time of the incident, the head of Preventive Security in Hebron was Ayad al-Qrah, and Jabril Bakri was his deputy. Al-Qrah was apparently indisposed at the time, so Bakri signed the letter. In the meantime, Bakri replaced al-Qrah as Hebron Preventive Security commander.

⁹⁸ Human Rights Watch interview with N.T., Ramallah, October 20, 2007.

The interrogation continued on and off throughout the afternoon without violence but with some threats, he said. After a few hours, the interrogators forced him to stand in the hall for two hours with his hands in the air and one leg raised. After a break, during which time he refused to confess to being a member of Hamas, he spent another hour in the hall holding the stress position, although he was allowed to pray. After that, the interrogators sent him home, with orders to return the following morning at 9.

N.T. returned the next morning and waited until 4 p.m. Then the two men who had stopped him the previous day arrived. N.T. explained what happened over the next 15 to 20 minutes:

They threatened me and started to beat me. One of them was sitting in front of me and the other was behind the table. The one in front slapped my face and punched me in the stomach. A third guy came in, not in uniform, and he had a stick. It was wooden and he was hitting me on the back.... After the stick broke, he kicked me on the side. I started bleeding from my nose. They asked me to go wash. I went out and when I came back they said “you did this to yourself, why did you do it?”

The beating continued in the corridor for another 15 minutes, with the interrogators demanding that the man admit he was Hamas. “I fell but they told me to stand,” N.T. said. “I tried to defend myself but they ordered my hands down. The stick broke so he took the two pieces and started again.”

Around noon, N.T. saw someone in the station whom he knew. The man, whom N.T. did not want to identify, said he would try to solve the problem, and soon he was able to get N.T. out. He spent one night at the hospital and then went home.

“I did not want to make it a big deal,” N.T. said, when asked if he had tried to press charges or file a complaint. “I didn’t want them to come and arrest me again.”

M.S. in Nablus

On August 16, 2007, a single 26-year-old man, M.S., was working at his juice shop in Nablus when three armed men in civilian clothes arrived and told him to come with them. According to M.S., they said they were from Preventive Security. They took M.S. in a car to Preventive Security headquarters in the al-Ta'awun neighborhood. There he spent the next 12 days in custody, and another 24 days at Preventive Security headquarters in Ramallah. M.S. explained what happened on the day of his arrest:

As soon as we arrived they put a sack on my head and left me standing against a wall with my hands raised for about four to five hours. An interrogator took me to a room on the second floor and he removed the sack and started cursing and yelling at me: "Where's your gun, you were shooting at Fatah members at the field near the municipality." I said I was on the Hajj [pilgrimage to Mecca] at that time. He said: "You're insulting me." He slapped me and made me sit on a stool with my back on the ground [and my feet up]. Also with one leg on a chair and my hands in the air. This lasted for about two hours. He twisted my arm on the chair. He then took me out of the room with the sack on my head and my arms raised and he asked me to stand in the corner until about 9 p.m. Then they took me into a room and started beating me. There were two men in the room, the one who took me there and another. They beat me and put me in the stress positions. All the time they asked where my weapons were and what is my relationship to the Executive Force in Gaza. This went on for six days.⁹⁹

According to M.S., on the sixth day Preventive Security took him to court. The judge said he could have a lawyer but the security officer present refused. The judge extended his detention for another 24 hours, but he ended up staying in detention for another 30 days.

On the ninth day, Preventive Security took the man back to court. One hour before the hearing, the judge let him call a lawyer, the man said, but a security officer again

⁹⁹ Human Rights Watch interview with M.S., Nablus, October 22, 2007.

refused. By coincidence, a lawyer was present at the court, and she agreed to take his case. The court session was postponed but the lawyer was able to visit M.S. on August 25.

On August 28, M.S. said, Preventive Security transferred him to its headquarters in Ramallah. There he was checked by a doctor and then handcuffed with a sack on his head until the next day. Over the next week he experienced sporadic beatings and periods when he was forced to hold stress positions, he said. No lawyer or family visits were allowed, although he was seen by the International Committee of the Red Cross. For 12 days, he said, he was held in solitary confinement, in a room with a mattress and small window.

M.S. denied being a member of Hamas. He said his neighbor had been in Hamas and, once while he was hiding from the Israelis in 2004, he took the neighbor's son to see his father. He was arrested shortly thereafter and spent one year in an Israeli prison, he said, which may explain why Preventive Security considered him suspicious. "Six men were released with me [during this last arrest by Preventive Security] and four of them are now in an Israeli jail," the man said. "I'm waiting for my turn."

Ahmed Ismail Doleh

For three months in 2007, 44-year-old Hamas member Ahmed Doleh was Deputy Assistant Minister of Interior under the unity government, responsible for public and political affairs. Preventive Security forces arrested him on July 2 and held him for five months, mostly in solitary confinement, before releasing him on bail. Israeli forces arrested him 14 days later.

"My case is political rather than criminal," he said when Human Rights Watch visited him at the Bituniya detention facility near Ramallah run by Preventive Security. "Because of Gaza they are doing this."¹⁰⁰ Preventive Security chief al-Rih said Doleh was arrested for criminal rather than political reasons. According to Doleh's lawyer, he was charged with organizing an armed group.¹⁰¹

¹⁰⁰ Human Rights Watch interview with Ahmed Doleh, Bituniya detention facility, Ramallah, October 24, 2007.

¹⁰¹ Human Rights Watch telephone interview with Fares Abu Hasan, May 17, 2008.

According to Doleh, Preventive Security first held him in solitary confinement in Nablus's Jneid prison for 50 days without access to a lawyer, in violation of Palestinian law. On August 26, they transferred him to Bituniya.

In Bituniya, Doleh was similarly held in solitary confinement. Human Rights Watch inspected his cell, which was slightly larger than the mattress that lay on the ground. It had no window, and Doleh said he was never allowed outside; he was escorted to the toilet next to his cell when required. The light was on constantly, he said. He was provided no newspapers, radio or books, except the Quran.

After about one month in Bituniya, Doleh said, he was forced to endure *shabah* on and off for about one week. He was tied by his wrists to a hook above his head and his feet on the ground for hours at a time, he said, with breaks only to eat and pray. During this time the interrogators told him: "If you have something to say then let us know." They told him that he would be released if he talked to them about Hamas. One month later, Human Rights Watch observed light marks on both wrists, apparently from handcuffs.

The International Committee of the Red Cross visited Bituniya every 15 days, Doleh said. He also got regular check-ups from a doctor and he said his health was good. During his detention, his family was allowed to visit once during Eid.

Doleh was released from Bituniya on December 2, 2007, after various judges had extended his detention five times. According to his lawyer, he appeared in court for the first time on August 30, which was 28 days beyond the limit stipulated by law.¹⁰² The judge extended his detention for 10 days. On September 9 and 23 he appeared in the same court, and had his detention extended for 15 days both times. On October 7 he was taken to the Court of First Instance, where a judge extended his detention for five days. He appeared before the same court on October 11, and got another 45 days extension. The lawyer was not allowed to visit Bituniya and only saw his client in court. To his lawyer's knowledge, Doleh was released on bail without signing any confession or declaration. Israeli forces arrested him on December 16, 2007, apparently for membership in Hamas.

¹⁰² Ibid.

S.Z. in Bethlehem

On June 30, 2007, Preventive Security forces in Bethlehem arrested S.Z., a 30-year-old man with two sons. He spent the next 47 days in detention, during which time he said he was subjected to *shabah* for extended periods.

S.Z. told Human Rights Watch that he was walking home with his mother and two sons in the evening when two jeeps stopped and armed men forced him into one of the vehicles at gunpoint. At the Preventive Security headquarters in town officers put a sack over his head and handcuffs on his hands for two days. He refused to answer their questions about Hamas—“Where are your weapons?” “What is your connection to Gaza?” “Who is organizing the Executive Force in the West Bank?”—and was forced to stay in a corridor for three more days in a painful position with his hands tied to an iron bar, although he was untied to eat and pray. At this point he started to feel sharp pain in his right shoulder. He was kept in various tied positions for six days, he said, as they accused him of being a member of the Executive Force.

During this time, the man had no visits from his lawyer, and the family came only once after 25 days. Towards the end of July he was taken to the Bethlehem magistrates court, where he met a lawyer hired by his family. In court he complained of being tortured. The judge ordered an investigation into the allegation, although it is not clear if an investigation ever took place, and extended his detention for another ten days.

A few days later, S.Z. was transferred to Bituniya near Ramallah, where he stayed for about ten days. During this time, he said, he was regularly in *shabah*:

In Bituniya my hands were tied behind my back the entire time, except when eating. I was chained with my hands behind my back in the corridor, and I ate only in my cell. Others were chained like me outside the cells.... If you don't want to talk your body will talk, they said.¹⁰³

S.Z. described the different *shabah* positions he and the other prisoners endured:

¹⁰³ Human Rights Watch interview with S.Z., Bethlehem, October 26, 2007.

1. Hands tied behind back and pulled up by a rope
2. Left arm and left leg up
3. Hands tied behind back, standing.
4. Legs spread legs and head down, hooded.



S.Z. spent 47 days in detention at Preventive Security facilities in Bethlehem and Ramallah in mid-2007, during which time he says he was forced to hold stress positions for extended periods. Here he displays three of the common positions, known in Arabic as *shabah*. © 2007 Fred Abrahams/Human Rights Watch

S.Z. also drew a diagram of the Bituniya detention facility, which matched what Human Rights Watch had observed at the prison during the October 24 visit to see Ahmed Doleh (see above).

Preventive Security released S.Z. on August 15. At the time of Human Rights Watch's interview with him, two months later, he complained that he still suffered pain in his right shoulder.

The man said he had twice been in Palestinian jails—in 1996 for one month and in 1998 for four months. He had spent time in Israeli jails twice too, he said—four years beginning in 1999 and two-and-a-half years beginning in 2003. S.Z.'s father was a Fatah member, he said, but his six brothers are all Hamas, and two of them were in Israeli prison as of October 2007. His father was killed in clashes with Israeli forces in 2001.

IV. Gaza: Abuses against Fatah

Hamas's takeover of the Gaza Strip in June 2007 was violent and swift. In eight days Hamas forces seized control of all security facilities and main government offices throughout the territory. One hundred and sixty-one Palestinians died in the fighting, including 41 civilians, and at least 700 were wounded, according to the Palestinian Centre for Human Rights.¹⁰⁴ Both Fatah and Hamas forces committed serious violations of international humanitarian and human rights law, including summary executions and torture. Human Rights Watch is unaware of any investigations or prosecutions in Gaza against Hamas members who committed crimes.

When the fighting ended, Hamas faced the monumental task of governing Gaza—a task for which it was ill-prepared, despite one year in the government. Traditionally focused on social programs and fighting the Israeli occupation, Hamas had to govern 1.4 million people after devastating internal clashes, ongoing military pressure from Israel and intensified economic pressure from Israel, the US, the EU and other donors.

The first matter of business was to consolidate control, and Hamas went about it with scant regard for the law. Hamas's armed wing, the 'Izz-al-Din al-Qassam Brigades, commanded by Ahmad Jabari, and its internal police, the Executive Force, commanded by Jamal al-Jarrah (aka Abu Obaidah), arrested hundreds of Fatah leaders, activists and supporters, especially those suspected of using or possessing weapons, and held many of them in unauthorized detention facilities. Torture and beatings were common, and one man is known to have died in custody during this time.¹⁰⁵ Hamas forces blocked demonstrations or public meetings by Fatah, and used

¹⁰⁴ "Black Pages in the Absence of Justice: Report on Bloody Fighting in the Gaza Strip from 7 to 14 June 2007," Palestinian Centre for Human Rights.

¹⁰⁵ On July 15, the dead body of Walid Abu Dhalfa was delivered to al-Shifa hospital, one week after his detention by Hamas forces. A spokesman for the Qassam Brigades said Abu Dhalfa died while trying to escape. ("Palestinian Man Dies after Taken Into Custody by Hamas," Associated Press, July 16, 2007). According to PCHR, members of the Qassam Brigades tortured Abu Dhalfa and his brother, Khalil Salman, in the al-Mashtal detention facility. ("Palestinian Detained and Tortured in al-Mashtal Detention Center Dies," Palestinian Centre for Human Rights press release, July 16, 2007, <http://www.pchrgaza.org/files/PressR/English/2007/60.2007.html> (accessed May 27, 2008).

violence to break up gatherings that did take place. They closed media outlets run by or sympathetic to Fatah.¹⁰⁶

The next step was to reorganize the security forces. After the Hamas takeover, President Abbas ordered all members of the official security forces in Gaza to stop reporting for work if they wanted to get paid. Eager to receive their salaries, many security force members left their respective forces.

In September, Hamas created the Internal Security Force (ISF) (*al-Amnu al-Dakhily*), modeled on the Fatah-dominated Preventive Security, to combat politically motivated crimes, and staffed it largely with members of the Qassam Brigades. In October, it integrated the Executive Force into the civil police, which deals mostly with common crime. Hamas also assumed full control in Gaza of the National Security Force, a PA-wide force, responsible for security along Gaza's borders, which Hamas refers to as its army.¹⁰⁷ Some officials who defied Abbas's order not to work were reappointed, including in some cases to command positions. Most prominently, former Fatah security chief Tawfiq Jabber was named commander of the 12,000-member civil police. He reported to Prime Minister Ismail Haniya, who also held the interior portfolio until April 28, 2008, when the influential Hamas official Said Siyam assumed that post.¹⁰⁸ Even during Haniya's tenure as interior minister, Siyam was widely considered the man in charge of the security forces.

Siyam has claimed that the new security forces are depoliticized, and that the al-Qassam Brigades plays no role in Gaza's internal security. "The Qassam are the military arm of Hamas for resistance against the occupation," he said. "They have no internal role. Any member interfering in internal security will be treated as a violator of the law."¹⁰⁹ Journalists and human rights activists in Gaza, however, dispute that

¹⁰⁶ "Annual Report 2007," Palestinian Centre for Human Rights.

¹⁰⁷ The commander of the National Security Force is reportedly a former PA security official, Hussein Abu 'Athra. (See "Gaza Under Hamas," International Crisis Group.)

¹⁰⁸ "Haniya Expands Dismissed Government," Deutsche Presse Agentur, April 28, 2008, http://www.monstersandcritics.com/news/middleeast/news/printer_1402236.php (accessed July 4, 2008). See also "De Facto Government Announce Cabinet Reshuffle," Ma'an News Agency, June 4, 2008, <http://www.maannews.net/en/index.php?opr=ShowDetails&ID=29699> (accessed June 23, 2008), and "Hamas Expands Cabinet to Strengthen Hold in Gaza," Reuters, June 3, 2008.

¹⁰⁹ "Gaza Under Hamas," International Crisis Group.

claim, saying that Hamas has appointed security force members and commanders whose primary loyalty is to the movement.¹¹⁰

The Haniya government gave some signs of wanting to respect rights. On September 19, 2007, it issued Order 128/2007, which directed the security forces to respect human rights. In particular, the order instructed all members of the security forces to:

- Respect “political and media freedoms;”
- Respect “political diversity” and the right to hold demonstrations according to the law;
- Respect the ban on torture and violence against detainees;
- Prohibit political detentions
- Prohibit arrests without a judicial order
- Detain individuals only in official detention facilities
- Inform all arrested and detained people of the reasons for their arrest or detention, and grant them access to a lawyer
- Allow human rights organizations to visit detainees according to the law.

The order emphasized that any person who disobeyed these instructions “will be accountable before the law.”¹¹¹

Over the second half of 2007, Hamas established a degree of order and control. Common crimes and armed clashes decreased as security forces cracked down on criminal groups and Gaza’s well-armed clans, including the powerful Dughmush family.¹¹² The Executive Force banned the public display of weapons, unofficial roadblocks and celebratory gunfire at weddings.¹¹³

¹¹⁰ Human Rights Watch observed this firsthand in October 2007 when visiting the Gaza border at Rafah. At least two of the approximately 12 National Security Force members were wearing black T-shirts of the Qassam Brigades, but they purposefully covered the shirts when posing for a photograph.

¹¹¹ “Internal Order 128/2007, “For the Leadership of the Internal Security Forces,” Palestinian National Authority, September 19, 2007.

¹¹² “Inside Gaza: The Challenge of Clans and Families,” International Crisis Group report, December 20, 2007, <http://www.crisisgroup.org/home/index.cfm?id=5234> (accessed July 10, 2008). According to the International Crisis Group, on July 3, 2007, Hamas forces laid siege to the Dughmush quarter in Gaza City and arrested family members to pressure them into releasing the BBC journalist Alan Johnston, who was kidnapped on March 12. The Dughmush clan released Johnston the following day.

¹¹³ *Ibid.*

But there was no imposition of order with regard to the rule of law and human rights. First, until it was absorbed into the police in October, the Executive Force, as an armed group, had no legal authority to make arrests or hold people in detention, although it was doing so. Second, after October the Executive Force-infused police regularly violated the law: warrantless arrests, beatings and torture of detainees, and abuses of due process were common.

Over the past year, Hamas authorities have maintained pressure on the media, closing several radio stations and banning pro-Fatah newspapers. On August 25, 2007, Executive Force members attacked journalists covering a Fatah demonstration.¹¹⁴ On September 7, 2007, the Executive Force beat Fatah supporters as they tried to hold a public prayer meeting, again assaulting at least seven journalists and detaining five others covering the event.¹¹⁵ On December 14, 2007, members of the ISF arrested Omar al-Ghul from *al-Hayat al-Jadida*, a newspaper considered pro-Fatah. On January 15, 2008, they detained the paper's Gaza bureau chief, Munir Abu Rizq, for about 20 days.¹¹⁶ That same month, authorities blocked the Gaza distribution of three newspapers published in the West Bank: *Al-Quds*, *Al-Ayyam*, and *Al-Hayat*.¹¹⁷ A ban on the pro-Fatah Palestinian TV remained in effect.¹¹⁸

Hamas also imposed restrictions on freedom of assembly, including public prayers by Fatah supporters. On August 13, 2007, the Executive Force issued an order that banned any demonstration without permission from the Executive Force.¹¹⁹ In the

¹¹⁴ Letter from the Palestinian Centre for Human Rights to Prime Minister of the Dismissed Palestinian Government Ismail Haniya, September 13, 2007, <http://www.pchrgaza.org/files/PressR/English/2007/letter13-9.html> (accessed June 15, 2008).

¹¹⁵ Sarah el Deeb, "Palestinian Tensions Spark in Gaza," Associated Press, September 7, 2007 and Letter from the Palestinian Centre for Human Rights to Prime Minister of the Dismissed Palestinian Government Ismail Haniya.

¹¹⁶ "Hamas Detains Bureau Chief in Gaza," Committee to Protect Journalists media release, January 23, 2008, <http://cpj.org/news/2008/mideast/gaza23jano8na.html> (accessed May 27, 2008) and "Two al-Hayat al-Jadida Journalists Held by Hamas," Reporters Without Borders media release, January 16, 2008, http://www.rsf.org/article.php3?id_article=25070 (accessed May 27, 2008).

¹¹⁷ "PCHR Concerned over the Detention of Distributors of Palestinian Newspapers by the Executive Force and the Delay in Distribution of Papers Today," Palestinian Centre for Human Rights press release, July 30, 2007, <http://www.pchrgaza.org/files/PressR/English/2007/75.2007.html> (accessed May 27, 2008).

¹¹⁸ Letter from the Palestinian Centre for Human Rights to Prime Minister of the Dismissed Palestinian Government Ismail Haniya.

¹¹⁹ *Ibid.*

second half of 2007, the Palestinian Centre for Human Rights documented “several cases in which the Executive Force dispersed peaceful assemblies by force.”¹²⁰

In its letter to Human Rights Watch, the Hamas government said that it fully respected the right to free assembly, as guaranteed in the Palestinian Basic Law and the Law on Public Assemblies, the latter of which states that the organizer of any meeting or demonstration must request permission from the authorities 48 hours in advance.¹²¹

But even when permission for demonstrations was granted, the police and other Hamas forces sometimes used excessive force to disperse crowds. In the most deadly incident, documented below, on November 12, 2007, security forces fired into a large pro-Fatah demonstration, killing seven and wounding 90 (see case below). Thirty-eight policemen were eventually held responsible for those deaths, but it remains unclear whether the punishments they received—ranging from dismissal to imprisonment—were commensurate with the crimes.

Hamas did not deny that abuses took place in the first months of its rule. Interior Ministry spokesman Ihab al-Ghusain told Human Rights Watch:

There were many mistakes by the Executive Force after June because they were not meant to be more than an auxiliary force. There were some attacks on journalists and illegal detentions... We are very annoyed and discontent with these problems. The higher levels of the administration including the prime minister were very upset. We’ve dealt with many cases and now we can notice that the mistakes have decreased or stopped. If they continue, then the responsible party will be brought to account.¹²²

¹²⁰ Ibid.

¹²¹ Letter to Human Rights Watch from the office of Prime Minister Ismail Haniya, June 4, 2008.

¹²² Human Rights Watch interview with Ihab R.A. al-Ghusain, interior ministry spokesman, Gaza City, October 11, 2007.

Al-Ghusain did deny, however, that any of the arrests had a political taint. “They accuse us but I can confirm again that there are no political detainees,” he said.¹²³

The disintegration of the criminal justice system since the Hamas takeover has contributed to the breakdown in respect for the rule of law and continued impunity. After the Hamas takeover, the attorney general stopped investigating and prosecuting criminal cases in Gaza. On July 2, the chief justice of the Supreme Court and head of the Higher Judicial Council, both based in the West Bank, instructed the heads of the courts of first instance and arbitration in Gaza to “suspend all decisions requiring police assistance for their implementations, in order to protect the independence and dignity of the judiciary.”¹²⁴

Hamas moved quickly to fill the void. On August 14, the Hamas Minister of Justice Yousef al-Mansi suspended the Attorney General Ahmad al-Maghani, claiming that his appointment papers were incomplete. Two days later, Hamas security forces raided the attorney general’s office and briefly detained him and his assistants. On August 29, the minister of justice appointed a new deputy attorney general, Ismail Jabber, who served as acting attorney general.

On September 4, in violation of Palestinian law, the Hamas authorities formed a new Higher Justice Council to replace the Ramallah-based Higher Judicial Council, with a mandate to run Gaza’s justice system.¹²⁵ They approved the council’s members one week later, with Abdel Raouf al-Halabi appointed the body’s head. “The Higher Judicial Council did not serve all Palestinians,” al-Halabi told Human Rights Watch to explain the formation of the new council. “Instead, it became biased towards one party against the other.”¹²⁶

Al-Halabi implicitly accepted that the procedure for appointing the council was not legal, but he suggested that the authorities had no choice. “Normally the council is

¹²³ Ibid.

¹²⁴ As presented in “Torn Apart by Factional Strife,” Amnesty International, footnote 20.

¹²⁵ “Al Mezan calls the deposed Premier to revoke the decision forming a ‘Supreme Council of Justice,’” Al-Mezan Center for Human Rights press release, September 25, 2007, http://www.mezan.org/site_en/press_room/press_detail.php?id=716 (accessed May 28, 2008).

¹²⁶ Human Rights Watch interview with Abdel Raouf al-Halabi, head of Higher Justice Council, Gaza City, April 13, 2008.

appointed by the president of the Palestinian Authority, but because of the circumstances and out of necessity and because it is illegal that the structures are not working—hospitals must work, the education system and the courts—Haniya used his authority and formed the Higher Justice Council.”

Judicial paralysis followed, as judges and prosecutors refused to follow the orders of a Higher Justice Council they did not recognize. On November 26, 2007, al-Halabi and some colleagues, accompanied by police, physically occupied the civilian court compound in Gaza City, informing judges and court staff to follow al-Halabi’s instructions. In protest, Gaza’s judges went on strike. Al-Halabi gave them one week to return, and he suspended them from work when they refused. Forty-eight judges left their jobs, as did 541 court employees, al-Halabi said.

The Higher Justice Council quickly appointed replacements, including al-Halabi as chief justice of the Supreme Court. As of mid-April 2008, it had appointed 24 new judges across Gaza, as well as 115 court employees.¹²⁷ They had all passed the requisite exams and were appointed “according to the law,” al-Halabi said.

Lawyers in Gaza dispute that claim, stressing that, the legality of the new High Justice Council aside, judges must also be appointed by presidential decree. Without this check, some of the new judges, they say, are pro-Hamas, and most of them have never worked before as judges. Al-Halabi accepted this latter fact, saying that only one of the new judges has experience as a judge, but he otherwise defended the new appointments. “We were committed to fill the gaps,” he said. “If we suppose the formation [of the High Justice Council] was illegal, what is the solution? Should we leave criminals free to attack citizens?” Gaza-based human rights groups see it differently, saying Hamas has intruded on the judiciary and politicized the courts. “Human rights organizations call upon the dismissed government to immediately rescind the illegal decision to take over the civilian judicial system in the Gaza Strip,” four of Gaza’s leading human rights groups said in a joint December statement. “These organizations hold this government fully responsible for

¹²⁷ Six of the new judges were appointed to the court of first instance, 12 to the court of second instance, three to the appeals court, and three to the supreme court.

undermining and destroying the Judicial Authority in order to establish illegal judicial bodies that are not independent.”¹²⁸

At the same time, some lawyers and human rights activists in Gaza say that a semblance of normalcy has returned to the justice system in recent months, especially compared to the chaotic period after June 2007. Arrest warrants are issued more regularly and detainees are increasingly brought before prosecutors and judges within the required time. Reports of torture are down.

According to al-Halabi, as of April 13, the newly staffed courts had completed 205 civil cases and 383 criminal cases. This is out of 3,590 civil cases and 3,077 criminal cases in the system, he said.

But human rights abuses have hardly disappeared, and human rights groups still report disturbing cases of abuse, including a death in detention in late June.¹²⁹ A human rights lawyer from ICHR explained:

From June to September 2007, the performance of the police was very bad with regard to respect for the legal procedures. There were arrests without a judge’s order and lengthy detention periods. But citizens were glad when a thief was arrested. After September we saw a clear improvement in the behavior of the police. Slowly they put regulations in place. They have created a general prosecutor and judicial structures. With the internal security organization, however, which is in charge of political security, we still document failures to respect the

¹²⁸ “Human Rights Organizations Condemn the Takeover of the Civilian Courts Compound,” Addameer for Human Rights, Palestinian Centre for Human Rights Palestinian Independent Commission for Citizens Rights, Al-Mezan Center for Human Rights, December 6, 2007, <http://www.pchrgaza.org/files/PressR/English/2007/06-12-2007.html> (accessed May 17, 2008).

¹²⁹ According to PCHR and al-Mezan, on June 26, 2008, police in Deir al-Balah arrested 72-year-old Taleb Mohammed Abu Sitta, together with his son Mustafa, on suspicion of drug dealing and took them to the local station. Abu Sitta’s dead body was transported to the hospital the following day. The son Mustafa told PCHR that the police had badly beaten him and his father, who was tied to a bed. (“PCHR Calls for Investigation into the Death of an Old Man in Suspicious Circumstances in the Police Station in Deir al-Balah,” PCHR press release, June 29, 2008, <http://www.pchrgaza.org/files/PressR/English/2008/61-2008.html> (accessed July 4, 2008) and “Elderly Man Dies in Deir Al Balah,” Al-Mezan press release, June 27, 2008, http://www.mezan.org/site_en/news_detail.php?id=2596 (accessed July 4, 2008).

regulations. We see arbitrary detentions, torture, political detainees and restrictions on freedom of movement and expression.¹³⁰

According to Fatah, its members are under siege, and they must stop their political activity or risk arrest.¹³¹ In June 2008, reflecting on one year of Hamas control, a Fatah supporter named Muhammed Huasanain told the BBC:

The last year, since Hamas took over, has been a very difficult time for me and my family. Hamas accused my brother of injuring some of their men in a shootout. They surrounded the house, but he escaped and managed to get out to the West Bank. Me, my parents, his wife, and his children haven't seen him since.

He can come back, but there are no guarantees that he will be safe here.

Fatah people have got no voice and no power here in Gaza under Hamas control. They stop us having rallies—and use electric batons to hit us if we do.

Even on personal issues, if you go to any ministry which is controlled by Hamas, they want to make things difficult for Fatah supporters.¹³²

Human Rights Watch asked the Palestinian authorities in the West Bank for information on Fatah members who had been arrested or gone missing in Gaza since June 2007, but as of July 10 the authorities had not replied. According to one media report, as of late June 2008, 46 Fatah members were detained in Gaza, but this number is unconfirmed.¹³³

¹³⁰ Human Rights Watch interview with Basem Bushnaq, ICHR, Gaza City, April 12, 2008.

¹³¹ Human Rights Watch interview with Hazem Shanab, Fatah spokesman, Gaza City, October 13, 2007.

¹³² "Gaza Voices: A Year of Hamas," BBC website, June 14, 2008, http://news.bbc.co.uk/2/hi/middle_east/7453482.stm (accessed June 14, 2008).

¹³³ "Hamas, Fatah to Release Hostages They Hold," Xinhua, June 24, 2008.

As in the West Bank, lawyers in Gaza have complained of restrictions on visiting clients in detention. In April, PCHR publicly expressed concern that the restrictions were “motivated by the perpetration of illegal actions such as torture and other forms of cruel and inhumane treatment against prisoners.”¹³⁴ PCHR said its lawyers had not been able to visit any of their clients for more than two months (February 20 to April 20), and that the organization had documented at least 30 cases in which lawyers were forbidden from visiting their clients despite prior coordination with the authorities.

In its response to Human Rights Watch questions, Hamas authorities denied any restrictions on access for lawyers. “The government provides all possible facilities for lawyers to communicate with their clients and to preserve their legal and constitutional rights,” the letter said.¹³⁵

The interior ministry in Gaza allowed Human Rights Watch to visit Gaza Central Prison on October 12, 2007. According to the prison spokesman, the prison held 230 prisoners at the time.¹³⁶ Most of those inmates were serving time for theft, drugs, or violent crimes, he said. A few were so-called “security criminals,” who had been convicted of crimes related to their supposed collaboration with Israeli security forces.

¹³⁴ “PCHR is Concerned Over the Ban of its Lawyers from Visiting Prisons in the Gaza Strip,” PCHR press release, April 20, 2008, <http://www.pchrgaza.org/files/PressR/English/2008/37-2008.html> (accessed May 17, 2008).

¹³⁵ Letter to Human Rights Watch from the office of Prime Minister Ismail Haniya, June 4, 2008.

¹³⁶ Human Rights Watch interview with Arafat Deeb, Gaza Central Prison spokesman, Gaza City, Gaza Central Prison, October 12, 2007.



An inmate in Gaza Central Prison, October 2007. © 2007 Fred Abrahams/Human Rights Watch

Human Rights Watch inspected the prison facilities without restriction and was allowed to interview 11 prisoners, six men and five women, in one-on-one settings. The prisoners all said that conditions at the prison were adequate. None of them complained of abuse. Their main complaint was a lack of due process. Three of them—all arrested for alleged collaboration with Israel—had started their trials prior to June 2007, but those trials had failed to resume. The other prisoners arrested after June had faced no criminal proceedings at all. None of the prisoners with whom Human Rights Watch spoke had information about the status of their case.

On October 12, the interior ministry also granted Human Rights Watch permission to visit al-Mashtal, a facility run by the Internal Security Force, but guards at the facility refused entry. The ministry apologized for the confusion, and offered to coordinate another visit, but a lack of time prevented this from taking place. Human Rights Watch did, however, speak with the legal affairs director of the Internal Security Force, Abdalla Abu Luli, who said that al-Mashtal was holding 43 prisoners at that time, October 12, out of a 300-person capacity. He denied any political bias in the

ISF's work. "We have no political detention here," he said. "Our work is limited to crimes involving the general security of the Gaza Strip, regardless of who committed the crime."¹³⁷



Hamis appointed guards praying in Gaza Central Prison. The freshly painted slogan says: "No Injustice Today – the Executive Force" © 2007 Fred Abrahams/Human Rights Watch

According to Abu Luli, the ISF started work on September 1, 2007, and in that first week interrogators received an internal note not to use physical force during interrogations. In the second week of September, an interrogator was fired for violating the instruction, he said, without providing details.

The ICHR is the only human rights group with regular access to al-Mashtal, police stations, and other places of detention, although human rights groups such as al-Mezan, PCHR and Addameer have had access on an ad hoc basis. Hamas authorities have generally allowed these groups to work unhindered, although ICHR came under

¹³⁷ Human Rights Watch interview with Abdalla Abu Luli, legal affairs director of the Internal Security Force, al-Mashtal detention facility, Gaza City, October 12, 2007.

attack in the pro-Hamas media after its March 2008 monthly report, which was critical of the interior ministry and justice system.¹³⁸

A constant problem for human rights groups in Gaza is victims' unwillingness to report abuse. "Some people were told by the Executive Force that if they spoke to human rights groups or the media, or even if they went to the hospital, then they would be taken again," one Gaza human rights activist said in October. "About 90 percent of our cases were warned not to speak."¹³⁹ Another Gaza activist agreed. "Some people are too afraid to speak," he said. "Even those who gave us their testimony have then called to say, 'Don't use it.'"¹⁴⁰

As in the West Bank, impunity is disturbingly common. Human rights lawyers and activists told Human Rights Watch that very few security force members or commanders have been held accountable for their illegal acts, and punishments meted out frequently failed to match the severity of the crime.

Interior Ministry spokesman al-Ghusain acknowledged that mistakes had been made but said that the authorities punished persons responsible for abuse. Disciplinary action against abusive forces included temporary detention, demotion, salary reduction and dismissal, he said. According to al-Ghusain, three senior police officials had been dismissed for using excessive force between June and October 2007, including one in Rafah who chased a group of Fatah members who had thrown a grenade into a hospital, where he beat up some civilians. Al-Ghusain provided no dates or names.

In response to a Human Rights Watch request for information on accountability for police and ISF forces, Ismail Haniya's office said the Hamas government strived to discipline forces who violate the law. Regarding the police, the government had punished 35 officers for "violating human rights"¹⁴¹ and 774 officers for violating the

¹³⁸ "March 2008 Report," Palestinian Independent Commission for Citizens' Rights, March 2008.

¹³⁹ Human Rights Watch interview with Subhia Juma'a, PICCR, Gaza City, October 10, 2007.

¹⁴⁰ Human Rights Watch interview with Jaber Wishah, Palestinian Centre for Human Rights, Jabaliya, October 10, 2007.

¹⁴¹ Letter to Human Rights Watch from the office of Prime Minister Ismail Haniya, June 4, 2008. The punished violations were for three accidental killings, 24 physical attacks, and eight physical attacks on a detainee or prisoner. The punishments for

principles outlined in Order 128/2007 (see above).¹⁴² The difference between these two characterizations remains unclear. Human Rights Watch was unable to confirm the Hamas authorities' claim.

Regarding the ISF, the government claimed to have disciplined nine members of the force by suspension from work, a salary freeze or an official rebuke.

Below is a selection of human rights abuses by Gaza security forces documented by Human Rights Watch, in reverse chronological order.

Death of Sami 'Atiya Khattab

In the evening of April 13, 2008, two armed men came to the shop of Sami 'Atiya Khattab, a 36 year-old father of five, and took him away. About 36 hours later police called the family to say Khattab had been found dead. Khattab was a former captain in the General Intelligence Service. The circumstances of his death remain unclear.

Human Rights Watch interviewed two people who witnessed Khattab's arrest. One of them saw two vehicles and the other saw three, but both said they saw two armed men in dark clothes take Khattab out of his shop and put him into one of the cars just before 8 p.m.¹⁴³

One of Khattab's relatives explained what the family did next:

When Sami was kidnapped, we made unofficial contact with people close to Hamas on their personal capacities. They informed us that Sami was held by the internal security service [ISF]. Those people are mostly involved in political and public activities of Hamas, away from the military thing.

these violations were dismissal, detention or fine. The letter did not specify which punishments were for which offense, or provide other details of the violations.

¹⁴² The letter did not specify which principles in the order had been violated, but the punishments were detention (365 cases), salary deduction (115 cases), written pledge not to repeat the violation (82 cases) and dismissal (37 cases). One hundred-seventy five cases were still under investigation.

¹⁴³ Human Rights Watch interviews with Khadra Khattab and S.K., Deir al-Balah, April 23, 2008.

The next morning, we called the police and told them about Sami, since they are the de facto power. Nai'm al-Kurd, chief of Deir al-Balah police station, told me on the phone that we must go to the station and officially tell them about the kidnapping of Sami.

At 9 a.m., the *mukhtar* (clan head) of our family, Ismail Mohammed Khattab, and his son Fuad went to the station and wrote a memo about the kidnapping.

At 5 pm, the director of the station called me on my mobile -I have a previous tie with him when we were prisoners in an Israeli jail in the past. He told me that Sami is not held by the police and that he is held by the internal security and he doesn't know where he is held exactly, whether in Dir al-Balah or in Gaza City. He also told me that Sami's story was easy and that it was only his long tongue which talks so much. He also said it was difficult for the police to intervene when it comes to the internal security and that they don't accept such intervention. I told him: anyway, keep us posted if you get any new information.

The next day, Tuesday, at 9:45 a.m., Nai'm al-Kurd phoned me and said he has got bad news: a dead body was found in Netzarim settlement, and probably it was Sami. I told the family about this and started to go to the hospital to get the body.¹⁴⁴

After the police called, one of the relatives who saw Sami get arrested went with another relative to see Sami's body. They drove past the Netzarim settlement on the way and went to take a look. "We went to the body which was on the ground, it was Sami's," the relative said. "His hands and feet were tied up with a white rope and his body was wrapped with a rug, the same rug that is used in the police stations and the jails. Most of his body showed clear signs of torture."¹⁴⁵

¹⁴⁴ Human Rights Watch interview with H.K., Deir al-Balah, April 23, 2008.

¹⁴⁵ Human Rights Watch interviews with S.K., Deir al-Balah, April 23, 2008.

Human Rights Watch spoke with another relative who saw the body at al-Shifa hospital and explained what he saw:

We took Sami's body out of the ambulance. He was tied up and wrapped in an old rug. Under the rope, the skin was torn because the rope was very tight. His legs were also bound. It is the same rug that used to be distributed in the Palestinian Authority security facilities.

Officials for the autopsy and Hamas police came. In front of the morgue, the policemen prevented the journalists from filming and tried to search us to take the mobile phone cameras. We were about 40, and the policemen's number was a little but higher than ours.

We scuffled with the policemen after they tried to search us for mobiles. They pointed their guns at us and about 15 of them fired sporadic shots in the air. They pushed some of us with their guns.¹⁴⁶

PCHR staff members were able to inspect Khattab's body and reported seeing cuts and bruises all over the body, which strongly indicated that he was subjected to severe physical violence during his abduction.¹⁴⁷ This matched what a lawyer and field worker from the human rights organization al-Mezan observed:

At first glance, obvious signs of torture, including black-and-blue marks, were found all over his body. Bruises and abrasions were found on his upper and middle back, elbows, forehead, and the area from the top of his buttocks to the backs of his thighs. There were clear signs that his wrists and ankles had been tightly bound.¹⁴⁸

¹⁴⁶ Human Rights Watch interview with K.K. Deir al-Balah, April 23, 2008.

¹⁴⁷ "PCHR Calls for Investigation into the Death of a Detainee in Gaza Central Prison in Gaza," PCHR press release, December 16, 2007, <http://www.pchrgaza.org/files/PressR/English/2007/175-2007.html> (accessed May 21, 2008).

¹⁴⁸ "Al Mezan Demands Deposed Government to Investigate Death of Khatab," Al-Mezan Centre for Human Rights press release, April 15, 2008, http://www.mezan.org/site_en/press_room/press_detail.php?id=831 (accessed May 28, 2008).

Following a public outcry about Khattab's apparent unlawful killing by security forces, non-Fatah and non-Hamas members of the Palestinian Legislative Council from Gaza and the West Bank formed a special committee to investigate the case, similar to the PLC committee that investigated the death in custody in Ramallah of Majid al-Barghuti (see chapter, West Bank: Abuses Against Hamas). The members of the two committees are the same: Qaiss Abu Laila, Bassam al-Salehi, Mustafa al-Barghouti, Khalida Jarrar and Hassan Khraisha, plus Hussam al-Tawil from Gaza.

On May 19, Hussam al-Tawil told Human Rights Watch: "So far, there is no thing new on this issue because we are waiting for the arrival of the committee's members from the West Bank, and this delay is due to the Israelis. There are efforts by the Palestinian presidency to issue the permits for the committee members."¹⁴⁹

The family, meanwhile, had no news from the Hamas government as of late April. "What makes us crazy is that we don't know why he was kidnapped," Sami's wife Suad said. "We don't know what happened and why, but suddenly, after 24 hours, we were shocked by his death."¹⁵⁰

November 12, 2007, Demonstration in Gaza City

One of the most violent incidents since the June 2007 takeover occurred on November 12, 2007, when about 250,000 Fatah supporters gathered in Gaza City, with official permission, to commemorate the third anniversary of Fatah founder Yasir Arafat's death. The gathering was the largest show of support for Fatah since Hamas seized control of the territory. According to testimony gathered by Human Rights Watch, Hamas security forces, which at times came under attack from stone-throwing demonstrators, opened fire in an indiscriminate manner on the crowd, killing seven and wounding more than 90. After an investigation, the Hamas authorities said they punished 38 unnamed policemen with imprisonment, dismissal or demotion for failing to prevent the killing.

¹⁴⁹ Human Rights Watch interview with Hussam al-Tawil, Gaza City, May 19, 2008.

¹⁵⁰ Human Rights Watch interview with Suad Khatab, Deir al-Balah, April 23, 2008.

Human Rights Watch interviewed three shooting victims from the demonstration and five eyewitnesses, as well as hospital, health ministry and interior ministry officials in Gaza. According to their testimonies, the demonstration was scheduled to start at 1 p.m. at the al-Qatiba grounds near al-Azhar University. By late morning, large crowds had assembled around the university. Three witnesses told Human Rights Watch the atmosphere was peaceful but tense, and that Hamas security forces had established checkpoints and posted gunmen on the roofs of tall buildings. Hamas members in civilian clothes mingled with the crowd, they said. Demonstrators taunted the security forces with chants of “Shi`a! Shi`a!” – a common provocation in Gaza that refers to Hamas’s support from Iran, a predominately Shi`a country. Most Palestinians, including Hamas members and supporters, are Sunni.

According to the Palestinian Center for Human Rights, the first clash began around 11:30 a.m. Hamas security forces opened fire and killed Tariq Mahmud al-Najjar, age 29, with bullets to the chest and right hand, although it remains unclear why the forces shot.¹⁵¹ The interior ministry spokesman told Human Rights Watch he was killed by Fatah gunmen on nearby rooftops on al-Sina’ Street, about 300 meters from the rally site.¹⁵²

The violence worsened around 1 p.m., after large crowds listened to speeches from Fatah leaders. A group of stone-throwing Fatah supporters confronted Hamas security forces, who reportedly fired automatic weapons into the air and then, according to witnesses, indiscriminately at the crowd. According to one man who was wounded, the violence started when security forces tried to arrest three Fatah supporters who were taking photographs with their mobile phones, although he did not witness this himself.¹⁵³

According to figures from Al-Shifa Hospital and the Hamas-run ministry of health, in addition to Tariq Mahmud al-Najjar, the following people lost their lives:

¹⁵¹ “PCHR Condemns Excessive and Lethal Use of Force against Civilians in Gaza,” PCHR press release, November 13, 2007, <http://www.pchrgaza.ps/files/PressR/English/2007/160-2007.html> (accessed May 27, 2008).

¹⁵² Human Rights Watch interview with Ihab al-Ghusain, November 14, 2007.

¹⁵³ Human Rights Watch interview, name withheld, November 13, 2007, Gaza City.

1. Ibrahim Mahmud Ahmad, 13, from Beit Hanoun
2. Hosam Badr al-Oadi, 26, from Gaza City
3. Kamil Ziyara, 19, from Beach refugee camp
4. Muhammad Ahmad al-Masri, 67, from Khan Younis
5. Ayub Abu Samra, age unknown, from Deir al-Balah.
6. A seventh person, Marwan al-Nunu, 21, died two days later from bullet wounds.

An official at Al-Shifa Hospital told Human Rights Watch that all of the victims died from gunfire, most of them shot in the head. According to PCHR, the bullet wounds of the five people mentioned above were in the neck, head, chest, chest, and head, respectively. The seventh casualty, al-Nunu, who died two days later, was also shot in the head.

After the shootings, witnesses saw Hamas members in civilian clothes beating people with sticks and batons. According to hospital records viewed by Human Rights Watch, 94 people received medical treatment for injuries sustained during or after the demonstration. Of these people, 50 were treated at Al-Shifa Hospital and the rest at Al-Quds hospital in southern Gaza City.

Human Rights Watch interviewed three of the wounded demonstrators at Al-Shifa Hospital. Y.G., a 16-year-old boy, said he heard gunfire as he was going home at the end of the demonstration:

At the intersection [by Al-Azhar University] I saw a man who fell on the ground after being injured. I ran to help him but as soon as I arrived a bullet hit my arm. I don't know where the bullet came from. There was a seven-story building overlooking the crossroads, and Hamas gunmen were firing from the roof and the other policemen were also firing, some in the air and some at the demonstrators. With my own eyes, I saw three policemen at the crossroads taking up positions like snipers and they fired at the people.

The people started to shout “Shi`a! Shi`a!” at them and they threw stones at Hamas policemen. There were no armed men among Fatah, only bodyguards of Abu Mahir Hillis, a senior Fatah leader in Gaza, were armed with pistols and one of them was armed with a Kalashnikov but they left before the violence started.

I was running like a crazy boy because of the pain in my arm. There were no cars. People carried me from time to time to get me out of the square. I learned later that the problems started when the policemen tried to arrest three Fatah supporters who were using their mobile phone cameras and filming near the crossroad where many policemen and gunmen, dressed in civilian clothes, were deployed. The people tried to prevent Hamas from arresting the three guys and the shooting started from here.¹⁵⁴

A 22-year-old Fatah supporter from Deir al-Balah explained how he was wounded:

I came from Deir al-Balah to the rally. When it ended around 12:30, I suddenly heard some gunshots that came from behind. I went there, to [the Al-Azhar University] intersection – about 50 meters from the main police compound in Gaza – and found dozens of Executive Force [Hamas] members, who were on full alert and pointing their guns at the people.

The people shouted “Shi`a! Shi`a!” at Hamas. I came closer but suddenly one of the Executive Force men opened fire randomly at the people. A young guy next to me was killed immediately and I was wounded by a gunshot in my right leg. I arrived at the hospital after almost two hours because the ambulances were unable to come to the place and there were no cars because of the number of people.¹⁵⁵

A.H., age 17, explained how he was shot in his abdomen:

¹⁵⁴ Human Rights Watch interview with Y.G., Gaza City, November 13, 2007.

¹⁵⁵ Human Rights Watch interview, name withheld, Gaza City, November 13, 2007.

I ran for cover, as most of the people did when the shooting suddenly started at the end of the demonstration. While I was running, a gunshot hit me in my abdomen. I don't know where the bullets came from but I can confirm that I did not see any weapons with anyone from Fatah. When the Executive Force attacked the rally, the people threw stones at them.¹⁵⁶

According to PCHR, Hamas police temporarily detained at least three journalists covering the demonstration, including at least one foreign reporter, Paul Martin, who wrote about the incident in *The Times of London*.¹⁵⁷

According to Ihab al-Ghusain, the Ministry of Interior spokesman, Fatah was to blame for the violence. He said four policemen were fired upon and lightly wounded in northern Gaza before the demonstration and two others were wounded in a drive-by shooting in the area of Nusseirat, south of Gaza City. During the demonstration, he said, Fatah gunmen were positioned on rooftops overlooking the demonstration and on the buildings of Al-Azhar University.

“There was a Fatah plan in advance to cause trouble and riots after taking advantage of the large crowd,” said al-Ghusain. “And, yes, of course, after the speakers finished their speeches, gunmen on Al-Azhar University [rooftops] fired at the people and the police. The policemen got close to the scene to see who was firing but the gunmen continued to fire and these unfortunate incidents have continued and ended with the death and injuries of a number of Palestinian people.”¹⁵⁸

The police arrested two of the Fatah gunmen, he said, in addition to a number of “trouble-makers” who were arrested at the demonstration. The police also confiscated pipe bombs and pistols, he said.

¹⁵⁶ Human Rights Watch interview, with A.H., Gaza City, November 13, 2007.

¹⁵⁷ Paul Martin, “Bloody Anniversary Wrecks Hopes for Peace Between Gaza Factions,” *The Times*, November 13, 2007.

¹⁵⁸ Human Rights Watch interview with Ihab al-Ghusain, November 14, 2007.

On November 13, the day after the demonstration, Human Rights Watch visited the intensive care unit at Al-Shifa Hospital, where the following people were receiving care:

1. Mahmud Muhammad al-Rifa`i, 23, gunshot to the neck
2. Yusif al-Dairi, 18, gunshot to the head
3. Marwan al-Nunu, 21, gunshot to the head (later died)
4. Ahmad al-Wadi`a, 20, gunshot in the abdomen

The ministry of health also provided some details of others who were wounded:

- Four people, including a 5-year-old boy, `Atif al-Ghar, were wounded in the head.
- Six wounded people received treatment for broken bones.
- Eight people received treatment for shock.
- Five people received treatment for severe beatings: Muhammad Madi, 20, from Khan Younis; Naji Sulaiman, 24, from the Beach refugee camp; `Ola `Adnan Sha`th, 20, from Khan Younis; Yihya Ahmad al-Najjar, 23, from Jabaliyya; and Basim Abu `Obaid, 22, from Rafah.

In the days after the demonstration, Hamas security forces arrested scores of Fatah members and supporters—450 people according to Fatah, but that number remains unconfirmed. The Interior Ministry spokesman told Human Rights Watch that those detained “are not more than 100.” They were being held at the al-Mashtal facility, he said. Human Rights Watch does not know if they were subsequently charged or released.

On November 15, Ismail Haniya announced the creation of an “honest, fair and transparent” commission to investigate the violence of November 12.¹⁵⁹ He also ordered the release of Fatah members and supporters arrested after the demonstration, except for those “involved in riots and disturbances.”

¹⁵⁹ Minister of Interior resolution 194/2007.

On June 2, 2008, Hamas announced that it had punished 38 policemen for failing to prevent the killing of the seven people who died. Hamas spokesman Taher al-Nono said the police had “failed to implement and had violated orders.”¹⁶⁰ The unnamed policemen were given punishments ranging from jail sentences to dismissal and demotion, he said, without providing details on the specific punishments or the violations for which they were punished.

International legal standards on use of force, including the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, provide that officers shall, as far as possible, use nonviolent means before resorting to the use of force and firearms. Whenever the lawful use of force and firearms is unavoidable, forces must exercise restraint in such use and act in proportion to the seriousness of the offense and the legitimate objective to be achieved, and also minimize damage and injury. The prohibition in international human rights law on the arbitrary taking of life also requires authorities to set up independent investigations where state authorities (such as the police) may have caused arbitrary loss of life. Such investigations should involve the families of the victims and lead to the identification (and prosecution) of anyone responsible for the arbitrary taking of life.¹⁶¹

Man in al-Shifa Hospital

On October 14, 2007 Human Rights Watch visited al-Shifa hospital and saw an unconscious young man in the intensive care unit with a broken left arm and cuts and bruises on both legs. His family at the hospital said that he had been beaten by the police four days before. His father told Human Rights Watch:

On October 10 a large group came to our home, more than 50 men, armed, around 2:30 in the morning. They called for him. We woke him up and they took him away. They said they were from al-Qassam

¹⁶⁰ Nidal al-Mughrabi, “Hamas Punishes Policemen for Deaths in Gaza Rally,” Reuters, June 2, 2008.

¹⁶¹ See UN Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004) for how this duty arises in the ICCPR.

Brigades and my son had planted a bomb to get one of their members.
The police dropped him here at Gaza hospital some hours later.¹⁶²

Human Rights Watch viewed a medical report from the patient, dated October 10, which said the police had brought the young man to the hospital the previous day with “impaired conscious level and resp.[iratory] distress.” Doctors found no skull fracture or brain damage, but a fracture of the left forearm (lower one-third of the ulna), the report said.¹⁶³ There was no explanation as to why he was in a coma.



This young man, name withheld, lies unconscious in the intensive care unit at Gaza’s al-Shifa Hospital on October 14, 2007. His family said ‘Izz al-Din al-Qassam Brigade members had arrested him four days before. © 2007 Fred Abrahams/Human Rights Watch

E.M. in Gaza City

In early October, a former Fatah official, E.M., was sitting near his home in northern Gaza City when he said he was approached and forcibly taken at gunpoint by two

¹⁶² Human Rights Watch interview with father of victim, Gaza City, October 14, 2007.

¹⁶³ Medical report, Al-Shifa Hospital, signed Dr. Haza I. Abed, October 8, 2007.

masked men. Interviewed in al-Shifa Hospital a few days later, he told Human Rights Watch:

The bus drove about 20 minutes after they blindfolded my eyes. They beat me frequently during the trip with the butts of their rifles and rubber hoses. They also punched me several times on my head to lose concentration. I don't know where they took me.

There they started to interrogate me: "You were late. You have tired us out until we caught you. Welcome, big man. Are you a spy and collaborator? Are you an adulterer? What are your relations with Dayton [Fayyad] government?"

The answers to their questions had to be no, so whenever I answered they beat me and said that I didn't want to cooperate with them. They told me that they came from Beit Hanoun and that I was in being interrogated in that same city.¹⁶⁴

Around 11:00 p.m., E.M. said, his captors said they were going to "get rid" of him because he refused to cooperate. They drove off again in the small bus for approximately ten minutes and then blindfolded him:

They took me out and wanted me to raise my hands to a wall, but they heard the sound of cars coming so they hurried up and shot me in my right leg. I fell down and one of them said let's shoot him in the other leg, but another one said it was enough "because he fell down" and they drove away.

Residents of the area came after a few minutes and E.M. saw he was in an agricultural area near Mohammed al-Durra Hospital in northeast Gaza City. An ambulance came and took him to al-Shifa Hospital, where he spent at least two days in the intensive care unit. When Human Rights Watch visited him on October 8, large bruises were visible on his upper body.

¹⁶⁴ Human Rights Watch interview with E.M., Gaza City, October 8, 2007.

Yusif Mohamed Abu Hussein in Gaza City

On October 1, 2007, masked and armed men abducted Yusif Mohamed Abu Hussein, a 28-year-old father of three, who had worked for ten years with the PA National Security Force. They held him for a few hours, during which time they beat him severely, cut his feet between his toes, and shot him three times with a pistol in his left leg. Human Rights Watch interviewed him 10 days later and observed the wounds.

According to Abu Hussein, on the evening of October 1, 2007, around 8 p.m., he was sitting with some friends near his house in Gaza City. A Jeep Wrangler pulled up and six masked men got out with guns. Some of them fired into the air and others at the ground, he said. Two gunshots wounded his uncle who was standing nearby. The men grabbed Abu Hussein and, with pistols to his head, ordered him into the jeep. He was handcuffed with his hands behind his back and a blindfold over his eyes.

According to Abu Hussein, the men drove the jeep a few hundred meters away and pushed him out. They forced him to the roof of a house, where they beat him severely with a stick. He said:

They cut with a knife between my toes. They also used rubber hoses on my arms and back. “Where do you work?” they asked. I said in security and I gave them my military ID. I said I’m a member of the National Security Force. Two guys were holding me arms while the others kept beating me. I was blindfolded and a nylon bag was on my head. Someone was stomping on my feet.¹⁶⁵

After about one hour they took him back to the jeep, and then to a place nearby he said was used as a parking lot. “It was empty. They took me out and opened fire on my legs. They shot me while I was lying on the ground. They said “Now we’ll drive over your legs.” They tried but somehow I was able to roll away.”

¹⁶⁵ Human Rights Watch interview with Yusif Mohamed Abu Hussein, Gaza City, October 10, 2007.

Abu Hussein was hit with three bullets in his left leg by a pistol. Human Rights Watch saw the wounds in the leg, and also the cuts between the toes.



In October 2007, Hamas security forces in Gaza City detained Yusif Mohamed Abu Hussein, who had worked for ten years with the National Security Force. They fired three bullets into his left leg and cut the skin next to his right big toe, he said.
© 2007 Fred Abrahams/Human Rights Watch

According to Abu Hussein, he and his family decided not to file a complaint with the police. “To whom should I complain,” he said. “Because it’s the same people.”

B.R. in Khan Younis

B.R., age 36, was a police officer in Khan Younis before the Hamas takeover. He said the Executive Force detained him in late September, together with six neighbors, beat him and detained him for four days in a police station without charge.

The problem began, he said, when Hamas replaced the imam of the local mosque in his neighborhood with one of their own. The residents protested and the police arrested B.R.’s 15-year-old nephew for reasons that remain unclear. About 20 minutes later, the family learned that the police had dropped the nephew off in front

of Nasser Hospital, suffering from the effects of what appeared to be a beating. “Doctors were hesitant to treat him when they knew he was beaten by Hamas,” B.R. told Human Rights Watch. “I took him to a private doctor, he gave him some hypodermic injection and I took my nephew back to the house.” B.R. explained what happened next:

At about 7 p.m., four masked gunmen of the [Hamas] fighters that were deployed in the area approached me. Some of them were dressed in black and others were wearing the Executive Force uniform. They said, “Come with us.” I tried to escape but they fired around me and took me to their cars that were waiting at the end of the street, about 100 meters away. They forced me to make my way in front of them with their sticks, and they kept hitting me until we reached one of their pick-up trucks.

They threw me inside after blindfolding me and handcuffing me. One of them told the driver to go to al-Qassam site, which I know is located in the former settlement Gush Qatif. All the way, they were poking me with their legs and saying, “You are infidels, dogs, and spies.”

When we arrived, they put a sack on my head because they believed that I might have been able to see. I think we were in a room with about six other detainees. They asked me my name and work and I told them. These were the only two questions they asked. They asked the others and I found out that all of them were my neighbors.

Following this, they have started to beat us one by one with sticks. They beat me for about five minutes before continuing to the next detainee and they repeated the process every half an hour. They focused their sticks on the shoulders, the foot and the back. They were not asking us questions.

After that, they pushed us and let us walk on a floor but suddenly I fell. We were walking on a higher surface; I fell from about two meters high. When I fell, another group hit me with the sticks for about ten minutes.

They threw us back into the jeep and drove to a Khan Younis police station. Along the way, they continued beating us and they ignored the orders that came from the jeep that followed us. It was night. At the police station, they removed the cover from our eyes and freed our hands. An interrogator took our statements about the troubles that took place in our neighborhood. The interrogator wrote a note to hold us for 24 hours at the station. They put us in the detention cell at the police station. I asked them to let me go to the hospital for a check-up but they said no. We remained there for four days at the police station and they released us on October 4.

In order to legalize the detention, they said that someone had filed a complaint against me with the police. They mentioned his name but it was the first time that I heard that name. They forced me to sign a pledge not to harm that guy.¹⁶⁶

Alla Yassin Abu Awad in Gaza City

Alla Yassin Abu Awad, a 33 year-old father of four, worked prior to June 2007 as a captain in the General Intelligence Service. He served in the al-Mashtal facility, and in August 2007 he spent a long night there in detention himself.

According to Abu Awad, in the evening of August 12, 2007, unknown men came to his home with a warrant for his arrest. He was not home at the time but they left a document with “Executive Force” written on top that said he had to report to the police station at the Beach Camp in northern Gaza City immediately. He went that night around 10:30 together with his uncle.

¹⁶⁶ Human Rights Watch interview with B.R., Khan Younis, November 10, 2007.

At the police station, officers confiscated his possessions, blindfolded him, and put him in a jeep with two other men who had been arrested that night. Together they drove to al-Mashtal. Abu Awad explained what happened next:

First, as the jeep stopped, they started to shout and hit the jeep to make us confused. Before we got out, as my leg hit the ground, they started to beat us and curse us. They took us underground into what I think was a small room. They continued beating me and they moved me to another room. I felt I was alone. I don't know what devices they used but they beat me on my back, backside, the back of my legs and shoulders.

Human Rights Watch saw photographs of Abu Awad that showed deep bruising on his backside, back, legs and shoulders. He said they had been taken just after his release on August 13. Abu Awad continued:

In the first room, the Executive Force guy asked his colleague to bring a pistol. He did and he put it to my head and said: "If you don't speak I'll kill you." They didn't ask questions, only where I worked. But they knew I was with intelligence. I felt like it was just for revenge and torture.

In the second room, my hands were tied behind my back to a chain on the wall. They asked me to step on a chair. I couldn't see a chair, so they raised me and put me on a chair. Then they raised me up on the wall. I started to scream because it was very painful. They were pushing me back and forth for 10 to 15 minutes. Then they put me down on the ground on my back with my hands tied behind. They brought an office chair and hit me on the bottom of my feet with heavy sticks. This was for less than 15 minutes. Two of them were holding my feet. Then they told me to stand up and to jump. When I couldn't anymore from the pain, they beat me on my toes.¹⁶⁷

¹⁶⁷ Human Rights Watch interview with Alla Yassim Abu Awad, Gaza City, October 10, 2007.

After this the interrogators took Abu Awad to another room, where they untied his hands but kept him blindfolded. He slept the night there and was awoken the next morning by cold water in his face. Then he moved to different rooms and was eventually made to sit in the corridor. The officials there, he said, made him sign a document promising to respect the law and not take part in any illegal acts. Around 6 a.m. they drove him back to the police station, where he was treated properly but scolded to respect the law. “The Fatah leadership has left you and fled to the West Bank,” he recalled they said. “We won’t show mercy on those who break the law.” Around 11:30 a.m. his captors released him.

During his time at al-Mashtal, Abu Awad said he heard different voices of prisoners. The next morning they saw each other and he recognized three of them as Fatah security members and four as Fatah political activists.

H.S. in Khan Younis

38-year-old H.S. from Khan Younis has eight children and comes from a known pro-Fatah family. His cousin is a commander in the Al-Aqsa Martyrs Brigades, he said, and other relatives are also members of the armed group, but he himself was not involved.

On June 18, 2007, around 7 p.m., neighbors came to H.S.’s home and said members of the Qassam Brigade wanted him outside. He went. According to H.S., they took him in a jeep with his head covered and his hands tied to the area called Maan, where they had a small compound at the beach near al-Tufa. They uncovered his head and started the interrogation, asking about the guns he owned. He explained:

They beat me with sticks and five sticks broke while they were beating me. From the torture I got 19 broken bones in my body, mostly on my hands and legs. They hit me with a metal bar. I fainted five times and then after the sixth time I stayed like that. They took me unconscious and dropped me in front of the hospital.¹⁶⁸

¹⁶⁸ Human Rights Watch interview with H.S., Khan Younis, October 11, 2008.

When Human Rights Watch visited H.S. at his home on October 11, he showed photographs of himself taken in late June with casts on both arms and both legs. At the time of the visit, he still had a cast on his right leg up to his knee, and H.S. said he was waiting for surgery on his leg.



H.S., whose family was active in the al-Aqsa Martyrs Brigade, said members of the `Izz al-Din al-Qassam Brigades in Khan Younis beat him in June 2007 with sticks and a metal bar. In September 2007, he still wore a cast. © Fred Abrahams/Human Rights Watch 2007

F.B. in Khan Younis

F.B., a 48-year-old father of five, worked previously as a guard at Preventive Security. On June 15, 2007, a group of men came to his home in Khan Younis and demanded he give them his weapons. He handed over three Kalashnikovs, he said.

About one week later, five armed men pulled up to his house in a jeep. He said he recognized them as members of the al-Qassam Brigades. They took him to a facility in town called Maan, previously used by Force 17, an elite special operations unit that reports to the Palestinian president. There they interrogated him, asking about his family members who were active in politics and militant groups. They accused

him of helping a neighbor who was in Preventive Security. And, he explained, they used violence during the interrogation:

During the questions they were punching me in the head. They put a pistol to my head. Every two minutes they cocked their weapons and threatened me. Then they blindfolded me. They covered my head and then the interrogation started to get rougher. They were beating me and one kicked me hard in the back. The whole interrogation was them accusing me and me denying. They finally forced me to confess things I had never done.¹⁶⁹

The beating and interrogation lasted about five hours, F.B. said, and then he was allowed to go home. He had not registered the case with the police for fear of retaliation.

¹⁶⁹ Human Rights Watch interview with F.B, Khan Younis, October 11, 2008.

V. The Role of International Donors

Since the Hamas takeover of Gaza in June 2007, the Fatah-dominated security forces in the West Bank have enjoyed extensive support from the US and EU Member States, as well as from some Arab states.¹⁷⁰

In October 2007, for example, the Palestinian Academy for Security Sciences (PASS) opened in the town of Jericho with substantial foreign funding. The academy selected its first class of nearly 150 officers, two of them women, from the various forces, including Preventive Security and the GIS, “for their professionalism and for their loyalty to” President Abbas.¹⁷¹ Modeled after similar institutions in Jordan, Qatar and Egypt, the academy is an integral part of Abbas’s security plan to combat Hamas and other Islamic militants, with training in a broad range of fields, including military tactics, information technology, crisis management, political parties and movements, security investigations, anti-terrorism, human rights and Hebrew language.¹⁷² Nearly \$2 million in funding for the academy came from Arab states—including Saudi Arabia and the United Arab Emirates—EU Member States, Turkey, and Malaysia.¹⁷³ The United States provided what a report from Voice of America radio called “indirect support” to PASS¹⁷⁴ and earmarked funds for three other training centers in Jericho.¹⁷⁵ According to the academy’s website, the school is “part of Abbas’s new security plan to keep the Islamic militants on the defensive, and to reassure Israel and the US that he’s strong enough to carry out a peace deal.”¹⁷⁶

¹⁷⁰ According to one media report, the US government began arming Fatah forces after Hamas’s January 2006 electoral victory. See David Rose, “The Gaza Bombshell,” *Vanity Fair*, April 2008, <http://www.vanityfair.com/politics/features/2008/04/gaza200804> (accessed July 4, 2008).

¹⁷¹ Jim Teeple, “Palestinian Academy Prepares Future Security Force,” *VOANews.com*, January 7, 2008, <http://www.voanews.com/english/archive/2008-01/2007-Palestinian-Police-Academy.cfm> (accessed June 23, 2008).

¹⁷² Palestinian Security Sciences Academy website, <http://www.pass.ps/site/index.php?action=showpage&pageID=91&lang=en> (accessed June 23, 2008).

¹⁷³ Jim Teeple, “Palestinian Academy Prepares Future Security Force,” *VOANews.com*, January 7, 2008, and Joshua Mitnick, “Policing the Police,” *Jewish Week*, November 7, 2007.

¹⁷⁴ Jim Teeple, “Palestinian Academy Prepares Future Security Force.”

¹⁷⁵ Karin Laub, “Palestinian Officers’ School Opened,” *Associated Press*, October 31, 2007.

¹⁷⁶ “Palestinian Officers’ School Opened,” November 4, 2007, Palestinian Academy for Security Sciences website, <http://www.pass.ps/site/index.php?action=shownew&newsID=12&lang=en> (accessed May 18, 2008).

Since January 2006, the European Union has supported the criminal justice system and the Palestinian Civil Police, commanded since early April 2008 by Maj. Gen. Hazem Atallah, which appears to be the least abusive force in the West Bank. The EU funds a multi-million euro project called EU Police Coordinating Office for Palestinian Police Support, or EUPOL COPPS, which advises and assists the civil police, coordinates international assistance to the police and gives advice on police-related criminal justice matters.¹⁷⁷ The program is based on the Palestinian Civil Police Development Program 2005-2008, whose objective is to establish a “transparent and accountable police organization with a clearly identified role, operating within a sound legal framework, capable of delivering an effective and robust policing service, responsive to the needs of the society and able to manage effectively its human and physical resources.”¹⁷⁸ In June 2008, the civil police opened three new police stations in the West Bank, including a station in the area of Qalqilya financed by EUPOL COPPS.¹⁷⁹

From September 2007 to late May 2008, the EUPOL COPPS program facilitated the training of 509 members of the civil police’s public order unit—more than half of the 878-man unit. The rest of the unit is expected to complete its training by July 2008. According to EU COPPS, the training includes, among other subjects, “human rights, proportionate response to force, community service, communication skills, crowd control, crisis management, maneuvering skills, defensive techniques and first aid.”¹⁸⁰ The project spokesman told Human Rights Watch that the training is “based on the proportionate use of force, the idea of containing violence and in general the ethics of the course is that the police should serve the citizen.”¹⁸¹ In the future, the

¹⁷⁷ According to EU COPPS, the first year of operations, 2006, cost 6.1 million euro. “European Union Police Mission for the Palestinian Territories,” EU Council Secretariat Factsheet, January 2006, http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/palestinian_territories_fact_sheet_/palestinian_territories_fact_sheet_en.pdf (accessed May 28, 2008).

¹⁷⁸ “European Union Coordinating Office for Palestinian Police Support (EU COPPS) and Palestinian Civil Police Development Programme 2005-2008.” EU COPPS Fact Sheet, <http://www.consilium.eu.int/uedocs/cmsUpload/EUCOPPShandoutFeb2006.pdf>, (access June 16, 2008).

¹⁷⁹ Yaakov Lappin, “3 Palestinian Police Stations Open,” *Jerusalem Post*, June 3, 2008.

¹⁸⁰ “8th Public Order Training at Jericho Training Centre,” EUPOL COPPS press release, May 20, 2008, http://www.consilium.europa.eu/uedocs/cmsUpload/20080520-Press_release.pdf (accessed June 16, 2008).

¹⁸¹ Human Rights Watch telephone interview with Jose Vericat, EUPOL COPPS spokesman, June 17, 2008.

program is planning to work on prison infrastructure and to help develop a legal framework for the police, he said.

The United States, in contrast, is supporting more specialized forces for national security and counterterrorism to act as a counterweight to Hamas. According to media reports, in mid-2006 the US government conducted two-week training courses for Abbas's Presidential Guard, limiting the program to officers directly responsible for the personal security of Abbas and his VIP guests. The US Secret Service instructed the officers in counterterrorism techniques to include airport and event security planning.¹⁸² Also in 2006, staff from the US Embassy in Tel Aviv reportedly instructed 60 Presidential Guard officers in securing vehicles and sites against bomb threats and suspect devices.¹⁸³

At the end of 2006, as relations between Fatah and Hamas worsened, the US government promised \$86.4 million for security forces loyal to President Abbas. The money was meant to help the president "[d]ismantle the infrastructure of terrorism and establish law and order in the West Bank and Gaza," according to a US government document obtained by Reuters.¹⁸⁴ US Middle East Security Coordinator Lt. Gen. Keith Dayton, the document said, would implement the program "to strengthen and reform elements of the Palestinian security sector controlled by the PA presidency."¹⁸⁵ Apparently intended for Abbas's Presidential Guard, the money was blocked by members of the US Congress who feared the aid would be used against Israel.¹⁸⁶ In April 2007, Congress approved \$59.4 million for non-lethal aid to train Palestinian security forces, including equipment for the Presidential Guard, and training in Jordan.¹⁸⁷ It remains unclear whether the US is providing any aid or assistance to Preventive Security or the GIS, who are implicated in most of the West Bank abuses documented in this report.

¹⁸² Matthew Kalman, "U.S. Training Fatah in Anti-terror Tactics," *San Francisco Chronicle*, December 14, 2006.

¹⁸³ *Ibid.*

¹⁸⁴ Adam Entous, "U.S. to Give Abbas Forces \$86 Mln Amid Power Struggle," Reuters, January 5, 2007.

¹⁸⁵ *Ibid.*

¹⁸⁶ In November 2007, Israel confiscated dozens of sets of body armor donated to the Presidential Guard because the delivery had not been coordinated with Israeli authorities. As of May 2008, Israel had not returned the equipment. Isabel Kershner, "Palestinians Seek Support from Rice on Borders," *New York Times*, May 4, 2008.

¹⁸⁷ Adam Entous, "Forces Loyal to Abbas Get Newer Bases, Training," Reuters, April 12, 2007.

According to media reports, the Israeli government has placed significant restrictions on the extent of training, aid and equipment from the US and other sources, afraid that Palestinian forces will turn against Israel itself.¹⁸⁸

The US-backed training held at the Jordan International Police Training Center (JIPTC), run by American contractors and Jordanian forces, began in January 2008.¹⁸⁹ The 1,400-hour curriculum focuses on counterterrorism tactics and includes lessons in first aid, firearms, urban and rural small-unit tactics, patrol techniques, crime scene investigations, human rights law, and telecommunications.¹⁹⁰ The program reportedly is fraught with problems, mainly a lack of equipment and insufficient preparation by trainers.¹⁹¹

Questions about the human rights component of the Jordan training submitted by Human Rights Watch to Lt. Gen. Dayton's office on June 20, 2008, have to date gone unanswered.

In April 2008, 430 members of the Presidential Guard, commanded by Col. Munir al-Zuabi, completed their training and were deployed in Jenin.¹⁹² Another 650 members of the National Security Forces completed a 16-week course in May 2008, and also went to Jenin, as a test case to see if Palestinian forces are able secure law and

¹⁸⁸ Alastair Macdonald, "Palestinian Police Chafe at Israeli Restrictions," Reuters, June 23, 2008 and Ellen Knickmeyer and Glenn Kessler, "Palestinian Forces' Training Marred by Delays, Politics," *Washington Post*, March 15, 2008.

¹⁸⁹ The JIPTC is located outside of the Jordanian capital city, Amman, and formerly housed the US-backed Iraqi police training program. The curriculum was designed by a US contractor in Florida based on specifications written by Lt. Gen. Dayton and his staff. The PA officers receive 12 to 14 hours of instruction a day for four months. Steven Smith "Too Little, Too Late; Palestinian Police Training," *International Herald Tribune*, May 20, 2008.

¹⁹⁰ "U.S. General Addresses Palestinian Police Graduation Ceremony in Jordan," *Financial Times*, May 28, 2008; Steven Smith, "Too Little, Too Late; Palestinian Police Training."

¹⁹¹ According to media reports, many of the Jordanian instructors did not have the expertise, equipment or requisite amount of teaching time to properly train the officers. Vehicles, two-way radios, dummy pistols, rifles and batons arrived too late for the first training sessions and Israel placed restrictions on the type of equipment and curriculum available to the forces. Steven Smith, "Too Little, Too Late; Palestinian Police Training,"; Griff Witte and Ellen Knickmeyer, "Palestinian Recruits Hit Streets Unprepared," *Washington Post*, May 3, 2008.

¹⁹² Griff Witte and Ellen Knickmeyer, "Palestinian Recruits Hit Streets Unprepared."

order.¹⁹³ The State Department's Bureau of Diplomatic Security also has conducted training for the Presidential Guard.¹⁹⁴

The amount of US aid for 2008 remains unclear but one senior official said it would exceed \$500 million. "Next year alone, the United States will provide more than half a billion dollars to the Palestinians to help them build the institutions and security forces of their future state," US National Security Advisor Stephen Hadley said in November 2007. "General Keith Dayton of the United States Army is on the ground to assist in this effort."¹⁹⁵ US Secretary of State Condoleezza Rice gave a different figure in June 2008, saying, on top of \$86 million provided so far to "train and equip the national security forces," the US government had "requested \$100 million more from Congress for fiscal years 2008 and 2009" for the security sector.¹⁹⁶

On June 20, Human Rights Watch asked Lt. Gen. Dayton to provide information about his programs, including the roles the various forces would have in the security sector, and the efforts the US was undertaking to reduce arbitrary arrests, torture and due process violations by those forces. As of July 10, Lt. Gen. Dayton had not replied.

The training of the West Bank security forces is part of a multi-billion dollar U.S and international effort to strengthen and transform the security sector—constructing new chains of command, replacing equipment, rebuilding bases, creating institutions to monitor performance, and extending law and order—and to provide the economic and humanitarian assistance for the Palestinian leaders in the West Bank to better meet their Roadmap obligations.¹⁹⁷ To achieve these goals, donor

¹⁹³ Ellen Knickmeyer and Glenn Kessler, "Palestinian Forces' Training Marred by Delays, Politics," and Yaakov Katz, "New PA Battalion to Deploy in W. Bank," *Jerusalem Post*, May 28, 2008.

¹⁹⁴ "Gaza Discord and its Implications," Statement by Assistant Secretary of State for Near Eastern Affairs David Welch, House Foreign Affairs Middle East and South Asia Subcommittee, March 12, 2007, <http://foreignaffairs.house.gov/110/welo31208.htm> (accessed June 16, 2008).

¹⁹⁵ "Remarks on the Middle East and Freedom Agenda by National Security Advisor Stephen Hadley," November 28, 2007, John Hopkins University School of Advanced International Studies, http://jerusalem.usconsulate.gov/uploads/images/UAmXjRuSsve_J5oA2m8gWQ/Hadley.pdf (accessed June 23, 2008).

¹⁹⁶ Secretary Rice Speaks at Conference in Support of Palestinian Civil Security, Rule of Law," US State Department Transcript, June 24, 2008, <http://www.america.gov/st/texttrans-english/2008/June/20080624115822xjsnommiso.7961389.html> (accessed June 27, 2008).

¹⁹⁷ "Chicken and Eggs; The Palestinian Territories," *The Economist*—US Edition, April 26, 2008; Capitol Hill Hearing Testimony, Senate Appropriations Committee (State, Foreign Operations Subcommittee), Testimony by Secretary of State Condoleezza Rice, *Congressional Quarterly*, April 9, 2008.

states have formed the Ad Hoc Liaison Committee (AHLC), chaired by Norway, which held a donors' conference in Paris in December 2007, with subsequent meetings in New York, London and Berlin. The stated purpose of the AHLC is to "assist the Palestinians in establishing a sustainable, democratic state," which the donors view as essential for a two-state solution to the conflict.¹⁹⁸ In Paris, donor states pledged \$7.7 billion, including \$230 million for security purposes.¹⁹⁹

At the London meeting on May 2, 2008, the AHLC reaffirmed its commitment "to boost economic growth and create functioning institutions to serve as a solid foundation for a Palestinian state." It called on Israel to lift its restrictions on access and movement for Palestinians as a necessary condition for improving the economy. In addition, the PA—meaning the West Bank authorities—had to "implement its reform and development plans with a view to actively continuing to improve governance, strengthen Palestinian institutions, and particularly improve the security environment."²⁰⁰

On June 24, more than 40 senior officials from EU member states, the United Nations, the Arab League, the United States and elsewhere joined Palestinian and Israeli officials in Berlin for a conference to support the Palestinian civil police and rule of law in the West Bank. Donors committed \$242 million for security projects, such as more police training, a forensic lab,²⁰¹ and the reconstruction of prisons and courthouses.²⁰²

"Security and the rule of law represent the foundations of any successful, responsible state, and such institutions will better enable the Palestinians to fight terrorism, maintain law and order, and provide opportunity for their people," US

¹⁹⁸ "Norway Chairs Important Meeting on Middle East in London," Norwegian Ministry of Foreign Affairs news story, April 30, 2008, http://www.regjeringen.no/en/dep/ud/Whats-new/News/2008/ahlc_london.html?id=509590 (accessed June 16, 2008).

¹⁹⁹ "Chicken and Eggs; The Palestinian Territories," *The Economist*—US Edition.

²⁰⁰ "Meeting of the Ad Hoc Liaison Committee," Norwegian Ministry of Foreign Affairs, May 2, 2008, <http://www.norway.org.ps/policy/AHLC+-+Chair%E2%80%99s+Summary.htm> (accessed June 16, 2008).

²⁰¹ Israel destroyed both forensic facilities in the West Bank and Gaza after the second Intifada. ("Project Proposals 2008," EUPOL COPPS, http://www.consilium.europa.eu/uedocs/cmsUpload/BOOKLET_cover.pdf (accessed June 23, 2008).)

²⁰² Geir Moulson, "Conference Secures US\$242 Million Commitment to Strengthen Palestinian Police and Courts," Associated Press, June 24, 2008.

Secretary of State Condoleezza Rice said at the conference. She continued: “We’re pleased that the PA’s leadership recognizes the importance of coupling a strong security apparatus with transparent and fair institutions of governance.”²⁰³

Following the conference, the Quartet expressed its support for the commitments as an important step in the creation of a viable Palestinian state. “Palestinian security performance has improved, including recent efforts in Jenin,” a Quartet statement said, referring to the recent deployment of newly trained Palestinian forces in the northern city. “Continued Palestinian efforts to fight terrorism and to implement a more comprehensive security strategy are necessary for sustainable long-term improvement.”²⁰⁴

The statement is consistent with the continued failure by foreign donors of West Bank security forces to publicly criticize serious human rights abuses by the forces they support, such as torture and arbitrary detentions. On the contrary, the consistent political message has been to aggressively combat Hamas. Rather than implicitly endorse these abuses, foreign donors should condition their aid to West Bank security forces on concrete and verifiable steps to eliminate them.

Aid to the Hamas authorities in Gaza is a similar concern, although little is known about how much is given and by whom. According to Israel and the United States, Hamas receives aid for its security forces from Syria and Iran.²⁰⁵ Fatah officials have also spoken about Iran’s support for Hamas,²⁰⁶ and Iran publicly offered assistance to the Hamas-run government in 2006.²⁰⁷ If these countries do support the security forces in Gaza, then to avoid complicity they should condition their aid on concrete and verifiable steps to reduce the serious human rights violations documented in

²⁰³ Secretary Rice Speaks at Conference in Support of Palestinian Civil Security, Rule of Law,” US State Department Transcript, June 24, 2008.

²⁰⁴ Quartet Statement, June 24, 2008, http://www.un.org/News/dh/infocus/middle_east/quartet-24jun2008.htm (accessed June 27, 2008).

²⁰⁵ “Israel Cites Iran, Syria, and Hamas as New “Axis of Terror,” *International Herald Tribune*, April 18, 2006, <http://www.iht.com/articles/2006/04/18/news/web.0418un.php> (accessed July 4, 2008) and “Cheney: Syria and Iran Helping Hamas Torpedo Peace Process,” March 26, 2008, *Haaretz*, <http://www.haaretz.com/hasen/spages/967627.html> (accessed July 4, 2008).

²⁰⁶ “Palestinian Official: Iran Training, Funding Hamas Militants,” Associated Press, June 24, 2007.

²⁰⁷ “Iran Offers Hamas Financial Aid,” BBC, February 22, 2006.

this report. The same holds for any government that provides aid to the security forces in Gaza today. Governments that have supported Hamas politically, such as Iran, should publicly condemn Hamas's abuses and press their apparent ally to reform.

VI. Legal Standards

International Law

All of the abuses documented in this report – such as arbitrary arrests, torture, unlawful detentions and denial of access to a lawyer – are strictly forbidden in a wide body of international treaties, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

The two most common abuses documented in this report are two of the most strictly forbidden under international law. Arbitrary detention is forbidden by Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which states “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Article 9 also states that “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful” and that “anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

The prohibition of torture is one of the most fundamental in international human rights law. As set out in the Convention Against Torture, torture means “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person... by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The UN’s Committee Against Torture has made it clear that “those exercising superior authority -including public officials - cannot avoid accountability or escape criminal responsibility for torture or ill-treatment committed by subordinates where they knew or should have known that such impermissible conduct was occurring, or was likely to occur, and

they failed to take reasonable and necessary preventive measures.”²⁰⁸ No exceptional circumstances whatsoever may be invoked as a justification for torture.

States are required under the Torture Convention to ensure that torture does not take place. The Committee has made it clear that states are responsible for areas they control “de facto” as well as “de jure” This includes having effective systems in place for addressing victims’ complaints, and prosecuting those who torture, those who order them to, and those in positions of authority who fail to prevent or punish torture. Other states where someone accused of torture is present are required to either extradite that person to face trial, or prosecute them themselves.

The Palestinian Authority is not a sovereign state that can sign and ratify international human rights treaties, but it has repeatedly committed itself to respect international human rights law. According to article 10 of the Basic Law, the Palestinian National Authority “shall work without delay to become a party to regional and international declarations and covenants that protect human rights.”

The PA has explicit legal obligations from the Oslo Accords, an umbrella term for the series of agreements negotiated between Israel and the Palestine Liberation Organization from 1993 to 1996.²⁰⁹ Annex I of the Protocol Concerning Redeployment of the Interim Agreement of September 28, 1995, states that the Palestinian police will exercise powers and responsibilities to implement the memorandum “with due regard to internationally accepted norms of human rights and the rule of law.”²¹⁰ In addition, article XIV of the 1994 agreement on the Gaza Strip and the Jericho Area provides for both Palestine and Israel to respect human rights.

The PA has also committed itself to respect international human rights norms in its membership in the Euro Mediterranean Partnership, known as the Barcelona Process, which is a framework of political, economic and social relations between the

²⁰⁸ UN Committee Against Torture, General Comment no 2, CAT/C/GC/2, January 24, 2008.

²⁰⁹ “The “Roadmap”: Repeating Oslo’s Human Rights Mistakes,” Human Rights Watch, May 6, 2003, <http://www.hrw.org/backgrounder/mena/israelpao50603.htm>, and “An Analysis of the Wye River Memorandum,” Human Rights Watch, November 1998, <http://www.hrw.org/press98/nov/israel1102.htm>.

²¹⁰ The Government of Israel and the Palestine Liberation Organization, “The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip,” Annex I, article XI (1), Washington D.C., September 28, 1995.

Member States of the European Union and states of the Southern Mediterranean. According to the Barcelona Declaration of November 1995, on which the process is based, members undertook to act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, and to “respect human rights and fundamental freedoms.”²¹¹

Both the Ramallah and Gaza authorities consider themselves to be the lawful government of the Palestinian Authority and therefore should be bound by the PA’s agreements. In any event both de facto govern specific territories at this time and therefore should govern in accordance with human rights.²¹²

In the media and in meetings with international human rights groups, PA officials have also repeatedly stated their commitment to abide by internationally recognized human rights standards. A recent report issued by the Ministry of Interior on arrests during the state of emergency refers to international human rights principles and covenants.²¹³

As only a de facto governing authority, a political party and an armed group, Hamas cannot sign international human rights treaties, but it has publicly committed itself on numerous occasions to respect international standards. At a speech in Gaza on June 21, 2006, Ismail Haniya said Hamas was determined “to promote the rule of law, the respect for the judiciary, the separation of powers, the respect for human rights, the equality among citizens; to fight all forms of discrimination; to protect public

²¹¹ “Barcelona Declaration,” November 27-28, 1995, http://ec.europa.eu/external_relations/euromed/bd.htm (accessed June 11, 2008).

²¹² A precedent for this position rests with the joint report on Lebanon and Israel issued by four UN Special Rapporteurs, which concluded that: “Although Hezbollah, a non-State actor, cannot become a party to these human rights treaties, it remains subject to the demand of the international community, first expressed in the Universal Declaration of Human Rights, that every organ of society respect and promote human rights.” According to the report, “It is especially appropriate and feasible to call for an armed group to respect human rights norms when it exercises significant control over territory and population and has an identifiable political structure.” (“Mission to Lebanon and Israel,” Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, UN doc A/HRC/2/7, para. 19.)

²¹³ “West Bank Arrests After the Declaration of the State of Emergency in Palestine,” 2007, Palestinian National Authority, Ministry of Interior.

liberties, including the freedom of the press and opinion.”²¹⁴ In the program of the National Unity Government, presented on March 17, 2007, Hamas stated its “respect for international law and international humanitarian law insofar as they conform with our character, customs and original traditions.”²¹⁵

Palestinian Law

The human rights abuses documented in this report also amount to violations of Palestinian law. First and foremost, the Palestinian Basic Law, referred to as the Palestinian constitution, enshrines most fundamental rights.²¹⁶ According to article 9, all Palestinians are equal before the law, without discrimination because of race, sex, color, religion, political views, or disability. Article 10 states that “basic human rights and freedoms shall be binding and respected.”

Article 11 deals with arrests and detentions, making it unlawful to “arrest, search, imprison, restrict the freedom, or prevent the movement of, any person, except by judicial order in accordance with the provisions of law.” In addition, the article states, the law shall specify the period of pre-arrest detention. Imprisonment or detention is also only allowed in official facilities that are subject to the laws related to the organization of prisons.

According to article 12, the arresting authorities must inform every arrested person of the reasons for his or her arrest. Detainees shall be promptly informed, in a language he or she understands, of the nature of the charges, and they shall have the right to contact a lawyer. Trials must be held “without delay.”

²¹⁴ Speech of Prime Minister Ismail Haniya at the conference “The New Government and the Agenda for Human Rights,” Gaza City, June 21, 2006 (as cited by “Human Rights Situation in Palestine and other Occupied Arab Territories,” Human Rights Council, A/HRC/8/17, June 6, 2008, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A.HRC.8.17.doc> (accessed June 16, 2008).)

²¹⁵ “National Unity Government Program,” presented by Prime Minister Haniya to the Palestinian Legislative Council, March 17, 2007 (as cited by “Human Rights Situation in Palestine and other Occupied Arab Territories,” Human Rights Council).

²¹⁶ The Palestinian Basic Law was intended as a temporary constitution until the establishment of an independent Palestinian state with a permanent constitution. The Palestinian Legislative Council passed the Basic Law in 1997 and President Yasser Arafat ratified it in 2002. It was amended in 2003 to introduce a prime minister and in 2005 it to conform to the new Election Law. (See <http://www.palestinianbasiclaw.org/2002-basic-law> (accessed June 9, 2008).)

Torture is strictly forbidden under article 13. All persons deprived of their freedom shall “receive proper treatment.” In addition, all statements or confessions obtained through duress or torture “shall be considered null and void.”

Article 14 guarantees that detainees are innocent until proven guilty in a court of law and guarantees the right to a proper defense. Any person accused in a criminal case has the right to legal counsel.

Article 17 addresses the inviolability of private homes. Private residences cannot be subject to surveillance, entrance or search without a valid judicial order, and in accordance with the provisions of law.

Freedom of expression is enshrined in article 19, which states that “every person shall have the right to freedom of thought, conscience and expression, and shall have the right to publish his opinion orally, in writing, or in any form of art, or through any other form of expression, provided that it does not contradict with the provisions of law.” Article 27 says that the “establishment of newspapers and all media means is a right for all,” as is the “freedom of audio, visual, and written media, as well as freedom to print, publish, distribute, transmit, together with the freedom of individuals working in this field.” According to this article, media censorship is forbidden and “no warning, suspension, confiscation, cancellation, or restrictions shall be imposed on media except by law, and in accordance with a judicial order.”

Freedom of association is enshrined in article 26, which states that Palestinians have the right “to participate in the political life individually and in groups.” In particular, in accordance with the law they, can establish and join political parties, establish unions, guilds, associations, societies, clubs, and public institutions, conduct special meetings without the presence of police members and conduct public meetings, processions, and assemblies.

Articles 88 and 89 guarantee the independence of the judiciary. Judges are independent and “no other authority may interfere in the judiciary or in the justice affairs.”

The security forces and police are addressed in article 75, which says their function is “to defend the country, serve people, protect the community and maintain public order, security and morals.” According to the law, security forces must perform their duties “within the limits prescribed by law with complete respect for rights and freedom.”

The Palestinian Penal Procedures Law elaborates on how the security forces must conduct arrests and treat arrested person. Article 29 states that “No person may be arrested or imprisoned except by order of the competent authority as designated by law.” Detained and arrested persons “must be treated in a manner that will preserve his dignity and may not be physically or morally harmed.”

Article 68 of the Penal Procedures Law states that the authorities can only detain and imprison individuals “in a correctional and rehabilitation centre and in the places of detention designated by law.”

According to the Penal Procedures Law, anyone detained must have their case reviewed by a prosecutor within 24 hours (article 34). A prosecutor can extend the period of detention for another 48 hours. After 72 hours, the case must be reviewed by a judge (article 51), who can extend the detention by another 15 days (articles 62 and 63). A judge can extend the detention for another two 15-day periods for 15 days for a maximum of 45 days. During this time, detainees must have prompt and unhindered access to legal counsel (article 46).

Some of the abuses documented in this report occurred when a state of emergency was in effect (June 14 to July 14, 2007). The Palestinian Basic Law, article 102, allows some restrictions of fundamental rights during this time, but only “to the level that is necessary to achieve the objective stated in the decree that announces the state of emergency.” The presidential decree declaring a state of emergency did not state an objective.²¹⁷ Article 103 states that, during a state of emergency, any arrest or detention must be reviewed by either the attorney general or the concerned court

²¹⁷ The two–article presidential decree of June 14, 2007, said a state of emergency was needed “because of the criminal war in the Gaza Strip and the seizure of the PNA Headquarters and the military coup d’etat and the armed mutiny executed by the outlaw armed militias against the Palestinian legitimacy.” The second article ordered all competent parties to implement the decree. (See <http://www.jmcc.org/goodgovern/07/eng/presidentdecreeso7.htm> (accessed June 4, 2008).)

within 15 days and the detained individual must have the right to appoint a lawyer of his choice.

Some legislation regulating the security forces also reference international law. The presidential decree regulating Preventive Security, issued by President Abbas on November 20, 2007, states that “Preventive Security has to abide by the rights, freedoms and guarantees as stipulated in the Palestinian laws and charters and international treaties.”²¹⁸ The PLC has not approved the decree but, according to article 60 of the Basic Law, presidential decrees have the power of law until the PLC convenes and rejects them.

²¹⁸ “Regarding the Preventive Security Apparatus,” enacted November 20, 2007.

VII. Recommendations

The Palestinian authorities in the West Bank and Gaza, as well as their international donors and supporters, should take active steps to eliminate the serious human rights abuses documented in this report, such as torture, arbitrary arrests and due process violations.

Human Rights Watch calls on the Palestinian authorities in the West Bank to implement the following recommendations:

Regarding Torture

- Issue clear and public instructions to all members of the security forces, and make clear that violators will be punished to the fullest extent of the law;
- Initiate prompt and impartial investigations into all credible reports of torture or deaths of detainees. Discipline or prosecute as appropriate all individuals, regardless of rank, found responsible for the torture or death of detainees. This includes individuals who carried out such abuse or ordered such abuses, and commanding officers who knew or should have known of such acts but failed to prevent those acts or punish the perpetrators;
- Conduct autopsies for every person who dies in the custody of any agency of the state, and make those reports publicly available;
- Instruct all interrogators, medical personnel, and other staff coming into contact with detainees under interrogation to wear badges bearing their name and/or identification number;
- Compensate victims of torture, ill-treatment and arbitrary detention adequately and speedily.

Regarding arbitrary arrest

- Immediately release, or charge with recognizable criminal offenses, all those currently held without charge;
- Ensure all detainees are brought before a civilian court to review the legality and necessity of their detention, with the power to order their release;

- End the practice of ordering detainees to sign political oaths or pledges to stop legitimate political activity.

Regarding due process violations

- Release all detainees who, after their arrest, were not promptly informed of the reason for their arrest or given access to a lawyer, as required by law;
- Release all detainees still in detention who were not brought before a prosecutor within 24 hours or before a judge within 72 hours, as required by law;
- Release without delay all detainees whose release has been ordered by a court.

Regarding detention facilities

- Allow unimpeded access for monitors of the Independent Commission for Human Rights (formerly the Palestinian Independent Commission for Citizens' Rights) to all places of detention;
- Facilitate access to all places of detention for Palestinian nongovernmental organizations with a mandate to monitor such facilities.

Regarding impunity and accountability

- Condemn publicly and at a high-level acts of torture, illegal detention, and other abusive practices by Palestinian security forces in the West Bank;
- Conduct prompt, thorough, and impartial investigations into credible allegations of human rights abuses, and make the findings public;
- Provide training to all security and law enforcement agents in international human rights standards and in domestic law, and hold all forces accountable for deviations from these standards. These standards include the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the U.N. Code of Conduct for Law Enforcement Officials.

Regarding judicial institutions

- Cease the boycott of judicial institutions in the Gaza Strip.

Human Rights Watch calls on the Palestinian authorities in the Gaza Strip to implement the following recommendations:

Regarding Torture

- Issue clear and public instructions to all members of the security forces prohibiting torture, and make clear that violators will be punished to the fullest extent of the law;
- Initiate prompt and impartial investigations into all credible reports of torture or deaths of detainees since June 2007. Discipline or prosecute as appropriate all individuals, regardless of rank, found responsible for the torture or death of detainees. This includes individuals who committed or ordered such abuses as well as commanding officers who knew or should have known of such acts but failed to prevent them or punish the perpetrators;
- Conduct autopsies for every person who dies in custody of any agency of the state, and make those reports publicly available;
- Instruct all interrogators, medical personnel, and other staff coming into contact with detainees under interrogation to wear badges bearing their name and/or identification number;
- Compensate victims of torture, ill-treatment and arbitrary detention adequately and speedily.

Regarding arbitrary arrest

- Immediately release or charge with recognizable criminal offenses all those currently held without charge;
- Ensure all detainees are brought before a civilian court to review the legality and necessity of their detention, with the power to order their release;
- End the practice of ordering detainees to sign political oaths or pledges to stop legitimate political activity.

Regarding due process violations

- Release all detainees still in custody who, after their arrest, were not promptly informed of the reason for their arrest or given access to a lawyer, as required by law;

- Release all detainees still in custody who were not brought before a prosecutor within 24 hours and a judge within 72 hours, as required by law;
- Release all detainees still in custody where a court has ordered their release.

Regarding detention facilities

- Allow unimpeded access for monitors of the Independent Commission for Human Rights (formerly the Palestinian Independent Commission for Citizens' Rights) to all places of detention;
- Facilitate access to all places of detention for Palestinian nongovernmental organizations with a mandate to monitor such facilities.

Regarding impunity and accountability

- Condemn publicly and at a high-level acts of torture, illegal detention and other abusive practices when committed by Palestinian security forces in the Gaza Strip;
- Conduct prompt, thorough and impartial investigations into credible allegations of human rights abuses and make the findings public;
- Provide training to all security and law enforcement agents in international human rights standards and in domestic law and hold all forces accountable for deviations from these standards. These standards include the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the U.N. Code of Conduct for Law Enforcement Officials.

Regarding judicial institutions

- Abolish the unlawfully constituted Higher Judicial Council, established in September 2007, and reinstate the Higher Justice Council that existed before;
- Ensure the separation of the judiciary from the executive in practice as well as in law.

Human Rights Watch calls on the Fatah and Hamas authorities and the Permanent Observer Mission of Palestine to the United Nations to:

- Request the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to urgently conduct a fact finding mission to places of detention in Gaza and the West Bank, and publish a report from the mission, including recommendations for the prevention of torture;
- Request that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 be amended to include any violation of human rights or international humanitarian law in those territories.

Human Rights Watch calls on the Human Rights Council to:

- Support both a fact finding mission to Gaza and the West Bank by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and an amendment to the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to include any violation of human rights or international humanitarian law in those territories.

Human Rights Watch calls on international donors to the West Bank security forces to:

- Insist that security services receiving funding and training remain politically neutral;
- Promote legislative and judicial oversight of the security services. Balance force capacity with civilian oversight and control;
- Closely monitor all assistance to ensure that security forces strictly observe human rights standards;
- Cease providing aid to units that are implicated in serious violations of human rights;
- Refuse any sale or transfer of weapons to any unit or commander where there are credible allegations of human rights abuses;

- Provide human rights training, or insist that such training is provided, as an integral part of all capacity building and training projects for security forces. Such training should include a strong component designed to stop the use of torture and other cruel, inhuman, and degrading treatment for purposes of interrogation or punishment;
- Condition aid and assistance to concrete benchmarks, such as:
 - Verifiable reductions in the numbers of persons who are arbitrarily arrested or detained;
 - Verifiable elimination of torture or maltreatment in detention;
 - Verifiable reductions in due process violations reported by detainees (such as failure to inform the accused of the charges, failure to provide access to a lawyer and failure to bring defendants before prosecutors and judges within the legally mandated periods).

Human Rights Watch calls on Members of the Quartet (US, EU, Russia and the UN) and donors to the West Bank authorities to:

- Use the influence that comes with financial assistance and political support to urge publicly and privately that the Ramallah authorities address the human rights abuses documented in this report and implement the recommendations;
- Publicly criticize human rights violations committed by West Bank security forces;
- Promote independent human rights groups with a monitoring capacity and an independent judiciary with the capacity to function effectively.

Human Rights Watch calls on international donors to and supporters of Gaza security forces to:

- Use the influence that comes with financial assistance and political support to urge publicly and privately that the Hamas addresses the human rights abuses documented in this report and implements the recommendations;
- Publicly criticize human rights violations committed by Gaza security forces;

- Promote independent human rights groups with monitoring capacity and an independent judiciary with the capacity to function effectively;
- Promote security services that remain politically neutral;
- Promote legislative and judicial oversight of the security services. Balance force capacity with civilian oversight and control;
- Closely monitor all assistance to ensure that the security forces strictly observe human rights standards;
- Refuse aid to units that are implicated in serious violations of human rights;
- Cease the sale or transfer of weapons to any unit or commander where there are credible allegations of human rights abuses;
- Provide human rights training, or insist that such training is provided, as an integral part of all capacity building and training projects for security forces. Such training should include a strong component designed to stop the use of torture and other cruel, inhuman, and degrading treatment for purposes of interrogation or punishment;
- Condition aid and assistance to concrete benchmarks, such as:
 - Verifiable reductions in the numbers of persons who are arbitrarily arrested or detained;
 - Verifiable elimination of torture or maltreatment in detention;
 - Verifiable reductions in due process violations reported by detainees (such as failure to inform the accused of the charges, failure to provide access to a lawyer and failure to bring defendants before prosecutors and judges within the legally mandated periods).

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