

**WHO GOVERNS THE WEST BANK?
PALESTINIAN ADMINISTRATION
UNDER ISRAELI OCCUPATION**

28 September 2004



TABLE OF CONTENTS

EXECUTIVE SUMMARY AND RECOMMENDATIONS.....	i
I. INTRODUCTION	1
II. THE DEVELOPMENT AND DECLINE OF PALESTINIAN AUTHORITY	3
A. CONSTRUCTION	3
B. DESTRUCTION.....	4
C. CURRENT STATUS	5
D. LOCAL VARIATIONS.....	7
III. FORMAL INSTITUTIONS AND INFORMAL NETWORKS	9
A. FORMAL INSTITUTIONS	9
1. Central institutions.....	9
2. Local institutions	10
B. INFORMAL NETWORKS.....	13
1. Clans and conciliation committees	13
2. Political movements.....	16
IV. LAW AND ORDER.....	18
A. THE CRIMINAL JUSTICE SYSTEM.....	19
B. THE SECURITY FORCES	19
V. THE PHENOMENON OF THE AL-AQSA BRIGADES	22
A. ORIGINS.....	22
B. EVOLUTION.....	23
C. WHO CONTROLS THE BRIGADES?	24
VI. ELECTIONS	28
VII. CONCLUSION	31
APPENDICES	
A. MAP OF THE WEST BANK.....	33
B. ABOUT THE INTERNATIONAL CRISIS GROUP	34
C. ICG REPORTS AND BRIEFINGS ON THE MIDDLE EAST AND NORTH AFRICA.....	35
D. ICG BOARD MEMBERS	37



WHO GOVERNS THE WEST BANK?

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Palestinian Authority (PA), indeed the Palestinian political system as a whole, face their most acute crisis since the Oslo process was launched eleven years ago. Palestinians need to put their house in order despite adverse circumstances precisely to overcome them. In doing so they should be supported by the international community and -- at a minimum -- not obstructed by Israel. A key element is the holding of elections, and a key to their success is a political environment in which Palestinians are persuaded by their leaders that they will be meaningful and by the international community that a negotiated and viable two-state settlement remains realistic.

Although the occupation and the confrontation with Israel that is entering its fifth year provide the context, the PA's current predicament is decidedly domestic. Recent power struggles, armed clashes, and demonstrations do not pit Palestinians against Israelis so much as Palestinians against each other; the chaos is a product not solely of Israel's policies, but of Palestinian ones as well. The political system is close to breaking point, paralysed and unable to make basic decisions on Palestinian objectives, how these can be achieved, and how to react to Prime Minister Sharon's planned Gaza "disengagement" .

Besieged from without and divided from within, the PA is routinely said to face imminent disintegration or collapse. In fact, it has been in virtually continuous crisis since the uprising began in September 2000. Initially reluctant to continue governing in response to the escalating conflict, it has become increasingly unable to do so since Israel re-occupied the West Bank in 2002.

As fragmentation has intensified, a growing number of primarily local actors have stepped into the breach:

mayors and governors, kinship networks, political groups, and armed militias. Some represent formal institutions devoted to upholding normal governance. Others seek to promote social stability on the basis of traditional allegiances and codes of conduct, or by enforcing discipline in the name of the national struggle. Increasingly, however, they are also vehicles for narrower interests, which have repeatedly brought them into competition and conflict with one another. The result is growing chaos throughout the West Bank.

The crisis is above all within the dominant Fatah movement. The struggles for power and position, armed clashes, increasingly disorderly militias, and growing crisis of authority and legitimacy emanate directly from its inability to establish internal order and unify its ranks -- and other Palestinian forces -- around a clear political vision and program.

Palestinians of all stripes and colours share today a growing consensus that business as usual is no longer a viable option if they are to forge a path to independent statehood, garner international support or, in the case of Fatah, regain the initiative against Islamist rivals and survive the inevitably approaching change of leadership.

There also is growing realisation that salvation will not come from outside and that Palestinians, irrespective of existing constraints, must seize the initiative. Their agenda is broadly similar to that tabled when the PA was established: construction of unified, effective and accountable national institutions, appointment of competent and credible officials, rule of law and good governance. In the context of the confrontation with Israel, it has been broadened to include formulation of a coherent political program, based on a national consensus, spelling out for Palestinians, Israelis and the

international community alike the national movement's strategic objectives and the means of achieving them.

Increasing numbers add de-militarisation of the uprising to this agenda, with some arguing resort to arms under existing circumstances should never have been pursued, and others concluding that a national movement that for four years has been incapable of using armed force in a disciplined and coherent manner should dispense with it.

For any of this to get off the ground, Palestinian leaders must enjoy popular legitimacy and the capacity to make decisions. This necessitates long-overdue elections -- local, legislative, presidential, but also within the Fatah movement. As many Palestinians have concluded, elections are perhaps the only mechanism for resolving increasingly violent power struggles in an orderly fashion, integrating new leaderships and opposition factions into the Palestinian political fabric, forming a consensus on a political strategy and preparing the scene for Arafat to implement necessary reforms and his successors to lead a united national movement.

Some reasonably fear that elections under current circumstances would likely strengthen more radical elements and Hamas in particular. But the proper response to the crisis ought not be to postpone what is so germane to its resolution. Rather, it is for the international community to press Israel not to obstruct elections, to provide Palestinians with technical assistance and, most importantly, to create practical and political conditions that would boost Palestinian pragmatists. This means, in particular, fleshing out details of what a two-state solution would consist of.

With continuing Israeli-Palestinian violence and political inaction in the places that count most -- the PA, Israel, and the U.S. -- the odds against decisive action are high. But the alternative is growing chaos and mayhem in the West Bank. The costs to Palestinians are obvious. But these should be no less clear to Israelis seeking security and to an international community that watches with alarm as one conflict in the Middle East feeds upon another, and as a dangerous blend of desperation, rage and violence steadily takes hold.

RECOMMENDATIONS

To the Palestinian Authority:

1. Conclude preparations for credible local, legislative, and presidential elections, and consistent with existing commitments announce

a definitive schedule for all these after the first round of municipal elections in December 2004.

2. Ensure that the Palestinian prime minister and cabinet are able to exercise their executive powers as stipulated in the Palestinian Basic Law of March 2003 without hindrance.
3. Consolidate Palestinian security forces in accordance with commitments already undertaken, and appoint national, regional, and local commanders untainted by corruption and committed to the enforcement of law and order.
4. Issue clear orders to halt violence against civilian targets and apprehend any violators.
5. Intensify internal dialogue to achieve agreement among all Palestinian political organisations and armed groups on strict adherence to a full and reciprocal cessation of hostilities.
6. Seek to curb the Al-Aqsa Brigades by:
 - (a) affording former members of the security forces who have since September 2000 become involved in the Al-Aqsa Brigades the opportunity to rejoin their former units if they sever their ties to the Brigades; and
 - (b) intensifying dialogue throughout the West Bank with local commanders of the Al-Aqsa Brigades to obtain their commitment to an immediate, full and reciprocal ceasefire and agree on conditions for the orderly demobilisation of their units.

To the Fatah Movement:

7. Conduct internal elections and promptly convene the Sixth Fatah General Congress.
8. Publicly condemn and seek to halt violence against civilians by Palestinian armed groups claiming affiliation with Fatah.
9. Publicly condemn acts of violence, murder, kidnapping, extortion, and other criminal activity that is claimed in the name of the Al-Aqsa Brigades and disassociate the Fatah movement from individuals and groups responsible for such acts.
10. Formulate and promote a clear political vision and program for achieving Israeli-Palestinian peace that emphasises a two-state settlement

achieved through negotiations and defines the parameters of a permanent status agreement.

To the Government of Israel:

11. Cease all military operations, particularly assassinations, armoured incursions into Palestinian cities, collective punishments, and restrictions on movement and economic activity that cannot be justified on grounds of legitimate self-defence.
12. Negotiate agreement with the PA to rescind the prohibition against the bearing of arms by the Palestinian police force.
13. Remove from the Israeli military's list of wanted individuals militants who, in agreement with the PA and subject to international verification, pledge to sever their involvement in armed activities.
14. Support the conduct of Palestinian local, legislative, and presidential elections, including by withdrawing from cities consistent with security concerns and permitting full participation by Palestinian residents of East Jerusalem.
15. Adhere to the rigorous settlement freeze as defined by the roadmap and take all legislative and administrative steps necessary to enforce its implementation.

To the members of the Quartet (EU, Russian Federation, UN and U.S.) and the Wider International Community:

16. Provide a political environment more favourable to pragmatic Palestinians and for successful elections by:

- (a) articulating detailed parameters for an Israeli-Palestinian two-state permanent settlement; and
- (b) pressing Israel and the PA to fulfil their respective Roadmap commitments, especially on halting violence and freezing settlement activity, and monitoring compliance.

17. Support Palestinian local, legislative, and presidential elections, mediate Israeli-Palestinian agreement on the conduct of such elections, provide technical assistance, and pledge to support their outcome.
18. Press for Israeli and Palestinian agreement on a package deal restoring Arafat's freedom of movement in return for specified and monitored steps to halt violence, restructure security forces, and respect the Basic Law of 2003.
19. Implement an emergency economic rehabilitation scheme for the occupied territories, targeting malnutrition, poverty, and unemployment and including proposals for the socio-economic rehabilitation of former militants and released prisoners.

To the Government of the United States:

20. Publicly reconfirm U.S. opposition to any unilateral action by either party that prejudices permanent status negotiations.
21. Reverse opposition to presidential elections in the occupied territories.

Amman/Brussels, 28 September 2004

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PALESTINIAN ADMINISTRATION UNDER ISRAELI OCCUPATION

I. INTRODUCTION

The struggles for power that erupted in the occupied territories in mid-July 2004, and the resultant crisis of authority at the apex of the Palestinian power structure have again placed a question mark over the future of the Palestinian Authority (PA).

Only days before these events were unleashed with the kidnapping and subsequent dismissal of Gaza Strip Chief of Police Ghazi Jabali,¹ UN Special Coordinator for the Middle East Peace Process Terje Roed-Larsen, in his monthly report to the Security Council, spoke of:

steadily emerging chaos in Palestinian areas....Clashes and showdowns between branches of Palestinian security forces are now common in the Gaza Strip, where the Palestinian Authority's legal authority is receding fast in the face of the mounting power of arms, money and intimidation. Lawlessness and gang rule are becoming common in Nablus, the mayor of which resigned a few months ago in protest against the lack of Palestinian Authority support for the legal authorities....Jericho is actually becoming the only Palestinian city with a functioning police. This collapse of authority cannot be attributed only to the Israeli incursions and operations inside Palestinian

towns. The Palestinian Authority is in deep distress and is in real danger of collapse.²

By the end of August there had been two reshuffles and a re-organisation of the PA security forces; Prime Minister Ahmad Quraei (Abu Ala) submitted and then withdrew his resignation despite Palestinian Legislative Council (PLC) demands for a new government and far-reaching reforms; and, more ominously, PLC member Nabil 'Amr was seriously wounded by gunmen presumed to be acting in response to his public criticism of the PA leadership, and several other Palestinian officials were targets of assassination attempts.³ Separately, in both the West Bank and Gaza Strip a number of other Palestinian officials and foreign development workers were briefly kidnapped, sporadic inter-Palestinian armed clashes took place, and several PA security installations were burned to the ground.

The combination of Israeli pressure, Palestinian power struggles, and rebellion against central authority appears to be pushing an increasingly fragmented system to the breaking point.⁴ By common consensus, the PA and the Palestinian leadership are facing their most severe crisis since the Oslo Agreement was signed in 1993. If on past occasions the Palestinian leadership could appeal to its rivals to close ranks to confront Israeli threats, it is today equally threatened by open dissent from

¹ The police commander, Ghazi Jabali, was kidnapped on 16-17 July 2004 by the Jenin Martyrs' Brigades (*kata'ib shuhada jinin*), an armed group affiliated with the dominant Fatah movement in the Gaza Strip. Accusing Jabali of corruption, rape, and other crimes, the captors demanded his dismissal, and released him only after Arafat personally pledged to remove him from his post.

² Terje Roed-Larsen, "The Situation in the Middle East, including the Palestinian Question", 13 July 2004. (UN document S/PV. 5002).

³ 'Amr was shot several times in the leg, which subsequently had to be amputated at the knee.

⁴ See, for example, Edward R.F. Sheehan, "The Disintegration of Palestine", *New York Review of Books* 51:7, 29 April 2004; John Ward Anderson and Molly Moore, "Palestinian Authority Broke and in Disarray", *The Washington Post*, 1 March 2004; Danny Rubinstein, "The PA's Terrible Economic Plight will Worsen", *Haaretz* 18 January 2004.

core constituencies. Its immobility suggests that although the current crisis appears to have been contained, worse is yet to come.⁵

The trigger for the recent unrest was Israeli Prime Minister Ariel Sharon's proclaimed intention to "unilaterally disengage" from the Gaza Strip in 2005 and the resultant conflicts primarily about who would control it in the aftermath of that withdrawal, but wider dynamics are at play. These include the struggle for authority between the PA presidency, government, and parliament; the broader struggle for supremacy within the dominant Palestinian National Liberation Movement (Fatah) between its established elite, an emerging generation of leaders, and affiliated armed groups; growing disaffection among both rank-and-file activists and the general public with the PA's methods of governance and strategic paralysis; and battles for position to succeed President Yasir Arafat.⁶

The severity of the crisis is explained precisely by the connections between these various agendas, and the opportunities they create for protagonists to mobilise larger and more powerful constituencies.

That the PA is a shadow of its former self -- "an authority that does not enjoy authority"⁷ -- is beyond question and consistently emphasised by its senior officials.⁸ The respected independent Palestinian commentator Hani Masri puts it thus:

The PA is on the brink of total collapse. One last push and it's gone. The only things standing between it and oblivion are a confined president, the health and education systems, and

the monthly salaries of PA personnel. If any of these disappear, the PA will cease to exist.⁹

That the resulting void is being filled by forces not formally subordinate to the PA, including the type of actors identified by Larsen, is similarly uncontested.¹⁰ Asked who or what holds together Nablus, the city of which she is a representative, Dalal Salama, PLC member and a prominent figure in the West Bank leadership of Fatah, responded, "Nablus is governed by chaos".¹¹

Widely described and largely bemoaned, the realities of power and authority in the occupied Palestinian territories are, nevertheless, poorly understood. The question, "who rules Palestine and how is it ruled" has been insufficiently addressed for two main reasons. For many Palestinians and others as well, it often appears superfluous, so complete in their eyes is Israeli control over the occupied territories. The widespread view that the PA has been supplanted by chaos and anarchy also discourages further investigation.¹²

However, that Israel today exercises a perhaps unprecedented level of control over Palestinian lives does not mean Palestinian internal dynamics have ceased to exist. Rather, it suggests that Palestinian realities are more inextricably intertwined with Israeli ones than before, and assessments of changes in Palestinian society and politics since September 2000 that fail to account for the elephant in the room risk being superficial.

Similarly, observations that the PA is disintegrating and power rests with increasingly independent armed groups are incomplete. Even Beirut and Somalia at the height of their troubles had formal and informal political and civic structures that

⁵ ICG telephone interview, Khalil Shikaki, Director of the Palestinian Centre for Research and Studies, 28 August 2004. Independent PLC member Abd-al-Jawad Salih went so far as to state that "there will be a Palestinian popular intifada against the Authority very soon". See Harvey Morris, "Arafat's Critics Sceptical Over His Backing of Reforms", *Financial Times*, 19 August 2004.

⁶ Nader Said, Director of the Birzeit University Development Studies Program, additionally identifies a variety of social contradictions specific to the Gaza Strip, such as those between leading and "second-tier" families, refugees and residents, rich and poor. ICG interview, Ramallah, 25 August 2004.

⁷ ICG interview, Abbas Zaki, Fatah Central Committee member, Ramallah, 21 May 2004.

⁸ ICG interviews, Mustafa Malki, Governor of Qalqilya, Qalqilya, 21 April 2004; Muhammad Issa, Deputy Director of the Bethlehem Police Force, Bethlehem, 25 April 2004; Rafiq Natshe, PLC member and former Speaker, Hebron, 25 May 2004; Jamal Shobaki, PA Minister of Local Government, Ramallah, 23 June 2004.

⁹ ICG interview, Hani Masri, Palestinian commentator, Ramallah, 24 June 2004.

¹⁰ ICG interviews, Mamduh Nofal, Palestinian presidential adviser, Ramallah, 16 March 2004; Maruf Zahran, Mayor of Qalqilya, Qalqilya, 22 April 2004; Abdel-Sattar Qasim, Palestinian opposition activist and declared presidential candidate, Nablus, 13 May 2004; senior Palestinian intelligence officer, West Bank, June 2004; Hasan Khraisha, PLC member and First Deputy Speaker, Tulkarm, 25 June 2004.

¹¹ ICG interview, Dalal Salama, PLC and Fatah West Bank Higher Movement Committee member, 24 June 2004.

¹² See, for example, Palestinian Human Rights Monitoring Group, "The 'IntraFada, or the 'Chaos of Weapons': An Analysis of Internal Palestinian Violence", April 2004, at <http://www.phrmg.org/intrafada>. Joshua Hammer, *A Season in Bethlehem: Unholy War in a Sacred Place* (New York, 2003).

provided services, mediated disputes, and sought to provide a modicum of stability and order.

This ICG report is based on extensive fieldwork throughout the West Bank conducted between March and September 2004. The picture that emerges is one in which chaos and stability co-exist, and variations across time and space are critical. There are, for example, fundamental differences between the West Bank and Gaza Strip,¹³ important disparities between Nablus, Ramallah, and Hebron, and then again between towns, villages, and refugee camps within a single governorate. Furthermore, the present situation in each locality differs, at times markedly, from that of a year ago and can be expected to change again during the coming twelve months.

II. THE DEVELOPMENT AND DECLINE OF PALESTINIAN AUTHORITY

A. CONSTRUCTION

The Palestinian Authority, formally a subsidiary organ of the Palestine Liberation Organisation (PLO), was established in 1994 pursuant to the Israeli-Palestinian Oslo Agreement of the previous year. Its function, pending the conclusion of a permanent status agreement, is to administer West Bank and Gaza Strip territory vacated by Israel.

By the eve of the September 2000 uprising, the PA enjoyed full control of a non-contiguous series of territorial enclaves comprising almost a fifth of the West Bank (Area A). Approximately an additional quarter of that territory was categorised as Area B (Palestinian civil and Israeli security control), while more than half remained under direct Israeli occupation (Area C).¹⁴ Area A includes all the primary urban centres within the occupied territories except East Jerusalem and the centre of Hebron, and together with Area B accounts for approximately 90 per cent of the West Bank Palestinian population.¹⁵

Despite the numerous challenges and constraints confronting it,¹⁶ the PA managed to set up a functioning public administration during the second half of the 1990s. It established central political institutions such as the elected Presidency and PLC as well as the appointed Council of Ministers; provided essential services and regulated socio-economic life through dozens of ministries and agencies; and created an elaborate security infrastructure consisting of numerous separate forces. In association with the PLO, it also conducted diplomatic negotiations and foreign relations and attracted considerable levels of foreign (particularly expatriate) investment and

¹³ The emerging reconfiguration of Palestinian politics in the Gaza Strip in the wake of Israel's announced intention to "disengage" from it in 2005 will be addressed in a separate ICG briefing.

¹⁴ For detailed maps, see Foundation for Middle East Peace, "Staged Israeli Transfers of West Bank Territory to Palestinian Self-Rule During the Interim Period, 1994-2000" (Map), at http://www.fmep.org/images/maps/map0007_3.jpg

¹⁵ Jan de Jong, a specialist in Palestinian geography and strategic planning, places 60 per cent of the Palestinian population in Area A and 30 in Area B, but cautions that no definitive statistics have been produced. ICG telephone interview, 2 July 2004.

¹⁶ Not the least of these was territorial; each of the dozens of PA enclaves was (and remains) entirely surrounded by Israeli-controlled territory and can be hermetically isolated at will.

international donor assistance. By September 2000 the overwhelming majority of West Bank Palestinians interacted with the PA much as citizens elsewhere do with their government.

Schools, hospitals, the judiciary, police, local government, the banking system, taxes, utilities, identity documents, permits and licenses, and much else were either provided or regulated by or through the PA; where Israeli consent was required, as for example with identity documents and travel permits, Palestinians submitted relevant applications via the PA. As by far the largest employer in the occupied territories -- approximately 140,000 persons on its payroll -- the PA's influence in Palestinian society and upon the political system was further enhanced.

The key tests of its power were the open confrontation with the Islamic Resistance Movement (Hamas) and Islamic Jihad in the mid-1990s, and the effort to extract a viable territorial base and sovereign statehood from the Oslo process. It succeeded in the first, but failed in the second.

On the whole, PA performance during this period fell considerably short of both international good governance standards and Palestinian expectations. At heart, the PA was an autocratic system sustained by co-optation of the dominant Fatah movement into a bloated security sector and civil bureaucracy; the promotion of numerous, competing, centres of power; an extensive -- and corrupt -- patronage system;¹⁷ and the legitimacy it derived from the PLO, the leadership of Yasir Arafat, and formal recognition by Israel and the international community. During the late 1990s, a popular jibe was that PA ministries collectively had more -- but less productive -- Directors General than the Peoples Republic of China. Micro-managed by Arafat, the PA admittedly provided an impressive degree of stability at a comparatively low level of internal repression.¹⁸ Yet, it developed at the expense of the rule of law, institution-building, public accountability and other processes critical to Palestinian state formation.

¹⁷ See for example, ICG Middle East Briefing, *The Meanings of Palestinian Reform*, 12 November 2002; Council on Foreign Relations, "Independent Task Force Report: Strengthening Palestinian Public Institutions", New York, 1999.

¹⁸ The tradition of political pluralism and relatively free debate inherited from the PLO, combined with the relative weakness of the PA, helped produce one of the region's most open political systems.

B. DESTRUCTION

Within days of the eruption of the Palestinian uprising in September 2000, and amidst rapidly escalating Israeli-Palestinian violence, Israel began directly to target PA facilities. Initially, attacks consisted of one or more missiles fired at facilities belonging to the security forces, preceded by an informal warning. With hostilities escalating, in 2001 Palestinian militant organisations began conducting suicide bombings and other attacks within Israel, and the latter both expanded the scope of assassinations and began targeting more prominent PA facilities, including security headquarters and prisons. By late 2001, it also initiated armoured incursions into Area A.

The key turning point came in mid-2002; Israel -- which held the PA responsible for continued armed attacks by militants but according to Palestinians was simply determined to destroy the prospects for Palestinian statehood -- re-occupied all West Bank cities except Jericho and Hebron for several weeks.¹⁹ Palestinian security personnel were detained and disarmed *en masse*,²⁰ their facilities largely destroyed, and many PA civil institutions (and civil society organisations) ransacked.

The PA was immobilised and in significant part physically dismantled. If it had since September 2000 "deliberately abdicated responsibility for law and order", thereby allowing the uprising to escalate without having to lead it (a calculated move aimed at extracting diplomatic concessions as the price for re-imposing its rule), the desired bargain could no longer be struck because it was now additionally "hampered by an incapacity" to govern.²¹ For its part, Israeli policy towards the PA was characterised by Israeli Chief of Staff Moshe Ya'alon as "constructive destruction".²²

Since mid-2003, Israel has only rarely occupied West Bank cities for prolonged periods. Rather, it has launched continuous, daily (and nightly) incursions

¹⁹ The Palestinian sector of Hebron was not re-occupied until July 2002. Jericho is raided only periodically by Israeli forces.

²⁰ The majority were detained for brief periods.

²¹ ICG interview, Shikaki.

²² Akiva Eldar, "The Constructive Destruction Option", *Haaretz*, 25 October. Eldar characterises this policy as "laying waste to the Palestinian Authority, reinstating full Israeli control of the kind that existed before the first intifada, and reaching an imposed settlement with obedient canton administrators". See also *Haaretz*, 30 December 2002.

into each of them. These tend to be concentrated on particular districts, neighbourhoods, or even buildings and have become so routine they are habitually ignored by residents not directly affected.²³ Their purpose varies. Sometimes the army comes in to arrest fugitives or assassinate militants; on other occasions, soldiers search or demolish the homes of militants. Routinely, the military also enters Area A for no apparent identifiable purpose other than "to remind Palestinians who's boss" and "that Israel's soldiers can enter whenever and wherever they want".²⁴ According to residents of Nablus's Balata refugee camp, the West Bank's largest, "they're always here, it's like they never left".²⁵

C. CURRENT STATUS

Reality in the West Bank is complex, determined by the often contradictory actions of the PA, autonomous Palestinian forces, and Israel. Responding to what it deems a deliberate Israeli effort to emasculate if not destroy it altogether and replace it with isolated cantons,²⁶ the PA has conceded nothing in terms of its formal powers and responsibilities. Rather, it has supplemented its weakened arsenal of institutions with a variety of informal forces, which have in many cases also asserted themselves independent of any PA encouragement.

In the process, those that have come to the fore on account of the renewal of Israeli-Palestinian conflict and the weakening of the PA have been strengthened further. Some, like political movements -- commonly known as the factions (*fasa'il*) -- and kinship-based networks (*asha'ir, a'ilat, hama'il*) predate the PA and are reviving their influence. Others are new, like the militias operating under the name of the Al-Aqsa Martyrs' Brigades (*kata'ib shuhada al-aqsa*).

The combination of Israeli siege, Palestinian strategic incoherence and PA weakness has resulted in the geographical and organisational fragmentation of these forces, particularly with regard to their leadership. In the case of clans this is perhaps in

their nature, but the observation applies equally to national forces like the Fatah movement and Hamas.²⁷ According to many Palestinian observers, the only figure other than Arafat capable of mobilising a comprehensive West Bank constituency is imprisoned (by Israel) Fatah West Bank Secretary General Marwan Barghouthi, who has considerable popular appeal and organisational abilities.

Others, like [former Nablus Mayor] Ghassan Shaka'a in Nablus or [Jenin Al-Aqsa Martyr's Brigade commander] Zakariya Zubaidi are essentially local leaders and will remain so. They can form horizontal coalitions with counterparts in other regions, but then need someone a level higher to become a national force. Today only Marwan has that potential.²⁸

Israel has resorted to siege and blockade and an extensive use of informants, other information-gathering techniques, and its military supremacy to intercept would-be attackers, break the militants' spirit and, ultimately, terminate the uprising.²⁹ Through a network of checkpoints, ditches, fences, gates, and barriers, exit and entry to virtually every Palestinian population centre and access to West Bank roads is under Israeli control,³⁰ and access to certain areas can be restricted or prevented for days, weeks or months. While Palestinians have emphasised the resulting socio-economic hardships endured by the civilian population,³¹ Israel justifies such actions as necessary

²⁷ ICG interview, PLO adviser, Ramallah, 26 August 2004.

²⁸ Nader Said, contrasting the larger and more fragmented West Bank with the comparatively compact Gaza Strip to illustrate his point. He also pointed out that in public opinion polls, Barghouthi has emerged as the second most popular Palestinian leader after Arafat. ICG interview, 25 August 2004. The latter assessment was reconfirmed in a public opinion poll published by the institute headed by Said as this report was being finalised, in which Arafat gathered 46 per cent and Barghouthi 12 per cent. Birzeit University Development Studies Programme "Poll No. 18: An Opinion Poll Concerning Palestinian Elections and Registration", 20 September 2004, at <http://home.birzeit.edu/dsp/opinionpolls/poll18/analysis.html>.

²⁹ ICG interview with senior Israeli defence officials, Jerusalem and Tel Aviv, September 2004.

³⁰ See the website of the Humanitarian Information Centre in the Occupied Palestinian Territory of the United Nations Office for the Coordination of Humanitarian Affairs (www.ochaopt.org) for regularly updated, detailed West Bank and sector maps of the completed and proposed sections of the separation barrier, as well as reports on its socio-economic impact.

³¹ Palestinians argue that an additional effect of such Israeli practices has been to increase the motivation to continue the uprising.

²³ ICG interviews, residents of Ramallah/El Bireh, April 2004; Balata refugee camp, June 2004.

²⁴ ICG interviews, Palestinian residents, West Bank, 2004. During the preparation of this report, there were regular Israeli incursions in every West Bank city except Jericho, and major ones in several (particularly Nablus).

²⁵ ICG interviews, residents of Balata refugee camp, June 2004.

²⁶ PA officials and Palestinian activists repeatedly made this point. ICG interviews, West Bank, 2004.

and effective security measures that have made it increasingly difficult for militants to carry out operations against Israeli targets.³²

The most recent addition in this regard is the separation barrier,³³ which according to Israeli officials has already proven its effectiveness in preventing Palestinian infiltration into Israel. Yet, with some portions penetrating deep into the West Bank to include Jewish settlements, it is also expected to cut off at least 10 per cent of West Bank territory³⁴ by creating a so-called "seam zone" west of the barrier but east of the pre-1967 boundary (the Green Line) that is all but inaccessible to the Palestinian population.³⁵ As a result, it is fragmenting Palestinian society and administration even further.³⁶

Since the complete mayhem it experienced in mid-2002, the PA has, at least formally, reconstituted itself. The civil bureaucracy and security forces continue to draw their monthly salaries.³⁷ Essential services such as health, education, and municipal refuse collection are seldom interrupted, and then almost exclusively on account of Israeli incursions and curfews.³⁸ Banks, markets and other commercial establishments also continue to operate relatively normally. Neither Hamas nor Islamic Jihad have openly challenged Arafat's leadership or formally

proposed the PA's dissolution,³⁹ and even the most independent-minded commanders of the Al-Aqsa Martyrs' Brigades affiliated with Fatah have made it known that their denunciations of PA officials and Arafat's policies notwithstanding, they continue to regard the president as their national symbol and supreme leader.⁴⁰

Palestinian officials often emphasise the degree to which the PA has continued functioning despite extremely adverse conditions.⁴¹ Hani Masri, who is frequently critical of PA performance, concurs that "while things have clearly become worse, they should be much worse. If other societies had even a quarter of our problems, they would fall apart".⁴² With some pride, the Mayor of Jenin, Walid Abu Mwais, explains that "this is not Iraq. We didn't destroy our institutions and infrastructure".⁴³

Yet, there is also less than meets the eye. Since mid-2003, for example, the police once again patrol most cities in uniform but do not carry weapons because Israel -- claiming that officers have turned their weapons against it -- has warned that any armed Palestinian risks being shot on sight.⁴⁴

³² ICG interview with senior Israeli defence officials, Jerusalem and Tel Aviv, September 2004.

³³ How this structure should be named is controversial. Palestinians and other opponents refer to it as a "wall" to emphasise its destructive impact and permanent character. Israelis and other proponents use the term "fence" to emphasise its security aspects and non-permanent nature.

³⁴ On 20 August 2004, Jan De Jong, calculated a figure of 15 per cent. ICG telephone interview, 20 August 2004. Other estimates have been several percentage points lower. The route of the barrier continues to be modified.

³⁵ According to Israeli security officials, recent rulings by the Israeli High Court of Justice coupled with U.S. pressure have caused them to reroute the barrier in a manner that minimises humanitarian injury while maximising chances that Palestinian militants can be intercepted. ICG interview with senior Israeli security official, Jerusalem, September 2004.

³⁶ The barrier within the West Bank was judged "illegal" by the International Court of Justice. International Court of Justice, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", 9 July 2004, at <http://www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm>.

³⁷ ICG interviews, PA civil and security personnel, West Bank, 2003 and 2004.

³⁸ ICG interviews, Palestinian mayors and municipal officials, West Bank, 2003 and 2004.

³⁹ Palestinian calls for the dissolution of the PA became increasingly widespread after the reoccupation of the West Bank in 2002 and into 2003. Currently there is little indication of a debate on this matter. A senior PA official, who in 2002 argued that under conditions of direct Israeli occupation Palestinian administration relieves Israel of the burdens of occupation while depriving Palestinians of the PA's benefits -- and furthermore obfuscates political reality for the international community -- has since changed his mind. "I now think dissolving the PA would be a big mistake, and in the current context form a victory for Ariel Sharon". ICG interview, Ramallah, 12 September 2004.

⁴⁰ In the words of one Palestinian wanted by Israel for active involvement in military activities, "Clearly the fish rots from the head down, but I have never for a moment doubted Arafat's patriotism. Why do you think he has been under siege?". ICG interview, West Bank, June 2004. See also Paul Martin, "Palestinian Fighter Blames U.S. for Unrest", *The Washington Times*, 6 August 2004.

⁴¹ ICG interviews, Malki; Khalil Ashur, member of the Nablus municipal council, Nablus, 13 May 2004; Qadura Mousa, top Fatah official in the Jenin Governorate and since appointed governor of Jenin, Jenin, 22 June 2004.

⁴² ICG interview, Masri.

⁴³ ICG interview, Walid Abu Mwais, Mayor of Jenin, Jenin, 22 June 2004. ICG interview, Malki, made the same point.

⁴⁴ ICG interviews, Col. Muhammad Jabr, chief of Qalqilya police, Qalqilya, 24 April 2004; senior police commander, Hebron, 25 June 2004; Palestinian police officers, Bethlehem, Jenin, Nablus, Ramallah, 2004. The only exceptions observed were the armed guards at the Ramallah headquarters of the

Municipalities, even though they continue to operate, are in a constant state of crisis, their revenues drastically reduced even as they face a massive increase in demand.⁴⁵ According to the PA Minister of Local Government, Jamal Shobaki, "it's a miracle they still exist".⁴⁶

Although Arafat remains Chairman of the PLO, *ra'is* of the PA,⁴⁷ and leader of the Fatah movement, he has been confined to the rubble of his beleaguered headquarters in the Ramallah governorate complex (*muqata'a*) for the better part of three years, and even his most devoted loyalists are demanding that he cede some of his powers.

It is for such reasons that ordinary residents often take a less sanguine view of the PA's staying power. As bluntly expressed by a woman in Qalqilya, "There is no PA. It can't protect us, it can't protect Qalqilya, it can't even protect itself".⁴⁸ Assessments that the PA is "in intensive care" or "on life support" -- that the *coup de grace* is but an Israeli decision (and American authorisation) away -- are regularly proffered.

In seeking to evaluate current conditions, it is worth emphasising several factors. One is that the PA is a fairly recent phenomenon in West Bank life. It did not reach most of its towns until December 1995, and arrived in Hebron only in 1997 (most rural areas that acquired Area A status did so only in 1998-1999). Given that the PA did not become entrenched overnight and remained circumscribed by Israeli

occupation,⁴⁹ and that the uprising and Israeli attacks upon it commenced in 2000, it would be fair to conclude that most Palestinians had only recently become accustomed to the concept of Palestinian public administration and had only limited experience of it before it began to decline.⁵⁰

More importantly, decades of Israeli neglect has meant that "Palestinians are used to living without public administration. They developed their own mechanisms to compensate and are now reverting to them".⁵¹ A senior PA intelligence officer highlights this reality by asking: "What would happen if people in Jordan, Denmark, or New York were to wake up tomorrow and discover their government no longer exists? They wouldn't know how to get out of bed".⁵²

D. LOCAL VARIATIONS

The West Bank (including East Jerusalem) covers 5,700 square kilometres and has a population of approximately 2.4 million Palestinians. It counts 642 Palestinian population centres, of which 568 are villages with less than 5,000 inhabitants that collectively account for 40 per cent of the population. Around 850,000 live in large villages or small towns. That leaves approximately a quarter -- some 600,000 -- residing in the main urban centres. Cities exercise a disproportionate and indeed decisive influence on national politics and society. Because they also are the PA's territorial strongholds, research for this report focussed on them.⁵³

Each of the West Bank's main cities has distinctive characteristics that, in the context of the fragmentation of administration and power since September 2000, help explain its current status.

Palestinian leader, Yasir Arafat, and one posted at the entrance of Nablus City Hall.

⁴⁵ The municipality of Tulkarm, for example, is owed \$11 million by residents, an amount that exceeds its annual budget. ICG interview, Mahmud Jallad, Mayor of Tulkarm, Tulkarm, 25 June 2004. Fuad Kokali, Mayor of Bait Sahur, stated that municipal collection rates are down to 20 percent. ICG interview, Bait Sahur, 21 April 2004. Figures denominated in dollars (\$) in this report are in U.S. dollars.

⁴⁶ ICG interview, Jamal Shobaki, PA Minister of Local Government, Ramallah, 23 June 2004.

⁴⁷ "Ra'is" (leader), which can be translated as either president or chairman, is the formal title of the head of the PA in the 1995 Interim Agreement (Oslo II). This was a compromise resulting from Palestinian insistence on "president" and Israeli and U.S. insistence on "chairman". Arafat also has the title "President of the State of Palestine", resulting from a 1988 PLO proclamation.

⁴⁸ ICG interview, Palestinian resident, Qalqilya, 23 April 2004. Similar sentiments were expressed to ICG by residents in every other West Bank locality where research was conducted.

⁴⁹ ICG interview, Zuhair Manasra, Governor of Bethlehem, Bethlehem, 22 April 2004.

⁵⁰ Bethlehem governor Manasra goes so far as to state, "Historically, Palestinian society's relation to authority, the state and the law has been characterised by enmity because Palestinian society has never had a Palestinian law. Contravening the law was considered nationalistic". ICG interview, 22 April 2004.

⁵¹ ICG interview, Dutch diplomat, El Bireh, January 2004.

⁵² ICG interview, senior PA intelligence officer, Ramallah, June 2004.

⁵³ East Jerusalem is treated only tangentially in this report because it was annexed by Israel and excluded from the administrative regime established in the West Bank in 1967. On the grounds that it is a permanent status issue, it was also excluded from the arrangements created by the 1993 Oslo agreement.

Beginning in the south, Hebron is the sole PA-controlled city with Jewish settlements in its midst. Israel and the PA reached agreement on its interim status in 1997, and the historic centre (H2) remained under Israeli occupation -- also setting it apart as the only administratively divided city. Hebron has a reputation for religious and social conservatism, and the influence of clan and kinship-based relations is more powerful than elsewhere.⁵⁴ For these reasons, PA authority has always been comparatively weak.⁵⁵

In Bethlehem, after early assertion of power, the militias were substantially weakened by Israeli military operations combined with the deportation of several dozen key militants in mid-2002 and rising popular discontent over the arbitrary conduct of some of their elements.⁵⁶ This permitted the PA to reassert a modicum of authority.⁵⁷ Accordingly, Bethlehem was the only West Bank city formally vacated by Israel during the tenure of PA Prime Minister Mahmoud Abbas (Abu Mazen) in mid-2003, and PA administration is more visible and effective.⁵⁸ Indeed, the current governor, Zuhair Manasra, finds that "in

comparison with other cities, our control and authority still remain within acceptable limits".⁵⁹

Ramallah/El Bireh, fifteen kilometres north of Jerusalem, emerged as the PA's provisional capital during the second half of the 1990s, rivalled in importance only by Gaza City. After September 2000, and particularly since Arafat's confinement within the city began in late 2001, it clearly overtook the latter. The leaderships of not only the PA, but also of the PLO, the Palestinian Legislative Council (PLC), PA ministries, agencies and security forces, most Palestinian political movements and civil society organisations are concentrated in Ramallah, as are the headquarters of many leading Palestinian and foreign commercial establishments, media organisations, diplomatic missions and development institutions. If Palestinian central government still exists, it is to be found there.

Jericho, the smallest city in the West Bank, has always been marginal to the Palestinian equation. To this day, the PA has neglected to appoint a governor for the district. Nevertheless, it is unique by current West Bank standards in that it has evaded re-occupation and the destruction of its security infrastructure. As a result, a large number of PA security personnel are garrisoned in Jericho, which is a comparatively safe haven for them.

In the northwest, Tulkarm and Qalqilya abut the pre-1967 boundary (Green Line) and share geographic proximity to the main concentrations of Palestinian citizens within Israel. For this reason, they have been particularly hard hit economically by Israel's closures and the separation barrier. Effects are especially noticeable in Qalqilya, where territory under full Israeli control (Area C) extends right up to the municipal boundaries, and construction of the barrier, which loops around the city leaving only a single access point, has been completed.

According to Mayor Maruf Zahran, approximately 10 per cent of Qalqilya's residents have left the city since the barrier's construction.⁶⁰ Still, Qalqilya, which has no refugee camp and is dominated by

⁵⁴ ICG interviews, Natshe,; Abd-al-Fattah Ja'bari, Head of the Security Forces in Hebron, Hebron, 24 May 2004; Fadi Atawna, member of the Palestinian Peoples Party (PPP) and journalist, Hebron, 25 May 2004.

⁵⁵ Abd-al-Alim Da'na, member of the Central Committee of the Popular Front for the Liberation of Palestine (PFLP), states that "the PA enjoys far less support in Hebron than in other West Bank cities". ICG interview, Hebron, 24 May 2004.

⁵⁶ "The power of the Al Aqsa Brigades in Bethlehem has diminished. Charismatic leaders like Atif and Husain Abayat have either been killed or exiled. No one has been able to replace them. There are also indications that they are under pressure from the leadership. Two weeks ago a group of armed men were told to seek refuge in Bethlehem's psychiatric hospital. The Israelis came after them immediately, which only goes to prove that their own leaders deceived them. Funding has also decreased. They have been ordered not to speak out and to lay low. The Brigades are far more active in the northern West Bank, not only because they are larger but also because they have stronger alliances with other armed factions". ICG interview, Bethlehem resident, April 2004. A senior Palestinian intelligence officer added that the PA's attempts to curtail the Fatah militias earlier this year were not limited to Bethlehem but were part of a broader effort to reassert central authority. ICG interview, June 2004.

⁵⁷ ICG interview, Muhammad Madani, former Governor of Bethlehem, Ramallah, 27 April 2004; Palestinian journalist, Bethlehem, April 2004. See also Hammer, *A Season in Bethlehem*, op. cit..

⁵⁸ ICG interviews, Zuhair Manasra, Governor of Bethlehem, Bethlehem, 22 April 2004; Muhammad Issa, Deputy Chief of Bethlehem Police Force, Bethlehem, 25 April 2004.

⁵⁹ ICG interview, Manasra. Most, though not all, Bethlehem residents interviewed by ICG shared this general assessment.

⁶⁰ ICG interview, Zahran, Qalqilya, 24 April 2004. See also Marouf Zahran, "In the Shadow of Sharon's Wall", *The Guardian*, 23 February 2004.

four main families,⁶¹ counts among the more stable areas of the West Bank. Tulkarm, roughly equal in size, hosts two camps, and along with Nablus and Jenin forms the "triangle of chaos" that has emerged in the past several years.

Nablus and Jenin are, relative to other cities, characterised by the dominance of armed groups. Nablus has traditionally been the main stronghold of the Fatah movement in the occupied territories. Its Old City (*qasaba*) and the Balata refugee camp in particular continue to be dominated by it to the point of virtual hegemony.⁶² An important consequence is that the multiple centres of power within the movement reflect broader divisions within the city's leadership and society. Factional political conflict within Nablus, therefore, tends to express itself within Fatah and the PA rather than between these and other factions like Hamas.

Jenin, in the extreme north of the West Bank and its poorest region, was the first to begin slipping from the PA's control during the present uprising. In the context of Israeli restrictions on Palestinian movement since September 2000, "the farther one goes from the centre, the weaker PA control becomes".⁶³ Partly cause and partly effect of this process, opposition movements such as Islamic Jihad and Hamas were able to expand their presence significantly within the city and its refugee camp.⁶⁴ With a strong Fatah presence as well, Jenin has seen increased cooperation and coordination between the various factions, in particular their armed wings.⁶⁵ This growing partnership has further undermined the authority of the PA, but also that of the leaders of the individual political factions, to whom the militias owe an increasingly nominal allegiance.⁶⁶

III. FORMAL INSTITUTIONS AND INFORMAL NETWORKS

Public administration in the West Bank has ceased to consist solely of dedicated formal agencies providing services and enforcing the central government's writ. Instead, it also encompasses informal networks, often performing roles for which they were not designed or from which they had previously been excluded. At times such combinations of old, new, and revived actors complement one another. At others they compete.

A. FORMAL INSTITUTIONS

The PA's formal institutions remain essentially unchanged. Consisting of ministries and other civilian agencies, the security forces, governorates and municipalities, their mandates have not been reduced to reflect decreased resources and capabilities. On a good day, a visitor to Ramallah might conclude that little has changed in the PA's circumstances: ministries operate much as they have since first established, the PLC or any number of its subcommittees are in regular session, security chiefs speed from one meeting to another, and Arafat is able to chair a succession of leadership meetings and receive local and foreign dignitaries. In other cities, excessively staffed regional branches of the various ministries continue to operate much as before, seemingly unaffected by the PA's financial crisis or reports of its imminent demise. But if the form seems unchanged, the substance is different.

The most important changes in the PA's civilian infrastructure since September 2000 have been the diminution in the role of its central institutions, and the associated expansion of locally-based ones such as municipalities and governors.

1. Central institutions

Several central institutions, particularly those providing essential services like the ministries of education and health, have seen less deterioration in their activities than others.⁶⁷ The Ministry of Education, for example, has continued to revise

⁶¹ ICG interviews, Ahmad Shraim, Fatah Secretary-General in Qalqilya, Qalqilya, 21 April 2004; Shaikh Yasir Hammad, Hamas representative, Qalqilya, 24 April 2004.

⁶² ICG interviews, residents of Nablus and Balata refugee camps, May-June 2004.

⁶³ ICG interview, PA official, May 2004.

⁶⁴ During the current uprising, Jenin has acquired a reputation among Israelis and Palestinians alike as the "capital of the suicide bombers".

⁶⁵ ICG interview, PFLP leader, Jenin, June 2004.

⁶⁶ ICG interview, senior Palestinian intelligence official, West Bank, June 2004.

⁶⁷ The Ministry of Education is in fact routinely praised by Palestinians and foreign counterparts for its performance despite increasingly adverse conditions.

school curricula, replacing Jordanian and Egyptian books with Palestinian texts for two new grades each year.⁶⁸ Central institutions that do not provide essential services but receive substantial project-related donor support -- such as the Ministry of Planning and the Palestinian Central Bureau of Statistics (PCBS) -- have also continued to operate with a reasonable degree of efficiency.⁶⁹ One, the Ministry of Local Government, "expanded its presence during the uprising in an attempt to exercise greater political control over local authorities, particularly rural ones".⁷⁰

Yet on the whole, the combination of the PA's resource crunch, the significant reductions in international development assistance, and, of course, the conflict and associated Israeli curbs, have put a severe strain on regular government operations, especially those at a distance from the administrative centre. It is not just that supervision by central ministries and other PA agencies of their regional branches has become more difficult since September 2000; there is, quite simply, much less activity to supervise. According to a Palestinian development worker:

The average Palestinian doesn't even know what PA ministries like Tourism, Culture, Youth and Sport, Transport, or Labour do. They have either become superfluous in light of the conflict or are resource-starved, or both. People are much better informed about NGOs and international development agencies -- these have resources, mobility, and provide assistance.⁷¹

⁶⁸ Thus, new textbooks were introduced for grades one and six in 1999, for grades two and seven in 2000, and so on. Prior to the establishment of the PA, the Jordanian curriculum was used in the West Bank and the Egyptian one in the Gaza Strip. For a recent summary and analysis of the controversy regarding the Palestinian curriculum, see Akiva Eldar, "Reading, Writing -- and Propaganda", *Haaretz*, 10 September 2004.

⁶⁹ For a summary of PCBS' activities, which in addition to population projections include detailed socio-economic and environmental studies, see the organisation's home page at www.pcbs.org.

⁷⁰ ICG interview, Palestinian development worker specialising in rural development, Ramallah, 25 August 2004.

⁷¹ Additionally, "The Ministry of Housing no longer provides housing to those whose homes have been demolished, this is done by PECRAR [Palestinian Economic Council for Reconstruction and Development] which outmanoeuvred the Ministry in struggles over increasingly scarce resources". ICG interview, Palestinian development worker, Ramallah, 25 August 2004.

A case in point is the Ministry of Social Affairs. With much of its budget going to salaries and overhead, it has "not been a leading player in confronting the escalating Palestinian humanitarian crisis and in contrast to international agencies or Islamic charities contributes less today -- proportionately and probably also in absolute terms -- than it was able to on the eve of the uprising".⁷² The Ministry of Civil Affairs, which processes most paperwork requiring Israeli authorisation, faces a different type of obstacle; when Israeli authorities refuse to process such forms, it is reduced to the role of a spectator.

Far from reflecting increased activity, the PA's expansion of pre-2000 staffing levels is explained by political considerations,⁷³ namely the desire to maintain its influence as the largest employer in the West Bank and fear of repercussions of any mass layoffs at a time of unprecedented economic hardship.⁷⁴ Indeed, the characterisation of the PA as a glorified "employment agency"⁷⁵ is highlighted by its Ministry of Tourism. Despite the total collapse of the Palestinian tourist industry, which has led most commercial operators to dismiss most of their staff, it retains its full complement of employees and Directors General.

2. Local institutions

In the Palestinian administrative system, governors are appointed directly by Arafat; as his personal representatives, they function as the pre-eminent executive officials in their regions and hold primary responsibility for the orderly functioning of PA security and civil institutions within them. Their job description notwithstanding, most governors prior to September 2000 were not particularly powerful. Between Arafat's propensity for micro-management and the collective determination of security chiefs, ministers, and mayors to expand rather than surrender authority, they often had a symbolic rather than substantive role.

⁷² ICG interview, Palestinian NGO activist, Ramallah, April 2004.

⁷³ A clear example of PA expansion is the recent creation of the Ministry of Women's Affairs, almost entirely staffed by new personnel.

⁷⁴ George S. Hishmeh, "Palestinian Economy Among World's Poorest", *Daily Star* 19 July 2004. See also Anderson and Moore, "Palestinian Authority Broke and in Disarray", op. cit.

⁷⁵ ICG interview, Palestinian NGO activist, Ramallah, April 2004.

The past four years have seen a significant change. With Arafat confined to Ramallah and PA central institutions increasingly unable to exercise unified control and supervision over their dispersed regional offices, governors have become senior officials in reality as well as name. Their continuous presence, intimate knowledge of local conditions, and ease of access to senior PA echelons have made them indispensable interlocutors for the central leadership and local actors alike. Yet, this expanded role has also led to increased rivalries with other local forces.

Currently, governors' main tasks are to ensure the orderly functioning of PA institutions and public administration in their territory more generally, and to coordinate and mediate relations between various PA agencies. In the process, they are becoming the primary local source of formal authority. If the office has an overriding objective it is, as expressed by former Bethlehem governor Muhammad Madani, "to assure citizens that there is an authority".⁷⁶

One method utilised by governors to confirm their position at the apex of the local power structure is active supervision of existing institutions. In Qalqilya, for example, Governor Mustafa Malki meets with the heads of the security forces and, separately, the representatives of the political factions on a weekly basis. Every ten days -- and more often if required -- he convenes and presides over a meeting of the local Higher Emergency Committee (HEC), which consists of the mayor, representatives of PA ministries with an administrative or social welfare mandate, the head of the chamber of commerce, faction representatives, and PLC members from the area.⁷⁷ Neither such meetings nor even the HEC are post-intifada phenomena. However, their regularity and institutionalisation are, and reflect the governors' increased power and influence.⁷⁸

According to Qalqilya PLC member Othman Ghashash,

[It was] through the HEC that the PA was able to keep a presence in Qalqilya and inspire the necessary public confidence. Even when Qalqilya was occupied and under curfew, we forced people to go to work and even move to

their offices using side streets to avoid Israeli tanks. Services were never cut, administration kept functioning, and hospitals continued working. But not all HEC's are as active as ours.⁷⁹

One explanation for the latter observation is that the reasonably smooth relations between the governor and other PA elements in Qalqilya⁸⁰ and the marginalisation there of rival sources of power like the Al-Aqsa Brigades⁸¹ are not replicated throughout the West Bank. In Nablus, for example, Governor Mahmoud Allul has been a main protagonist in the city's power struggles. His main -- and at least until recently more powerful -- rival, Ghassan Shaka'a, was until mid-2004 also the mayor. With opposition primarily coming from within the formal power structure, Allul -- a Fatah leader in his own right -- strengthened his position through alliances with the local Al-Aqsa Brigades and is widely considered their main patron.⁸²

Where Allul eventually came out on top in his campaign to dominate the local power structure, other governors have fared less well. Muhammad Madani, appointed governor of Bethlehem shortly after the uprising began, alienated virtually everybody -- and was on several occasions threatened by Palestinian gunmen --⁸³ before departing from his post in 2004.⁸⁴ By his own account, "My approach weakened the various leaderships, whether in the security forces or otherwise, and this angered them".⁸⁵ A Bethlehem resident offers the following assessment:

Madani played a key role in seeking to control the situation. He faced opposition from the clans and the Fatah organisation (*tanzim*), because he was too hasty in certain matters such as trying to control the armed factions and curtail payments to them. He used a hands-on

⁷⁶ ICG interview, Madani.

⁷⁷ ICG interview, Malki. The composition of HEC's can differ from place to place.

⁷⁸ Indeed, a decade ago the idea that these various representatives would have consented to weekly meetings convened by the governor would have seemed inconceivable.

⁷⁹ ICG interview, Othman Ghashash, PLC Member, Qalqilya, 21 April 2004.

⁸⁰ ICG interviews, Malki, Zahran, Shraim.

⁸¹ ICG interviews, Palestinian officials, Qalqilya, April 2004.

⁸² ICG interviews, PA police officer, Nablus, 13 May 2004.

⁸³ ICG interview, Madani. The incidents were caused by "clan groups and refugees, young men who lacked experience". He escaped unscathed on each occasion.

⁸⁴ Ibid. Madani notes that during his tenure the Bethlehem HEC was "a haphazard committee - anyone willing to work was welcome to do so. Political forces, the media, NGOs, and professional associations were represented but the security forces [with which he had a tense relationship] were not". ICG interview, Madani.

⁸⁵ Ibid.

approach and managed to accomplish a great deal, but was locked in a power struggle with Kamil Hmaid, Fatah Secretary General in Bethlehem. When he eventually submitted his resignation to Arafat, it was, to his surprise, accepted.⁸⁶

Not all governors have had the option of terminating their service in an orderly fashion. At around the same time as Madani resigned, the acting governor of Jenin, Haidar Irshaid, was seized by an Al-Aqsa Brigades unit commanded by Zakariya Zubaidi and "dragged through the streets, publicly humiliated, and tried in the centre of town like a collaborator".⁸⁷ Accused of massive corruption, Irshaid obtained his freedom -- and thereafter left Palestine -- only after Arafat's personal intervention.⁸⁸ While it may be difficult to imagine similar scenes in the more placid setting of Ramallah or Bethlehem, the message that even officials as powerful as governors cannot survive without local support was not lost.

Whereas the governor's role is primarily exercised in relation to PA institutions, the municipality remains the level of public administration closest to the citizen, as well as the one with "direct responsibility for all civilian services" within its locality.⁸⁹ In contrast to governors, mayors and municipal council members are in theory elected officials, and a local election law was ratified by the PA in 1996. Yet the last such elections were conducted in 1976 due to the refusal of the Israeli authorities to permit them and, since 1996, to logistical challenges posed by Israeli occupation but principally political hesitation by the Palestinian leadership -- particularly its fear that Hamas, which has pledged to participate, would achieve substantial representation in many municipal councils and control some main cities.⁹⁰ As a result,

⁸⁶ ICG interview, Bethlehem resident, April 2004. As might be surmised, Arafat was unwilling to support Madani's efforts to curtail the local leaderships and did not take kindly to them.

⁸⁷ ICG interview, Fatah activist, Jenin, June 2004.

⁸⁸ More recently, on 31 July 2004, Zubaidi and his men torched the office of newly-appointed governor Qadura Musa. Zubaidi justified this act on the grounds that Musa "had not delivered promised jobs to his fighters, and accused Palestinian security services of tipping the Israelis off about where to find wanted Palestinians". *The Washington Post*, 23 August 2004.

⁸⁹ ICG interview, Zahran. There are no municipal police forces in the West Bank.

⁹⁰ The PA has announced that a first tranche of municipal elections, encompassing some 36 localities with Jericho the

all mayors and municipal councils are PA appointees, most dating from 1994-1996.

The legitimacy of Palestinian municipal office-holders has suffered from their length of tenure and the popular perception that they are dependent upon -- and thus represent -- the PA rather than their constituents; still, mayors typically hail from an established local family and have become the address of first resort for virtually any service-related issue. According to Jenin mayor Walid Abu Mwaiss:

The role of municipalities has really changed during the uprising. This is because mayors are seen as officials who can provide solutions. Local PA [i.e. ministry] personnel are considered employees who need to go through bureaucratic procedures to get permission from Ramallah to do anything, whereas mayors are seen as decision-makers because they are in charge of the institutions they lead.⁹¹

In spite of the drastic reduction in resources experienced by municipalities during the uprising, citizens today approach them -- and preferably the mayor personally -- for every imaginable form of assistance. In the words of Abu Mwaiss:

I currently set aside Tuesdays to receive citizens. Anything goes; any citizen with any problem -- whether related to the municipality's responsibilities or not - can come here. We now perform the role of all ministries here. I told Arafat, "I'm doing your job, I'm doing the PA's work in Jenin". Is it my responsibility to be the Ministry of Health and of Social Affairs? My principle is that cost what it may, the PA has to confirm its presence in Jenin. If I can't solve somebody's problem and turn them away empty-handed, that's it. He might turn to theft or some other desperate measure to prevent his family from being consumed by hunger.⁹²

Khalil Ashur, member of the Nablus municipal council, adds that "people are even turning to the municipality for help in resolving security problems".⁹³

Clearly, mayors are incapable of solving even half the problems with which they are confronted, particularly

most significant among them, will be held in December 2004. Voter registration commenced on 4 September 2004.

⁹¹ ICG interview, Abu Mwaiss.

⁹² Ibid.

⁹³ ICG interview, Ashur.

if these are financial. They have, therefore, resorted to symbolic financial donations, offering financial guarantees (for example to hospitals) on behalf of citizens, interceding with third parties and, most prominently, exempting most residents from payment of utility bills and other municipal fees. Qalqilya mayor Zahran notes that in his city "30 per cent of residents are able to pay their fees, so what we have done is to increase pressure on them so that we can ease it on the 70 per cent who can't".⁹⁴

Collectively, these new and unorthodox forms of assistance have placed an enormous burden on municipalities; cost-cutting measures like limitations on the use of municipal vehicles and exhortations to residents to reduce power consumption have done little to reduce the problem. Donor funds, which tend to be dedicated to specific projects rather than the municipal budget, have also not alleviated the situation. Instead, municipalities survive through increased subventions from the PA Ministry of Finance, and what amounts to a collective IOU to the PA worth approximately \$90 million.⁹⁵

Within refugee camps, a similar role is performed by the service committees (also known as popular or camp committees). Particularly in the last several years, and in the context of reduced services by both the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the PA, they have become a key conduit for the distribution of aid and assistance. In Nablus's Balata refugee camp, the local service committee provides rent to inhabitants of demolished homes, purchases medicines at a discount from wholesalers and distributes them for free, and takes responsibility for the costs associated with funerals of camp residents killed during the conflict.⁹⁶

B. INFORMAL NETWORKS

A variety of new and pre-existing informal actors have stepped into the breach created by the degradation of the PA during the past four years. Some were established or have been mobilised with the express purpose of reducing conflict and instability within Palestinian society. Others exist mainly to prosecute the struggle against Israel or serve the interests of their

members and depending upon circumstances, either contribute to or undermine public order.

1. Clans and conciliation committees

The tendency to revert to traditional allegiances in times of conflict and instability has been much in evidence in the West Bank since September 2000. The main unit in this respect, the extended family or clan, has been a force to be reckoned with for centuries, ebbing and flowing as circumstances change.

Such kinship networks and their associated traditional codes of conduct have become increasingly influential during the uprising. Their functions range from assisting relatives to obtain employment to extracting blood revenge (*tha'ir*). Their mode of organisation also varies. The more established families, particularly in larger cities, often maintain a *diwan*, or family council, that brings together leaders of the various branches to decide on matters of collective interest.⁹⁷ Further afield and further down the social ladder, clans often exist by virtue of nothing more than a dormant common pedigree that is activated only under exceptional circumstances.

The phenomenon of *asha'iriyya* (often translated as "tribalism") is particularly strong in the southern West Bank.⁹⁸ According to Fadil Atawna, a Hebronite political activist and journalist, "to a large extent clans are the parties that run the affairs of the governorate. Were it not for them and their codes of conduct, Israel would have been more successful in creating chaos here. Crime is kept in check tribally".⁹⁹ Rafiq Natshe, PLC member for Hebron and a founding member of Fatah who hails from one of the city's leading families, concurs:

The absence of security forces and of the rule of law has deepened the importance of tribalism, as people resort to their clan rather than the state or the law for protection. It pains me to say that the clan system, and not the rule of law, is

⁹⁴ ICG interview, Zahran, Qalqilya, 24 April 2004.

⁹⁵ ICG interview, Shobaki.

⁹⁶ ICG interviews, residents of Balata refugee camp, 15 June 2004.

⁹⁷ In Nablus, whose leading families have played a prominent role in Palestinian affairs for centuries, *diwans* are located in historic buildings in the Old City (*qasaba*), and often have signs identifying them as such. In Qalqilya, which only became a significant urban centre after 1967, the system is more informal and less structured.

⁹⁸ Zuhair Manasra, a Hebronite who is currently governor of Bethlehem and previously held the same position in Jenin, notes that "people's relations to traditional norms are far weaker in Jenin than in Hebron". ICG interview,

⁹⁹ ICG interview, Atawna

the primary guarantor in lessening calamities in Hebron. Because of it the crime rate here is low. Clans are not claiming they are an alternative to the PA. But there is consensus that because the PA has become ineffective, other forces need to fill the vacuum.¹⁰⁰

Yet group solidarity as a mechanism of governance is a double-edged sword. Factors that enable clan structures to reduce instability -- their social control over members, deterrent power, and traditional codes of conduct -- can also produce it. In the Old City of Nablus in 2004, for example, several stores belonging to members of the same family were set on fire by members of another family in collective retaliation for an attack on one of their own.¹⁰¹ In June 2004, a Jenin municipal worker was murdered because one of his relatives had the previous night stabbed a relative of his killers in what was described as "a petty personal dispute" to which the murder victim was unconnected.¹⁰² While such incidents are by no means unprecedented, they have in recent years become noticeably more frequent throughout the West Bank.¹⁰³

Clan-based allegiances also can play an important part in political affiliations, and lines between local clan, political faction, and militia (and sometimes security service as well) often are blurred. Kinship is a powerful recruitment tool and, in turn, local branches of political factions can be virtual extensions of clans or sections thereof. Among the better known cases are those of the Abayat clan of the Bethlehem region, the Mughrabi family in Bethlehem's Dheisheh refugee camp, and the Abu Samhadanas in Rafah in the Gaza Strip (all associated with Fatah militias), and more recently a branch of Hebron's Qawasmī clan associated with the Hamas military wing.

Similar cases of identity between family, political affiliation, and military leadership exist in many other parts of the occupied territories, such as that linking the Masris of Nablus's Balata refugee camp and the Karmis in Tulkarm with the Al-Aqsa Brigades. On the whole, such relationships tend to promote "second-tier" and poorer clans (or sub-branches) at

the expense of the more established ones, benefiting younger members and fuelling rivalry.

Although the PA even prior to the uprising utilised kinship networks when confronted with the limits of its power, its growing weakness has translated into a systematic resort to them. One way it does so is by directly approaching leading clan representatives to exercise their influence over a particular relative. The Qalqilya police, for example, use this method with relative success to convince wanted suspects to report for arrest.¹⁰⁴ Similarly, Hebron security, convinced by circumstantial evidence that a murder was committed by members of a particular clan but unable to identify the specific individuals involved, was able to persuade the killers to step forward by harassing the clan until it shook out the suspects.¹⁰⁵ Such methods are less effective where the PA is not a direct party to the dispute, such as family feuds. Then local clan-based mediators, known as Conciliation Committees, enter the fray.

Conciliation Committees were created in the occupied territories during the 1987-1993 uprising to help maintain social stability after mass resignations from the police force and as a means of co-opting clan leaders to the national movement.¹⁰⁶ Diminished rather than eliminated after the PA's formation, their activity since September 2000 has been constant; members describe an uninterrupted caseload of disputes requiring their intervention.¹⁰⁷ The size and membership of Conciliation Committees varies by locality and the type of conflict,¹⁰⁸ but typically consist of respected clan members or those selected by them. If a dispute implicates protagonists from different localities, members of more than one committee may be involved in attempts to resolve it.

Conciliation Committees intervene in a broad range of disputes, either at the prompting of others (protagonists or third parties like the police) or upon their own initiative. They generally avoid interference in family affairs, such as conflicts over

¹⁰⁰ ICG interview, Natshe.

¹⁰¹ ICG interview, PA police officer, Nablus, May 2004. It was one of a number of such incidents to have taken place in 2004.

¹⁰² ICG interview, Abu Mwais.

¹⁰³ ICG interviews, Palestinian officials and residents, West Bank, 2003 and 2004.

¹⁰⁴ ICG interview, Jabr.

¹⁰⁵ ICG interview, senior intelligence officer, Hebron, June 2004.

¹⁰⁶ ICG interview, Salama, who was involved in their establishment. Palestinian police officers had resigned en masse in response to demands by the uprising leadership.

¹⁰⁷ ICG interview, Ratib Hataba, Conciliation Committee member, Hebron, 23 June 2004.

¹⁰⁸ Thus, a member of a particular clan who is normally part of a Conciliation Committee will not participate in an intervention when one of his relatives is a protagonist.

inheritance, on the grounds that these are properly resolved internally. As one put it, "If there is a dispute between a husband and wife, the committee won't get involved. But if a marital dispute involves their respective families, it will".¹⁰⁹ Such committees are particularly active in cases where physical harm is involved, such as murder, because the increasing resort to the custom of blood revenge on account of the security vacuum means these have the greatest potential of escalating into broader conflict.

The murder of a Jenin municipal labourer illustrates how Conciliation Committees operate. Initially, the victim's family refused to arrange a speedy burial in accordance with normal Islamic practice, signalling its determination to exact blood revenge first. The Conciliation Committee immediately descended upon the scene to convince the family not to take the law into its own hands and pressure the authorities to take measures to enable the family to back down. Later that same day, several suspects from the clan were arrested by the PA and transferred to Jericho and Ramallah for interrogation, the victim duly buried, and a wider clash prevented.¹¹⁰ Had the Committee not persuaded the police to fulfil its role in this case (a genuine likelihood in cases where the accused has the requisite influence or connections, commonly known as "*wasta*"), the matter might well have escalated and led to additional killing.

More mundane issues also are at stake, such as debts and other financial matters. In these and other cases, the success of the Committees' interventions derives in no small part from involving - and publicly identifying - the protagonists' families, communities, or others with influence over them as guarantors of the settlement.¹¹¹

Committee judgments are not binding, but rather rely on social and moral persuasion.¹¹²

However, some point to the Committees' close relationship with the political factions and their tendency to reflect the latter's preferences, and their perceived habit "of imposing solutions at the expense of the weaker party".¹¹³ A well-informed resident of Nablus scoffed at the idea the Committee could find against a Fatah activist who had killed an ordinary resident and said judgements in murder cases are closely coordinated with the governor: "[Instead,] the victim will be declared a martyr, or his family receive a cash payment, or some other formula found to sweep the matter under the rug".¹¹⁴

A mayor from the Hebron district added that "the real problem is that some governors established corrupt Conciliation Committees which increase rather than reduce problems".¹¹⁵ The perception that Conciliation Committees lack independence and will not defy powerful politicians, political factions, or militia leaders has undermined their legitimacy.¹¹⁶

Assessments of the Conciliation Committees' role are thus mixed. Clearly, they have been a support mechanism for the PA and have prevented greater lawlessness. Yet, as their name suggests, their primary objective is to mediate and conciliate rather than conclusively resolve disputes. Where, as has repeatedly been the case, this amounts to a pledge to forego revenge against a known assailant without obtaining a judicial verdict, they further demonstrate the absence of the rule of law.¹¹⁷ A Nablus PLC member explained: "I'm all for the rigorous enforcement of the rule of law, but our reality demands otherwise to keep things from exploding. We need things like arbitration to contain crisis, even if this shouldn't replace the rule of law".¹¹⁸ Musa Darawish, a Bethlehem University official, is far more critical:

The absence of the rule of law has given rise to new sources of authority. This does not bode

¹⁰⁹ ICG interview, Palestinian lawyer, Ramallah, June 2004.

¹¹⁰ ICG interview, Abu Mwais.

¹¹¹ ICG interview, Ratib Hataba, Conciliation Committee member, Hebron, 23 June 2004. According to a committee member, the PA has sought to piggy-back on its achievements, and by way of appeasement is often identified as one of the guarantors. ICG interview, West Bank, June 2004.

¹¹² "If a party rejects Conciliation Committee recommendations deemed fair, their position is weakened. At the same time there is sympathy for those who reject a committee solution that gives them less than they are entitled to by custom or would have obtained in court". ICG interview, Palestinian lawyer, Ramallah, June 2004.

¹¹³ The view that Conciliation Committees will not defy the interests of powerful political factions or militia leaders appears to be widely shared. ICG interviews, Palestinian lawyer, Ramallah, June 2004; resident of Hebron, June 2004; ICG telephone interview, resident of Nablus, 6 July 2004.

¹¹⁴ ICG telephone interview, resident of Nablus, 6 July 2004.

¹¹⁵ ICG interview, Muhammad Abu Atwan, Mayor of Dura, 24 June 2004.

¹¹⁶ ICG interviews, Hebron, Ramallah, Nablus, May-June 2004.

¹¹⁷ One source suggested that in such cases blood revenge is deferred rather than avoided. ICG interview, Palestinian lawyer, Ramallah, 13 September 2004.

¹¹⁸ ICG interview, Salama.

well for Palestinian society, nor is it something we desire. If a Christian is faced with a land problem in Bethlehem, he turns to the Patriarch, who in the past never interfered in civil matters. Similarly, if a member of the Ta'amra tribe is faced with a problem he turns to his tribal leaders, while a refugee turns to camp leaders. These new sources of authority have contributed to division. We cannot move forward as long as the rule of law remains absent.¹¹⁹

2. Political movements

Palestinian political movements, whose power and influence had been consistently on the wane since the PA's establishment, have reasserted themselves since September 2000. Factions, in association with their armed wings, are today pre-eminent sources of power and authority in the West Bank. The dominant Fatah movement, with its extensive network of members and activists that reaches into virtually every household, its umbilical bond with the PA and security forces, and sponsorship of the Al-Aqsa Brigades, rules the roost.¹²⁰

Throughout the West Bank, important decisions like sensitive appointments, dismissals, and arrests, require the at least tacit approval of the Fatah *tanzim* (organisation). As the case of former Jenin governor Ersheid (and more recently Gaza police chief Ghazi Jabali) demonstrates, Fatah is capable of reversing such decisions in ways that Hamas and others independent of the PA are not. Similarly, the decision to cease firing at adjacent Israeli targets from Palestinian residential areas in Ramallah/El Bireh and elsewhere in the West Bank in 2002/2003 -- itself largely the work of Fatah-affiliated gunmen -- required *tanzim* support to take effect.

Not only have factions resumed their traditional role as primary vehicles for political allegiance and popular mobilisation, but they have also become increasingly important sources of social services, as

in the case of Hamas,¹²¹ and conduits for employment and resources, as with Fatah. Although opinion polls suggest the respective strengths of these two movements within the West Bank is today approaching equality (with both far ahead of all others),¹²² a Palestinian NGO activist points out:

Fatah has a natural advantage by virtue of its dominance of the PA. When applying for a job with the PA, for example, membership years in Fatah are counted as professional experience. Similarly, the social services and humanitarian assistance provided by local Fatah branches are funded by the PA leadership.¹²³

"Fatah", states Ahmad Shraim, its secretary general in Qalqilya, "provides services to all its members, and indeed to the population at large".¹²⁴ In the context of vastly higher unemployment, preferential access to a ministry desk job, free hospital surgery, or even a bag of flour on account of political connections can make a significant difference.

While movements such as Hamas, Islamic Jihad, and the Popular Front for the Liberation of Palestine (PFLP) continue routinely to be described as "the opposition", the term has become at best relative. In the context of the uprising, they and Fatah have drawn increasingly close. Nasir Abu Aziz, a leading PFLP activist in Jenin, is like many others clear on this point: "Today there is no opposition, we are all in the same trench".¹²⁵

The Committee of National and Islamic Forces (NIF), established at the outset of the current uprising and with local branches in each West Bank district, brings together representatives of all political movements within the West Bank. Conceived as a coordinating body for the uprising that would ensure continued PA and Fatah dominance within the political system, it has acquired an increasingly important role with the waning of PA authority. While officials associated with formal institutions like the HEC tend to belittle

¹¹⁹ ICG interview, Musa Darawish, assistant to the executive vice president of Bethlehem University, Bethlehem, 23 April 2004.

¹²⁰ The case of Hebron's chief municipal engineer, Tawfiq Arafa, is illustrative: kidnapped in June 2004 by armed men affiliated with Fatah to publicise complaints about corruption in the municipality, he was released several days later after intensive mediation by Fatah leaders in the city. ICG interviews, PA officials and residents, Hebron, June 2004.

¹²¹ ICG Middle East Report N°13, *Islamic Social Welfare Activism in the Occupied Palestinian Territories: A Legitimate Target?*, 2 April 2003.

¹²² Nader Said notes that the primary reason for this parity is a decline in popular support for Fatah from 50 to approximately 20 per cent, whereas Hamas has not grown by a commensurate proportion. ICG interview.

¹²³ ICG interview, Palestinian NGO activist, Ramallah, May 2004.

¹²⁴ ICG interview, Shraim, 21 April 2004.

¹²⁵ ICG interview, Aziz, Jenin, June 2004.

its role,¹²⁶ factional representatives insist their "political and popular, as opposed to institutional and formal, authority" is crucial.¹²⁷

Factional activists note a decision in Qalqilya earlier this year to confront the phenomena of masked activists, who were becoming a law unto themselves and had begun to knee-cap individuals accused of collaboration or moral turpitude. Their eventual apprehension by security forces could not have occurred without the NIF's political support and cover, which effectively removed the aura of nationalist legitimacy they would otherwise have exploited.¹²⁸

As recent events demonstrate, the main power struggles are being fought out within Fatah rather than between it and Hamas. According to Palestinian analyst Khalil Shikaki, "leadership within Fatah has always been diffuse, but under the pressure of the intifada fragmentation has become much more widespread".¹²⁹ Broader rivalries between Fatah's historic leadership and the movement's new generation of leaders, its civil and military wings, and those associated with the senior levels of the PA and the movement's popular infrastructure are supplemented by divisions within each of these camps.

In Ramallah, where the Fatah establishment is in relatively secure control, this struggle is primarily expressed through rivalry between the Fatah Central Committee (the movement's supreme institution representing its historic leadership) and activists associated with the Fatah Higher Movement Committee (an informal body that brings together many younger West Bank leaders who exercised leadership roles during the 1987-1993 uprising),¹³⁰

but also extends to competing factions associated with the same camp -- such as that in Ramallah between supporters of Marwan Barghouti and of Hussein Shaikh, both members of the Higher Movement Committee.¹³¹ In Nablus, where Fatah-affiliated armed groups play a leading role, there are, in addition to the conventional divisions, fierce rivalries between different branches of the Al-Aqsa Brigades -- particularly those based in the *qasaba* and Balata refugee camp -- that have at times escalated into fatal clashes.¹³²

From its inception, a key element of Fatah's success has been its ability to be all things to all Palestinians; it never formulated an ideology or required adherence to a particular political program, and it recruited among refugees, industrialists, secular nationalists and Islamists with equal enthusiasm. In practice, therefore, there have always been many Fatahs, united only by a commitment to a vague Palestinian nationalism whose ideological substance and political program each defined in its own way.¹³³ With escalating internal battles in the movement, the broad church has become a faithless structure. Most importantly, and in contrast to previous periods,¹³⁴ there is no critical mass of leadership elements capable of forming a consensus program on goals and means of achieving them.

For better or for worse, Arafat remains far and away the leader most capable of gauging and articulating a consensus; but whereas in the past he simultaneously fuelled rivalries and helped manage them, his isolation and marginalisation by the international

¹²⁶ ICG interview, Palestinian mayor, West Bank, April 2004.

¹²⁷ ICG interview, Nidal Hamayil, PFLP leader, Qalqilya, 21 April 2004.

¹²⁸ ICG interviews, NIF factional representatives, Qalqilya, April 2004.

¹²⁹ ICG interview, Shikaki.

¹³⁰ According to one Fatah activist associated with the views of the Higher Movement Committee: "Before Oslo we used to treat the Central Committee members with awe. After the PA was established and we gave them the hero's welcome they expected, we got to know them directly, met them, observed their performance, and it was a very bitter experience. They are paper tigers, they are corrupt and don't want to work, and are interested only in self-perpetuation and personal privilege, not the implementation of a program for national liberation. This created a crisis of confidence and widespread conviction of the need for change, for renewal, for elections, for new blood. Most of these calls have been internal, by younger

leaders who proved themselves during the 1987-1993 uprising. But the Central Committee members reject any initiative for change and refuse to give up anything. And Arafat wants to keep them because they'll do anything he wants them to. That is the essence of the confrontation".

"In fact", he added, "all parties have a crisis of vision and leadership. DFLP [Democratic Front for the Liberation of Palestine] leader Nayif Hawatma denounces the PA in Damascus, while his deputy Qais Abu Laila meets Arafat on a daily basis. The PFLP has no leadership left, like sheep without a shepherd. It's a general problem". ICG interview, Ramallah, 26 August 2004.

¹³¹ The Barghouti/Shaiikh rivalry shows that such contests are not simply between what are termed the "old" and "new" guards.

¹³² ICG interview, PA police officer, Nablus, May 2004.

¹³³ Many also consider the leadership of Arafat as critical to both the movement's overall unity and internal rivalries, particularly during the period since 1982 when the PLO lost its independent base of operations in Lebanon and many of its most powerful leaders.

¹³⁴ ICG interview, Shraim.

community limit his ability to control the lower leadership tier. Accustomed to divide and conquer, he can still divide, but he conquers less decisively than before. Competition among leaders, never far from the surface, has reached exceptional levels. Many Fatah activists liken the ensuing strategic paralysis to an identity crisis and view its resolution as their movement's most urgent task.¹³⁵

IV. LAW AND ORDER

Along with the provision of services, law and order -- more accurately its absence -- is today the key domestic preoccupation among Palestinians. Throughout the West Bank and from all walks of life, they complain about "security disorder" (*falatan amni*), "the chaos of weapons" (*fawdat al-silah*), and "the taking of the law into one's own hands".

Gun ownership by private individuals has reached alarming levels, all the more disquieting since Israel bans security officials from carrying their own. This, combined with the strengthening of kinship solidarity, loosening of central control, rising domestic violence¹³⁶ and the merciless pressures of daily life, helps explain why altercations turn violent and escalate into clan-based vendettas with growing frequency. Accurate statistics are difficult to obtain and often contradictory but the trends are clear and worrisome. In Nablus, for example, a source reports 30 murders in the six-month period to May 2004 -- over and above the (much fewer) conflict-related killings by Palestinians involving suspected collaborators and clashes between armed groups.¹³⁷ By local standards, this is a veritable bloodbath.

Residents of Hebron note an alarming rise in the murder rate.¹³⁸ According to a community leader, "this is on account of the increased availability of weapons. Most murders that are committed are not premeditated, but result from ignorance about the danger of weapons".¹³⁹ "Private weapons", states the Mayor of Jenin, "always cause chaos. And there are very many of them. As a result Jenin is not the city of chaos, but the capital of chaos".¹⁴⁰

During the second half of the 1990s, the PA was credited with palpable improvements in personal security. For all their shortcomings, and to a significant extent on account of their mere existence, sheer numbers, and extensive deployment, police and other security forces were generally considered effective in preventing, prosecuting, and reducing crime.

¹³⁶ See OCHA Humanitarian Action Plan for 2003.

¹³⁷ ICG interview, PA officer, Nablus, 13 May 2004.

¹³⁸ ICG interview, Qawasmī.

¹³⁹ ICG interview, Ratib Hatba, member of the Hebron Conciliation Committee, Hebron, 23 June 2004.

¹⁴⁰ ICG interview, Abu Mweis, 22 June 2004.

¹³⁵ ICG interview, Fatah activist, Ramallah, 26 August 2004.

Battered, largely disarmed, and without the backing of an effective political structure, they no longer are in a position to enforce law and order effectively. While they can rise to the occasion when confronted with a particularly severe case their commanders or political leaders are determined to resolve, it is beyond their capability to do so regularly.

A. THE CRIMINAL JUSTICE SYSTEM

Among the most important consequences is the serious breakdown of the criminal justice system and indeed the judiciary as a whole. According to Hanna Nasir, mayor of Bethlehem:

There has been a palpable erosion in security in Bethlehem because of the absence of courts and an apparatus that can implement laws to safeguard the rights of individuals, groups, and institutions. Until today the legal realm remains fluid, prolonging chaos.¹⁴¹

Manasra, Bethlehem's governor, lays the blame primarily at Israel's feet:

Due to Israeli closures, the ability of judges to get to courts on a daily basis is impossible. If a judge manages to get to court, the prosecutor may not arrive. Months may be needed for courts to convene. Such conditions have renewed Palestinian distrust of the PA. Palestinians distrust the judiciary because the law does not fulfil their needs. There are numerous legal cases that have not been dealt with, and the judiciary does not have the capacity, whether in terms of infrastructure or the prevailing conditions, to address these cases. The fact that the courts do not resolve cases generates new crises between individuals in Palestinian society.¹⁴²

But pointing the finger at Israel alone masks deep Palestinian deficiencies. A lawyer in Ramallah argues that lack of faith in the system has more to do with its lack of independence and enforcement capabilities:

People without the requisite connections (*wasta*) assume they will not get a fair hearing, and that even if they do, the verdict won't be implemented unless they possess the

connections to ensure its enforcement. And if they do have such connections, why bother going to court to begin with?¹⁴³

In Hebron, people criticise the judiciary's reluctance to fulfil its duties. Cases of detained suspects are routinely referred to Conciliation Committees rather than the courts "and end with reconciliation rather than a verdict. Where blood is involved it is difficult to resolve things this way".¹⁴⁴ One reason this happens, according to a senior legal official in the same city, is that "courts and prosecutors are intimidated and scared to bring cases to court".¹⁴⁵

The sources of such intimidation are not difficult to identify: competing security forces, armed militias, criminal elements -- indeed anyone who can make a credible threat against judges, prosecutors, or related officials keenly aware that the PA cannot protect them.¹⁴⁶

B. THE SECURITY FORCES

The security forces, which have borne the brunt of Israeli attacks and restrictions directed at the PA apparatus -- including the destruction of headquarters and prisons -- are the most degraded sector of the formal administration. According to senior officers, the consequence of such attacks and Israel's continued restrictions is that "we are still working, but incapable of carrying out our responsibilities".¹⁴⁷ While such individuals tend to discount the significance of the proliferation of security forces to their predicament,¹⁴⁸ those not directly involved in commanding them do not. Instead, they point to the difficulties proliferation poses for creating an effective security framework and the attendant competition for increasingly limited authority and resources among commanders.¹⁴⁹

¹⁴³ ICG interview, Palestinian lawyer, Ramallah, May 2004.

¹⁴⁴ ICG interview, Qawasmi.

¹⁴⁵ ICG interview, senior legal official, Hebron, 24 June 2004.

¹⁴⁶ ICG interviews, residents of Balata refugee camp, Balata, 15 June 2004.

¹⁴⁷ ICG interview, Jabr, Qalqilya, 24 April 2004; senior PA intelligence officer, Hebron, 24 June 2004.

¹⁴⁸ ICG interviews, senior Palestinian intelligence official, Bethlehem, 24 April 2004; Jabr, Qalqilya, 24 April 2004.

¹⁴⁹ Notably, the structure of the security forces and the level of authority of the government over them has been a key issue during the recent PA crisis.

¹⁴¹ ICG interview, Nasir, 24 April 2004.

¹⁴² ICG interview, Manasra.

On the face of it, circumstances have significantly improved since 2002-2003, when even the traffic police had to wear civilian attire, and the governor of Bethlehem on several occasions detained thieves in his own home due to the absence of prison facilities.¹⁵⁰ Yet, their main challenge persists, namely the inability to ensure security or enforce law and order in a regular manner.

As described by Palestinian security officials, their chief constraints are the inability to carry weapons and move freely about. Within cities, the latter problem is part and parcel of every Israeli incursion, when residents note that the security forces simply vanish and can no longer operate. A separate, but related issue derives from the administrative division of West Bank territory pursuant to the Oslo process agreements. In Hebron, senior Palestinian officers note that Palestinian "criminals perpetrate acts in [Palestinian] H1 and seek refuge in [Israeli] H2, where it is almost impossible for us to retrieve anyone".¹⁵¹ While the problem existed prior to 2000, the rising crime rate has made it acute. Qalqilya Chief of Police Colonel Muhammad Jabr notes that in other regions the phenomena is replicated at the boundaries of Area A.¹⁵²

Security officials consider the ability to carry weapons even more vital. According to a police officer in Nablus, an informal agreement with the Israeli authorities in the city in early 2004 resulted "in an immediate improvement on the ground", but the arrangement was abrogated by Israeli commanders five days later.¹⁵³ Officers in other West Bank cities similarly emphasise their need to patrol with weapons and note that each attempt to reach agreement with the Israeli authorities on this has ended in failure. Israeli security officials claim that the involvement of members of the security forces in militant groups and, in a number of cases, direct participation in armed attacks, led them to ban the carrying of weapons in the first place; they also claim that Palestinian refusal to accept a series

of Israeli conditions such as who could carry weapons, what kind and where has since precluded relaxation of the ban.¹⁵⁴ Palestinians counter that Israel's conduct appears deliberately designed to undermine PA authority and maximise lawlessness and disorder within their cities.

With their diminished capacity, the activities of the security forces have become both more haphazard and more selective. An officer in Ramallah/El Bireh says the police still retain covert weapons stocks but in order to conserve their limited resources tend to take decisive action only when the occasion demands it, such as particularly serious crimes, cases in which a failure to intervene threatens to unleash a violent feud, or when they are instructed to act by prominent officials.¹⁵⁵

Khalid Qawasmi, head of the West Bank Association of Engineers, adds that in Hebron "the security forces do not deal with 90 per cent of petty and medium crimes, but focus only on the most serious cases, particularly those that have an impact on public opinion".¹⁵⁶ An intelligence officer in Nablus suggests that their exercise of authority is also opportunistic:

In Nablus, the PA's law enforcement capability is limited to its own members and employees. For example, security officers are forbidden from driving stolen cars. If I were to drive one, I'll be punished by my commanding officer because his authority over me gives him this ability. But if my neighbour, who is not in the PA, drives a stolen car past headquarters twice a day, no one can do anything.¹⁵⁷

To compensate, security forces have established as visible a uniformed presence as possible, primarily consisting of constant foot patrols whose main purpose appears to be to advertise their existence. Since these are basically symbolic and inspire only minimal confidence, they have also, and to a larger extent than other PA institutions, sought to make up for their reduced capacity by working through

¹⁵⁰ ICG interview, Madani.

¹⁵¹ ICG interview, Ja'bari.

¹⁵² According to Jabr, "Recently, a group of police officers from Qalqilya arrested some criminals in the nearby village of Funduq. When they reached the next Israeli checkpoint, the soldiers released the criminals and arrested my men, on the grounds that they are not allowed to operate there". ICG interview, Jabr.

¹⁵³ ICG interview, PA police officer, Nablus, 13 May 2004.

¹⁵⁴ ICG interview with senior Israeli security official, Jerusalem, September 2004.

¹⁵⁵ ICG interview, PA police officer, Ramallah/El Bireh, April 2004.

¹⁵⁶ ICG interview, Khalid Qawasmi, Hebron, 23 June 2004.

¹⁵⁷ ICG interview, PA intelligence officer, Nablus, June 2004.

informal networks.¹⁵⁸ Often this consists of reliance on family networks or clan-based mediators to deliver suspects, return stolen goods, and prevent reprisals and/or requests for help to a political faction.

In other cases, and particularly the more serious and urgent ones such as kidnappings, local branches of the Fatah movement -- which is closely intertwined with the PA and its security forces but has substantially further reach -- are mobilised. While such tactics have increased the security forces' ability to deliver, they have simultaneously strengthened those least amenable to PA control.¹⁵⁹

The strength of local security forces is closely related to the PA's overall condition; in Jericho, Bethlehem, and Ramallah/El Bireh, they retain a significantly broader capacity for action than in Hebron, Nablus, or Jenin. Yet, even in Bethlehem, the deputy chief of police notes that the Israeli military's ability "to enter the city at anytime harms our image as guarantors of public security" and that consequently, "the public does not trust us".¹⁶⁰ Many residents put it less charitably. In Ramallah/El Bireh, one notes that the police "has been reduced to directing traffic at main intersections and even there lacks means to apprehend violators". "If this house were being robbed", adds his wife, "I wouldn't call the police. If they show up at all it will be hours later".¹⁶¹

Residents of Hebron expressed despair. Several noted "mass disillusionment" with the security establishment, ascribing this in significant part to corruption within its ranks and its propensity to "put personal interests before the common good".¹⁶² "If you ask restaurant and store owners", states a member of the Hebron Conciliation Committee, "they will tell you that police officers ask for bread

and chickens and other things without payment. They're hungry. How can he who is hungry protect his town?"¹⁶³

One of the more pressing Palestinian concerns has to do with the long-term effects the growing lawlessness is having upon their society, particularly children. According to Jenin Mayor Abu Mwais:

Due to their constant exposure to violence our children will be our greatest problem in the future. A kid who is not afraid of a tank won't care about what he's told by a policeman carrying a pistol, and it will be very difficult to enforce the law on him. If we don't start paying attention to children being raised on violence and a lack of fear now, it will be a huge problem in future.¹⁶⁴

Others also point to the destructive nexus of poverty and gun ownership, in a context where children are regularly exposed to a reality of disputes and problems being settled by weapons.

¹⁵⁸ ICG interviews, Palestinian security officers, Bethlehem, Hebron, Jenin, Nablus, Qalqilya, Ramallah/El Bireh, Tulkarm, 2004.

¹⁵⁹ ICG interview, senior PA police officer, Hebron, 25 June 2004.

¹⁶⁰ ICG interview, Issa. However, he also claims that despite being "completely handicapped", the Bethlehem police forces "are able to fulfil 60 per cent of our duties".

¹⁶¹ ICG interviews, Palestinian residents, Ramallah/El Bireh, March 2004. Requests for police assistance have as a result also become more informal. Another resident notes that whereas prior to 2002 she would call the police station directly if assistance was required, today "I wouldn't bother. If it's a real emergency I'd call a friend who serves in the force to ensure they come by". ICG interview, Ramallah, June 2004.

¹⁶² ICG interviews, Qawasmi; senior municipal official from the Hebron district, 23 June 2004.

¹⁶³ ICG interview, Hebron, June 2004.

¹⁶⁴ ICG interview, Abu Mwais.

V. THE PHENOMENON OF THE AL-AQSA BRIGADES

A. ORIGINS

The Israeli-Palestinian confrontation that erupted in late September 2000 escalated with extraordinary rapidity. According to Amos Malka, Israel's director of military intelligence at the time, during the first month, the army fired 1.3 million 5.56 mm bullets. The "significance" of this figure, indicative of the scope of Israel's military response, Malka stated at the time, "is that we are determining the height of the flames".¹⁶⁵

Palestinian rage against Israel and determination to avenge casualties were not the only factors that determined the intensity of Palestinian of the uprising. Within Fatah, and particularly among cadres who did not occupy senior PA positions, there was also widespread feeling that since Oslo "Fatah was paying the price of the PA's mistakes"¹⁶⁶ and that -- particularly in these new circumstances -- insufficient Fatah militancy would translate into more popular support for Hamas.

Arafat and many among the senior echelons of the PA leadership for their part had additional reasons not to prevent an escalation of the uprising. On the one hand, they hoped to use it as a lever to extract concessions in the ongoing permanent status negotiations; on the other, they understood that massive disillusionment with their own shortcomings helped fuel the rebellion, and that if they intervened to stop it, it might well be redirected at them.¹⁶⁷

During the final months of 2000, armed attacks against Israeli soldiers and Jewish settlers in the occupied territories became increasingly frequent. With Hamas still largely quiet,¹⁶⁸ most were claimed by the Al-

Aqsa Martyrs' Brigades, a new militia affiliated with the Fatah movement.¹⁶⁹ It was an unmistakable signal that the uprising was entering a militarised phase with the tacit support of a Palestinian leadership unable or unwilling to prevent it (or both). According to Hani Masri, "The *kata'ib* were created because if Fatah didn't resist, it would have ceased to exist".¹⁷⁰ A Hamas representative in Qalqilya put it thus: "The *kata'ib* were established by Fatah and the PA to keep their own on board and retain popular support. It was a smart move, and has helped them".¹⁷¹

Numerous instances in which uniformed Palestinian security personnel initiated or participated in fire fights with Israeli forces and against settlements,¹⁷² and a conspicuous pattern in which some security forces (notably General Intelligence) were involved in the armed uprising while others (particularly the Preventative Security Force) remained wholly aloof,¹⁷³ suggested that, at the very least, the leadership exercised a measure of influence.

With hindsight, it seems clear that more than an Israeli-Palestinian dimension was at work. Mamduh Nofal, a member of the Palestinian National Security Council and former military commander of the Democratic Front for the Liberation of Palestine, recalls an exchange with Marwan Barghouti in late 2000:

I warned Marwan about the dangers of militarisation and urged him to reverse course and stop it. He responded that he couldn't. "Our cadres", he stated, "are determined to proceed. They are convinced that otherwise Fatah will lose to Hamas".¹⁷⁴

¹⁶⁵ Cited in *Haaretz*, 11 June 2004. 850,000 of these rounds were fired in the West Bank and 450,000 in the Gaza Strip.

¹⁶⁶ ICG interview, Qaddura Faris, member of Fatah Revolutionary Council and PLC Member, Ramallah, March 2004.

¹⁶⁷ ICG interview with local Fatah leader, Ramallah, September 2004.

¹⁶⁸ Hamas did not begin to get systematically involved in the uprising until early 2001. It conducted its first suicide bombings in Israel some six months after the intifada started. Some attribute this to the time it took the organisation to recuperate from PA suppression during the 1990s. The more likely explanation is that it initially took a sceptical attitude towards

the uprising, seeing it as either a negotiating tactic fomented by the PA or a phenomenon that the PA would forcefully crush in order to facilitate a permanent status agreement.

¹⁶⁹ For a detailed examination of the genesis and development of the Al-Aqsa Brigades see Jean-Francois Legrain, "Les Phalanges des martyrs d'Al-Aqsa en mal de leadership national", *Maghreb-Machrek* 176, summer 2003, pp. 11-34.

¹⁷⁰ ICG interview, Hani Masri, Palestinian commentator, Ramallah, 24 June 2004.

¹⁷¹ ICG interview, Shaikh Yasin Hammad, Hamas representative, Qalqilya, 24 April 2004.

¹⁷² ICG interviews, Palestinian residents who witnessed such incidents, Ramallah/El Bireh, 2000 and 2001.

¹⁷³ ICG interviews, PA officers and officials, Nablus, Qalqilya and Ramallah, 2004.

¹⁷⁴ ICG interview, Nofal. Shaikh Hammad of Hamas concurred: "Before the uprising the PA had significant popular support, because people thought its political program would succeed. Now it is not even trusted by Fatah". ICG interview, Qalqilya, 24 April 2004.

B. EVOLUTION

Over time, elements of the Al-Aqsa Brigades have increasingly resorted to unrestrained behaviour, triggering widespread condemnation. In Nablus, on 30 June 2004, armed men affiliated with the Al-Aqsa Brigades "went crazy" imposing a strike in the wake of Israel's assassination of senior Brigades commander Nayif Abu Sharkh and a number of other prominent militants:

For three days, they ruthlessly enforced a total general strike. Usually under such circumstances it is considered perfectly acceptable for stores to discretely cater to people's needs through a back entrance, and people were desperate because they had just been under [Israeli] curfew for a week. But this time stores that opened were burned down, people were threatened and beaten in the streets, I've never seen it so bad. They literally went berserk.¹⁷⁵

For the most part, those who suffer from and readily condemn such "excesses" draw a clear distinction between the "authentic" Al-Aqsa Brigades, what is termed "the politicised rifle", and the "self-proclaimed" Brigades, what is termed "armed gangs" or "the unpoliticised rifle".¹⁷⁶ The implication is that the Al-Aqsa Brigades are, at least in the popular mind, a differentiated lot. There are "genuine fighters", who on account of their resistance and status as fugitives have time for little other than struggle and self-preservation.¹⁷⁷ There are also "rascals", "opportunists", and "brigands", who exploit their membership in the Brigades or illegitimately use its name in order to acquire ill-begotten personal gains and sow mayhem. According to Jamal Shati, member of the West Bank Fatah leadership and PLC representative from Jenin, "we clearly distinguish between weapons used for resistance and those that cause internal trouble. We know which is which, and they can't be judged by the same standard".¹⁷⁸

¹⁷⁵ ICG telephone interview, resident of Nablus, 6 July 2004.

¹⁷⁶ ICG interviews, Abu Mweis, Habash, Musa, Qasim, and others.

¹⁷⁷ The popular reverence accorded to Palestinians viewed as genuine resistance fighters was underscored when PA Prime Minister Ahmad Quraei (Abu Alaa), who is known for his pragmatic views and not considered close to the militias, publicly lauded them.

¹⁷⁸ ICG interview, Jamal Shati, PLC member representing Jenin, Ramallah, 23 June 2004. Shati's assessment that West Bank crime is not highly organised was broadly shared.

Reality is more complex. Units that exclusively engage in or systematically eschew the armed uprising are few and far between. Rather, even the more gang-like outfits will attack Israeli targets as a method of acquiring sponsorship and political immunity;¹⁷⁹ their nationalist counterparts will have a keen interest in local matters that might affect their operational abilities, and as with so much else in a situation where proper institutions either do not exist or do not function, the quality of local leadership is a critical factor.¹⁸⁰

A key issue is changes that have occurred in the militias' circumstances since September 2000. From their formation in late 2000 until early 2002, they experienced few real constraints within the comparatively safe havens of Area A.¹⁸¹ Although prominent commanders were at constant risk of assassination by the Israeli air force (and many were in fact killed), the militias enjoyed virtually unrestricted freedom within the cities. They routinely organised public displays of strength; roamed the streets at will, weapons in hand; were constantly available to the media; and made few efforts to conceal their identities.

Yet, the period of their greatest strength and visibility was also that during which their level of interference in the daily life and internal affairs of Palestinian society -- and complaints about such conduct -- was at its lowest.¹⁸² The reason is that until mid-2002, the PA, and its security forces in particular, continued to function within these areas much as before, thereby effectively circumscribing the opportunities for

¹⁷⁹ ICG interview, independent political activist, Nablus, 15 June 2004.

¹⁸⁰ ICG interviews, Palestinian officials and political activists, Nablus and Ramallah, June 2004.

¹⁸¹ Mahmud Abbushi, local leader of the Palestinian National Initiative and director of the Union of Palestinian Medical Relief Committees in Qalqilya, notes that "the 1987-1993 intifada was primarily a rural uprising, the current one is mainly an urban uprising". ICG interview, Abbushi, Qalqilya, 21 April 2004.

¹⁸² Such complaints as there were -- and in certain areas, particularly those abutting Israeli settlements and military bases these could be widespread - were primarily on account of the military tactics employed by the militias (particularly what was perceived as their reckless endangerment of civilians). See, for example, Hammer, *A Season in Bethlehem*, op. cit. Moreover, in some areas such as Ramallah, such criticism was directed more at the security forces and the political leadership, either because they led/participated in such activities or failed to bring them to a halt when the popular view was that they could easily have done so.

militias (and indeed others) to interfere in Palestinian social and economic life. People would generally direct any criticisms they had at those who bore formal responsibility for law and order.

There was also no resource crisis during this period comparable to the current situation. Al-Aqsa Brigades commanders were able to obtain funds from established channels and/or their conventional pre-intifada activities, and thus had little cause to resort to alternative sources of patronage (whether within the PA or elsewhere) or more intrusive activity. As a result, the motivation and opportunities to join or sponsor militias for reasons beyond the conflict with Israel remained relatively limited.

This changed significantly in mid-2002. Between the end of Israel's Operation Defensive Shield (March-May 2002, when West Bank cities were re-occupied in full) and the launching of the Road Map diplomatic initiative in mid-2003, Palestinian security forces functioned haphazardly at best, while the militias -- which also suffered severe blows -- were driven deep underground. Nevertheless, the militias operated more effectively under such circumstances than formal forces that were compelled to disarm. During this period elements associated with militias began to play a more active role in "regulating" security and civil affairs, mediating and prosecuting internal conflicts (whether their own or those of their sponsors), operating extortion rackets (*khawat*) and the like, while complaints about disorder and "the chaos of weapons" became much more widespread.

The increasing resource crunch also meant that militia members used their status and weapons to promote personal and organisational interests -- what Jenin Mayor Walid Abu Mweis terms the "semi-politicised rifle". Examples of the "semi-politicised rifle" in action are commonplace. These include militiamen using their influence to obtain the release of comrades and relatives from prison, job opportunities, and exemptions from municipal fees. "If someone enters my office and tells me he's a member of this or that group and asks for assistance", explains the Mayor of Jenin, "I can't send him away empty-handed, particularly if he knows that I have assisted someone like him". "If the mayor does", interjected his deputy, "this office might be shot at again".¹⁸³

There is also clear evidence that residents have been turning to militias for assistance in enforcing law

and order.¹⁸⁴ According to Rafiq Natshe in Hebron, "If the current situation of the absence of the rule of law and security in addition to economic ruin persists, the PA will cease to exist".¹⁸⁵

Finally, growing sentiment within the Brigades that they have been abandoned to their fate by the political leadership, while officials of questionable ethics and loyalty have retained their jobs, incomes, and numerous privileges, led them to play a more active and direct role in seeking to influence PA structure and policies.¹⁸⁶ The "cement scandal" that has unfolded in 2004 -- PA ministers and senior officials are alleged to have made enormous profits by diverting imported Egyptian cement to Israeli contractors building the West Bank separation barrier -- caused particular outrage, especially after it became clear that the leadership was reluctant to prosecute those involved despite a PLC committee recommendation.¹⁸⁷ The scandal made a regular appearance in subsequent Brigades communiqués. To the extent that there is a general trend, it is one of the network's increasing alienation and autonomy from the political system as a whole.

C. WHO CONTROLS THE BRIGADES?

Whether or not one accepts that Fatah's political leaders have been unable to control the Al-Aqsa Brigades, the claim reflects the manner in which they are organised and is important to understanding their role. Unlike, for example, the Martyr Izz-al-Din al-Qassam Brigades of Hamas, the Al-Aqsa Brigades, by virtue of design and circumstance, have never formed

¹⁸⁴ In Nablus, for example, a woman complained to a local Brigades commander that a doctor had inappropriately fondled her teenage daughter during an examination. In response, several armed men entered the doctor's clinic, shot the place up (wounding the doctor's brother in the process), and took the doctor to the Old City for interrogation. In this particular case, the Brigades eventually permitted the doctor's association to investigate. When the latter provided evidence that the doctor had never treated the girl and this was a case of attempted blackmail, he was released unharmed. ICG interview, member of the local medical association, Nablus, June 2004. Asked how people are able to contact the Brigades, the doctor replied that this is becoming increasingly difficult.

¹⁸⁵ ICG interview, Natshe.

¹⁸⁶ A Fatah activist and independent analysts also note it is not surprising that as the struggle against Israel reaches an impasse, more efforts are directed inward. ICG interviews, West Bank, 2004.

¹⁸⁷ ICG interview, Khraisha, who was a leading member of this committee.

¹⁸³ ICG interview, Jenin, 22 June 2004.

a coherent, disciplined military organisation led by a unified command implementing guidelines and decisions of a political leadership.¹⁸⁸ Rather, they are led and organised locally, and receive funding, political patronage, and other assistance from a variety of local, national and often foreign sources -- much like Fatah itself.¹⁸⁹ This has resulted in a number of phenomena:

- Even within a single city, the Al-Aqsa Brigades are not necessarily unified. In Nablus, for example, there are separate and competing *kata'ib* in the *qasabah* (whose emblem is crossed swords) and Balata refugee camp (whose emblem is crossed Kalashnikovs).¹⁹⁰ Even within the *qasaba*, there are separate militias (sometimes with different names) associated with different quarters and competing commanders.¹⁹¹ Similar divisions can be found in Bethlehem, Ramallah, and elsewhere, and not only within the city, but also between the city and its rural hinterland (some militias incorporate elements from both).
- Over time, and as a result of the combination of Israeli closures and counter-insurgency, this network has become increasingly fragmented,

¹⁸⁸ Fatah activists in Nablus and Jenin in this respect consistently noted that Marwan Barghouti, who has been presented by Israel as the founder and ultimate commander of the Al-Aqsa Brigades, has little support among their ranks. According to one, from the Balata refugee camp: "He has the reputation of a politician who expresses the popular point of view, one who markets slogans rather than actions. People support armed resistance, meaning those who are active operationally and can legitimately take credit for action. They simply refuse to believe Marwan is actually responsible for the impressive military actions he is supposed to have conducted." ICG interviews, Fatah activists, Nablus and Jenin, May-June 2004.

¹⁸⁹ According to Dalal Salama, member of Fatah West Bank Higher Committee and PLC member for Balata refugee camp: "It is a very complex story. Simplified, the Al-Aqsa Brigades were formed by local initiatives. History will show it was neither a central nor high-level leadership decision". ICG interview, 24 June 2004. See also Hammer, *A Season in Bethlehem*, op. cit; Legrain, "Les Phalanges des martyrs", op. cit.

¹⁹⁰ ICG interviews, PA officer, Nablus, 13 May 2004; PA intelligence officer, Balata refugee camp, 15 June 2004.

¹⁹¹ ICG interview, PA officer, Nablus, 13 May 2004; Qasim, Nablus, 13 May 2004; independent political activist, Nablus, 15 June 2004. The main commanders within the Old City at this time were Nayif Abu-Sharkh and Jamal Masri. Abu-Sharkh, killed by Israel during the preparation of this report, was described as the "West Bank commander of the Al-Aqsa Brigades" in many media reports. While undoubtedly a senior figure in the network, the fact is that no such person exists. Abu-Sharkh did not even control all the Brigades in the Nablus *qasabah*.

atomised, and localised.¹⁹² According to a prominent Fatah activist from Balata refugee camp, "There is no single *kata'ib* leadership, not even within a single governorate, but they could, under particular circumstances, make common cause with each other".¹⁹³

- Localisation and fragmentation have a direct bearing on conduct of the struggle against Israel. Statements attributed to the Al-Aqsa Brigades pledging to escalate the uprising or discontinue suicide bombings within Israel, for example, may only commit their authors or those in the same patronage network and should primarily be seen as reflecting local circumstances or specific agendas, not national political decisions. Unless and until the PA and Fatah leadership can establish effective control over the network -- a development that according to most Palestinians will require both a realistic prospect for political progress with Israeli and genuine PA reform -- this is unlikely to change significantly.
- Just as militias compete for patronage in order to increase their resources, so their patrons compete and settle accounts with each other through the militias they sponsor.¹⁹⁴ As layer after layer of paramilitary leadership has been removed by Israel through arrest and assassination,¹⁹⁵ increasingly inexperienced replacements tend to be more prone to such manipulation. In Qalqilya, the local PA and Fatah leadership attributes the relative absence of such strife in part to the absence of serious internal rivalries and its collective success in preventing senior figures in Ramallah from establishing local client networks.¹⁹⁶ The situation is very different in Nablus where there is both a bitter power struggle between Mahmud Allul and Ghassan Shaka'a and numerous links between senior Ramallah officials and local militia commanders.¹⁹⁷

¹⁹² A Fatah activist in Nablus also notes that within the Al-Aqsa Brigades, "allegiances are not determined by ideology, but geography and kinship". ICG interview, Nablus, May 2004.

¹⁹³ ICG interview, Salama.

¹⁹⁴ ICG interviews, Masri; Qasim, Salama.

¹⁹⁵ For example, Khalil Marshud, the Al-Aqsa Brigades commander in Nablus's Balata refugee camp assassinated in June 2004, had only assumed his post 40 days previous when his predecessor was killed.

¹⁹⁶ ICG interviews, Ahmad Shraim, secretary general of Fatah in Qalqilya and member of the Fatah Revolutionary Council, 21 April 2004; Zahran, 24 April 2004.

¹⁹⁷ ICG interviews PA officials, activists and residents Nablus, Ramallah, and Qalqilya, April-June 2004.

- Whereas the armed wings of Hamas and other factions tend to focus on basic military issues such as the struggle against Israel, self-preservation, and defending their organisation from harassment by the PA or Palestinian rivals, militias operating under the rubric of the Al-Aqsa Brigades tend to assign themselves a much wider remit. "When there is strategic paralysis at the centre", a senior Fatah leader from the Ramallah region stated to ICG, "the initiative passes to the local level, which sets the agenda through its actions and seeks to impose it upon the national leadership".¹⁹⁸ A fellow member of the West Bank Fatah leadership concurs. In her view, "These are not people who can carry out a coup, but they are the ones taking the initiative, and thus making and breaking matters. Today the military wings control their factions rather than being an extension of politics".¹⁹⁹
- In this vein, political statements are hardly foreign to the Al-Aqsa Brigades. Recently they have resorted to publicising detailed political programs.²⁰⁰ Yet, because of the endemic fragmentation of what is commonly misunderstood as a coherent organisation subordinate to the Fatah political leadership and ultimately to Arafat himself, it is often impossible to assess whether such statements represent only their authors, the views of their particular patrons, or more general sentiments among the diffuse network known as the Al-Aqsa Brigades and/or the broader Fatah movement. "Different *kata'ib* release different statements, sometimes in the course of a single day", notes a veteran Fatah leader. "Their contents can be quite contradictory".²⁰¹

The phenomenon of competing patronage has competing explanations. According to one view -- generally endorsed by Israeli and U.S. officials²⁰² -- all roads ultimately lead to Arafat. He condones and even encourages it in order to divide and retain the loyalty of his senior associates (by enabling them to sponsor rival militias) and to send a tacit message to

militia commanders that at the end of the day they are all dependent upon him. The key vehicles for Arafat's influence are usually identified as the security forces and the Fatah Central Committee. In the case of the former, many individuals linked with the Brigades -- some say 80 per cent -- are also members of the security forces, over which Arafat retains substantial control.

Lacking significant local constituencies or independent organisational power and thus dependent on Arafat for positions and resources, members of the Central Committee would be unable to sponsor armed groups without his implied consent. "Ultimately", claims a PA officer in Nablus, "they are all under the patronage of Arafat; all of them receive or have received money originating from him".²⁰³ "Arafat", adduces an independent political activist in the same city, "is ruling Nablus from the *muqata'a*".²⁰⁴

Others take a very different view. According to Dalal Salama, "these are groups in rebellion, not answerable to either Arafat or those in his inner circle".²⁰⁵ The implication that the network is diffuse, fragmented, localised, and does not take orders from leaders of the organisation with which it is affiliated appears to be particularly true for those within the network who no longer -- however indirectly -- rely on Fatah or the PA for funding and arms, but instead obtain them from outside sources such as Hamas, Islamic Jihad, Hizbollah and Iran. By most accounts, the components of the network that have come to rely on such support and/or have resorted to independent activities (such as commerce or extortion) have been growing consistently. Israeli security sources claim that as a result of their success in eliminating the Brigades' local leadership and preventing coordination within Palestinian territories, as well as because of the Brigades' resources crunch, today some 80 per cent of their armed attacks can be linked directly or indirectly to Hizbollah,²⁰⁶ some PA officials echo this view and point to Iran and Syria.²⁰⁷

Lacking a unified leadership and crippled by Israeli security measures, the Al-Aqsa Brigades are increasingly diffuse and localised, consisting of

¹⁹⁸ ICG interview, Faris.

¹⁹⁹ ICG interview, Salama.

²⁰⁰ ICG interview, Masri, 24 June 2004. Shortly before the interview, one such political program, ten pages long and including detailed proposals for reform, landed on Masri's desk.

²⁰¹ ICG interview, Sakhr Habash, member of the Fatah Central Committee, Ramallah, 9 June 2004.

²⁰² ICG interview with U.S. diplomat, Tel Aviv, September 2004.

²⁰³ ICG interview, PA officer, Nablus, 13 May 2004.

²⁰⁴ ICG interview, independent political activist, Nablus 15 June 2004. The point was echoed in ICG interviews conducted in most other West Bank cities.

²⁰⁵ ICG interview, Salama.

²⁰⁶ ICG interview, Tel Aviv, September 2004.

²⁰⁷ ICG interviews, Ramallah, September 2004.

numerous competing components with different levels of loyalty to different patrons. An instructive incident was reported by the BBC in late 2003, when it claimed that the Abu Mazen government had with Arafat's knowledge and approval distributed \$50,000 a month to Brigade members in Nablus, in order to "ensure that Al-Aqsa members were not influenced by outside organisations to carry out further suicide bombings".

Asked if he would respect a formal cessation of hostilities if demanded by Arafat, Zubaidi, the Brigades' Jenin commander responded: "Of course. But he won't order us to do this until Israel stops the assassinations".²⁰⁸ Control and influence, in other words, are different phenomena, and as suggested by Zubaidi, the level of influence reflects not only the power of those wielding it but also the receptivity of the intended target.

National and local PA and Fatah power centres appear eager to be associated with armed groups in order to support (and be known to support) continued resistance against Israel and/or defend their personal turf and settle various accounts. But there is also more at play. In a context where many such officials can expect to lose their positions if structural reforms are implemented or the PA conducts elections, the leverage provided by armed supporters sends a clear signal that they cannot simply be left to their fate.²⁰⁹ It is, in other words, "their insurance policy against change".²¹⁰

Even the PA's most outspoken critics, such as the independent PLC member from Tulkarm, Hasan Khraisha, place primary blame for the growth of militias upon the occupation.²¹¹ At the same time, even its most devoted loyalists concur that there is more that the Palestinian leadership can and should do to restore internal stability.²¹² A constant demand is for Arafat and the leadership to "remove the cover of legitimacy" from groups and individuals that engage in abusive conduct under the rubric of the *kata'ib* and hold them to account for their actions.²¹³

A second is to consolidate the security forces and root out unsuitable commanders. Another is to consolidate their patronage and funding and integrate members whose continued involvement in the *kata'ib* may have an important economic component into the security forces.

"The key to unifying and controlling the Al-Aqsa Brigades", concludes a PA intelligence officer, "is to unify their sources of funding", because they will no longer be serving competing patrons.²¹⁴ While the recent PA Finance Ministry decision to deposit PA salaries directly into employee bank accounts certainly curtails opportunities for diversion, it is ultimately a political matter. The Palestinian leadership needs clearly to prohibit existing patronage practices, impose central political control over all armed elements claiming affiliation with Fatah, disassociate the movement from any who refuse its instructions; and offer re-integration into the security forces to those who sever ties to the militia.

For such an effort to be sustainable, Israel will need to cooperate with measures of its own, including observance of a mutual ceasefire and removal from its wanted list of militants who, in agreement with the PA and subject to international verification, pledge to sever their involvement in armed activities.²¹⁵

Yet, people advocating a more robust approach to the militias have few illusions. Just as Israel, in their view, has no intention of relieving pressure on the PA, they have concluded that the latter is in no position --or has no desire -- to tackle the Brigades: "The PA can't wash its hands of them or arrest people wanted by Israel if this exposes them to danger. They would be denounced as spies and collaborators, so it needs a bilateral agreement".

Additionally, "some people see chaos as a card to play against Israel and the international community".²¹⁶ Expressed differently, "Arafat is in no hurry to fix things, because he is awaiting the quid pro quo" -- a

²⁰⁸ BBC "Palestinian Authority Funds go to Militants", 7 November 2003 at http://news.bbc.co.uk/1/hi/world/middle_east/3243071.stm.

²⁰⁹ ICG interviews, independent political activist, Nablus, 15 June 2004.

²¹⁰ ICG interview, Graham Usher, *Economist* correspondent, Jerusalem, June 2004.

²¹¹ ICG interview, Hasan Khraishi, Tulkarm, 25 June 2004.

²¹² ICG interview, Musa.

²¹³ ICG interview, NGO activist, Ramallah, March 2004.

²¹⁴ ICG interview, senior Palestinian intelligence officer, West Bank, 23 June 2004.

²¹⁵ In a recent interview, the Palestinian prime minister explained: "The Al Aqsa Brigade is part of Fatah. We are ready to absorb them". But he added that the militants insist on "security, and this should come from Israel, not to run after them....As long as Israel runs after them, kills them, and makes their life as it is today, I think it will be difficult". *Ha'aretz*, September 23 2004.

²¹⁶ "I agree", adds Masri, "but at least remove the cover of legitimacy from the gangsters". ICG interview, Masri.

political horizon and his freedom of movement.²¹⁷ Others argue that sustaining chaos facilitates Arafat's practice of divide and rule. "The leadership's response to every new internal crisis seems to be to fragment the political structure, its power base, and society even further, for the purpose of retaining control".²¹⁸

VI. ELECTIONS

The collapse of authority, proliferation of armed gangs, incapacity to make basic policy decisions and fragmentation of the Palestinians' two leading institutions -- the PA and Fatah -- can all be tied, more or less directly, to a crisis in the political system's legitimacy. There is little doubt that Israeli actions have played a very significant role in the crisis; at this point, however, absent Palestinian steps to rebuild a legitimate political structure, it is hard to see how it can be resolved.

With growing regularity, Palestinians are coming to the conclusion that elections -- at the local and national level, but also within Fatah -- form the most and perhaps only effective mechanism with which to break the logjam. Presidential and legislative elections have been held only once, in January 1996. Although the four-year terms to which Arafat and the 88 members of the PLC were elected have long since expired, the prospect of a permanent status agreement in 2000 and thereafter the renewal of confrontation with Israel have served as justifications to postpone new polls. But fears that a majority of legislators would not be able to win a second term or that Arafat might face a more independent parliament were no less important factors.²¹⁹

Mayors and municipal council members are in theory elected officials, and a local election law was ratified by the PA in 1996. Yet, as seen, municipal elections have not been held since 1976. In a nod to those clamouring for elections, the PA announced that a first tranche of municipal contests, encompassing 36 localities (with Jericho the most significant), will be held in 2004. Voter registration commenced on 4 September 2004. Depending on the PA's ability to conduct these first elections (and presumably on the outcome as well), dates will be announced for the remaining localities as well as for national elections. Sceptics point out that the chosen localities are traditional Fatah strongholds, and that municipal elections -- unlike parliamentary or presidential ones -- are unlikely to mobilise voters or to change much.

Elections within Fatah also have been called for. According to the movement's internal rules, its

²¹⁷ ICG interview, senior West Bank Fatah leaders, 2004.

²¹⁸ ICG interview, Nadir Said.

²¹⁹ "Many current PLC members were elected on account of their reputations rather than abilities. People have had almost a decade to see them in inaction, and it's inconceivable they will win again". ICG interview, PLC member, 9 September 2004.

General Congress -- akin to a party plenum and composed of representatives of its numerous regional branches and affiliated institutions -- is to meet periodically to elect the members of its ruling institutions, the Central Committee and Revolutionary Council. Prior to the General Congress, local Fatah chapters and institutions are meant to conduct internal elections, with the victorious candidates serving as General Congress delegates on the basis of a quota system. However, Fatah's Fifth General Congress was in 1989, and despite numerous demands no date has been set for a sixth. In the interim, internal elections have been held only in isolated cases (such as the West Bank in the mid-1990s and parts of the Gaza Strip in mid-2004) at the initiative of local activists and without the blessing of the movement's ruling institutions, which have refused to endorse them. Vacant seats -- and there have been many -- have been filled by appointment, "by Arafat".²²⁰

To many, elections at the local, national, and factional level are an opportunity to replace ineffective officials dependent upon the PA with leaders representing constituent interests and possessing the necessary legitimacy. Palestinian National Initiative (PNI) leader Mustafa Barghouti's view that elections are the only method of producing leaders credible enough to formulate a political strategy, negotiate a settlement with Israel and implement structural reforms,²²¹ is also broadly shared.

While many believe that Arafat does not want elections, they feel he can be persuaded. According to a member of the movement's Revolutionary Council:

Arafat would like to keep the system exactly as it is because it is exactly as it has always been. But he understands and responds to public opinion and sentiment within Fatah. If the first round of municipal elections scheduled for 7 December 2004 goes well, that is to say if Fatah wins, we can prove to him he has nothing to worry about and should schedule the next round. This will also create an opening to push for elections in, for example, the mass unions, which with active leaders can be a very significant lobby, and within a short period of time, democratic elections will become the irresistible flavour of the month. As for himself, Arafat

will insist on conducting presidential elections in order to renew his legitimacy and strengthen his position with the outside world.²²²

Arafat's precondition for national elections -- that they include a presidential ballot -- is, of course, precisely the reason for U.S. and Israeli opposition. Having built their strategy on Arafat's removal, they can only fear a process that is all but certain to bolster his standing and could leave them in the untenable position of calling rhetorically for democracy while refusing its results.

Holding elections under current circumstances would be logistically difficult and politically risky. Without at least temporary Israeli withdrawals from population centres, Palestinians would be hard pressed to campaign and loath to vote. "Palestinians will not vote under an Israeli gun. Some candidates -- those from Hamas in particular -- will fear Israeli attacks; many voters will feel the elections are not free".²²³ Likewise, should Israel maintain its current position barring participation by Palestinian residents of East Jerusalem, it would be politically impossible for Palestinians to limit their polling to the West Bank and Gaza Strip.²²⁴ Moreover, should Palestinians vote without any hope of political progress, pragmatic candidates would have little to offer voters and likely fare poorly.

In other words, successful elections will require both Israeli and international steps, including at least provisional military withdrawals, a mutual cease-fire, agreement for Palestinian residents of Jerusalem to participate in elections, and the fleshing out of the contents of a two-state solution so as to provide a more positive political vision. Little of this will be done without Washington's consent and pressure. To

²²⁰ ICG interview, Fatah Revolutionary Council member, 9 September 2004.

²²¹ ICG interview, Mustafa Barghouti, General Secretary of the Palestinian National Initiative (PNI), Ramallah, 2002.

²²² ICG interview, Fatah Revolutionary Council member, 9 September 2004.

²²³ ICG interview, Fatah leader, Ramallah, September 2004.

²²⁴ Pursuant to the 1995 Israeli-Palestinian Interim Agreement ('Oslo II') East Jerusalem functioned as a Palestinian electoral district; it was assigned a set number of PLC seats, and East Jerusalem Palestinians were entitled to both nominate themselves and vote in the January 1996 PLC (and presidential) elections. The current Israeli government has announced that it will under no circumstances permit East Jerusalem Palestinians to participate in PA elections and, in September 2004, closed voter registration offices and confiscated registration rolls to emphasise its opposition. See further Barbara Plett, "Early Troubles for Palestinian Voter Registration", BBC News, at http://news.bbc.co.uk/2/hi/middle_east/3674202.stm.

date, the administration has taken an ambivalent position, backing the principle of elections, but rejecting a presidential ballot that would refresh Arafat's democratic credentials. But it would be a serious error for the U.S. not to make elections a priority.

- The prospect of elections could help Palestinians focus on their domestic concerns. Since it is hard to conceive of them doing so while armed conflict continues, incentives for a mutual cease-fire would be increased.
- Elections would also likely require an international presence, if only in the form of monitors. Again, this would provide added incentive for a cessation of hostilities while creating the welcome precedent of a third party presence.
- For Fatah to contest elections competitively, it would need to promote credible leaders and formulate a clear -- and unified -- political vision and strategy, as well as a coherent program for governance and administration. In view of its dominance over the PLO and PA, and given its current paralysis, renewal within Fatah has become a prerequisite to achieving significant progress towards both an Israeli-Palestinian political settlement and Palestinian reform. Indeed, some Fatah activists told ICG they would seek to seize the opportunity of elections to campaign on the basis of a clear program regarding the outlines of an Israeli-Palestinian settlement.²²⁵
- Credible Palestinian elections would require participation of the opposition, particularly Hamas. In order to ensure the domestic legitimacy of the results, therefore, the PA, Fatah and Hamas would need to engage in intensive dialogue in which the latter's participation in elections would presumably be part of a broader agreement regarding its integration into the Palestinian political system. In turn, this would require Hamas to consider seriously whether it is prepared to join a national consensus around a strategy of negotiated peace with Israel.²²⁶

More broadly, U.S. resistance to presidential elections further undermines its credibility as advocate for democratic change throughout the region.

Rather than seeing Palestinian elections as a threat due to their potential outcome -- a strengthened Hamas, a re-legitimated Arafat -- the international community should view them as an opportunity to make substantial progress on several critical fronts. Technical assistance, such as that being provided to the PA Central Elections Commission by the EU, but also political support would be vital.

Should this not be forthcoming, some Palestinians insist the process should move ahead anyway:

If Israel and the United States are genuinely prepared to prevent Palestinian elections, we should not postpone them out of fear that this will actually happen but call the bluff on their empty democratic rhetoric. We should make elections the focus of a mass popular campaign. If Sharon and Bush are prepared to have the entire world see on their television screens that they and not the PA and Arafat are the reason Palestinians can't conduct democratic elections, so be it. Even that has its political benefits.²²⁷

²²⁵ ICG interviews, Ramallah, September 2004.

²²⁶ See ICG Middle East Report, N°21, *Dealing with Hamas*, 26 January 2004.

²²⁷ ICG interview, Bassam Salhi, Palestinian Peoples' Party leader, Ramallah, 23 April 2004.

VII. CONCLUSION

One does not have to conclude that the Palestinian political system -- including PA institutions but not them alone -- is on the verge of imminent collapse to recognise the unprecedented severity of the current crisis. At the very least, its existence in a political-administrative twilight zone -- an authority without authority, possessing "leaders but no leadership"²²⁸-- is symptomatic of a situation in which Palestinians are increasingly incapable of governing themselves, providing for basic needs, and presenting a coherent strategic program without which hope for political progress will remain dim. The Palestinians' inability to articulate a coherent response to Sharon's unilateral disengagement proposal is the most recent symptom of this crisis.²²⁹ The unrest that plagued Gaza may well have been an attempt by those with control over them to use armed groups for domestic political purposes before arrangements surrounding an eventual Israeli withdrawal could lead to their dismantling.²³⁰

Given Israel's overwhelming military superiority and thorough physical control of the West Bank, the PA exercises no control over many critical factors in its operating environment. But Israel is not the full spectrum of Palestinian reality. Even if it were removed from the equation, the Palestinian crisis would persist.

While Palestinians may agree that their margin for manoeuvre is limited and even narrowing, they are also increasingly forthright in their demand that the margins that do exist be properly utilised before they disappear altogether.

Good governance, particularly the rule of law. The mere existence of the PA has significantly raised Palestinian expectations and made them considerably less tolerant of crime, lawlessness, vigilantism, and indeed the perceived indignity of being administered by informal forces while the formal authority atrophies and seemingly stands idly by. Concrete steps to ensure the independence and empowerment of the judicial system and to end its many abuses are crucial. The same holds true for institutions, such as the cabinet, that have been

denied the ability to exercise powers afforded them by existing legislation, and those, like the security forces, that cannot exercise their functions because they lack a rationalised organisational structure.

Articulating a clear political strategy. For several years, the agenda has been set solely by the U.S., Israel, and the international community. Rather than exploring means of achieving a comprehensive settlement, discussions have centred on Palestinian reform, changing Palestinian leadership and, more recently, Sharon's Gaza initiative. Although there are many explanations, the absence of a clearly articulated Palestinian position -- on ultimate political objectives and means of achieving it -- has certainly been one, and one over which Palestinians exercise control. In this respect, a clear strategic decision by the Palestinian leadership to halt militarisation of the intifada would be of vital importance. While not unanimous, it is a demand increasingly being heard among Fatah activists, who blame much of their current predicament on that development.²³¹

Elections. Initiating a clear process of reform and being able to present an authoritative political platform requires a degree of legitimacy that the Palestinian political class currently does not possess. As a result, elections -- previously considered desirable -- are today increasingly seen as necessary to stem fragmentation and disintegration and as perhaps the only alternative to greater levels of domestic conflict. Indeed, some argue that there is no other mechanism for achieving an effective political system and national strategic consensus. Given the inseparability of Fatah and the PA, elections would also need to be conducted within Fatah.

Some have argued that such measures, while certainly desirable in principle, would under the current circumstances be either superfluous or counter-productive -- tailor-made either to be sabotaged by Israel or to provide Hamas and other forces opposed to a negotiated permanent settlement of the Israeli-Palestinian conflict a stepping-stone to institutional power.

²²⁸ ICG interview, Natshe.

²²⁹ ICG interviews, Quartet officials, Washington, Bern, Jerusalem, September 2004.

²³⁰ ICG interview, Shikaki.

²³¹ Of course, many point out that the militarisation was triggered by Israeli behaviour. But condemnation of suicide and other attacks within Israel in particular appears to be widely shared among Fatah activists, even some who previously supported them. ICG interviews, Ramallah, September 2004.

These arguments cannot be dismissed lightly. Certainly, under current circumstances, a polarised electorate lacking any hope for a political solution and chafing under onerous Israeli measures might well elect radical representatives. The risk of sabotage by radical Palestinian groups also is far more likely in a context in which violent attacks still enjoy considerable public support.

Paralysed, fragmented and debilitated, Palestinians must nonetheless devise a strategy of their own in response to Israel's if they do not want to be mere passive spectators of their fate. But for such an endeavour to be successful, the international community needs to do its part to enable elections and to maximise the chances for a successful outcome.

- **Renew efforts toward a mutual cease-fire**, while pressing both sides to fulfil their commitments under the roadmap, even if and as the unilateral Gaza disengagement proceeds.
- **Develop a package deal to resolve the Arafat question.** A key Israeli and U.S. objective has been to weaken the Palestinian leader. But while his power undoubtedly has declined, so too has that of all who surround him. Whereas he retains personal, organisational, historic and democratic credentials, others no longer can rely on their traditional sources of legitimacy -- their ability to mobilise outside diplomatic and economic support and their capacity to deliver services. As a result, Arafat has lost none of his ability to obstruct, and -- isolated and spurned by Israel and the U.S. -- gained every reason to exercise it. The inability to find a realistic response to the Arafat issue has guaranteed a stalemate. A package deal pursuant to which the Palestinian leader would deliver on key issues -- steps to halt violence, restructuring security forces, and respect for the Basic Law of 2003²³² -- in exchange for recovering his freedom of movement should be offered, monitored and put to the test.
- **Implement an emergency economic rehabilitation scheme for the occupied territories.** In addition to an emphasis on eliminating malnutrition, poverty reduction,

and job creation, this should include specific proposals for the rehabilitation of former militants and released prisoners.

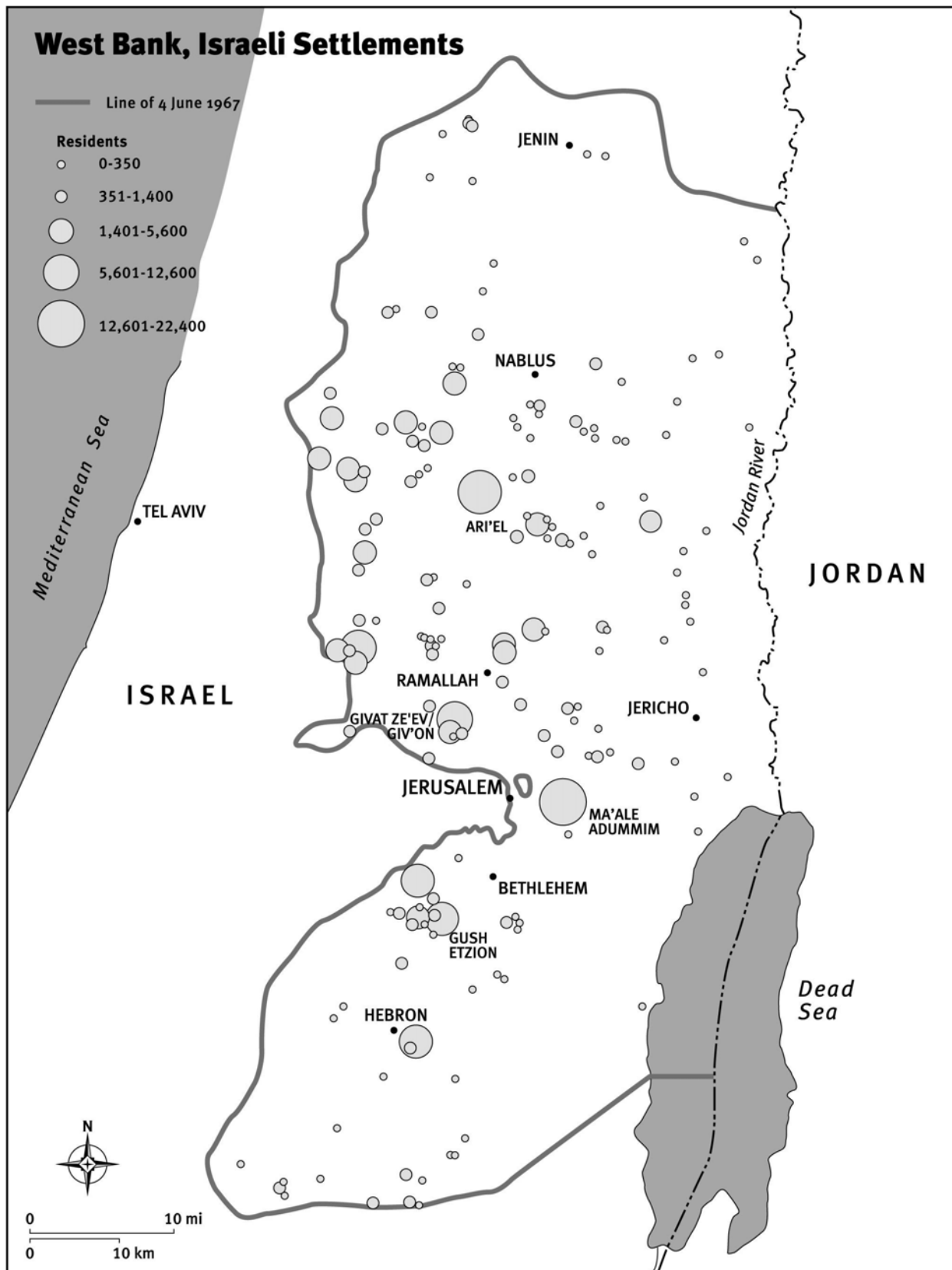
- **Encourage Israel to take steps to enable elections.** In particular, arrangements need to be found for at least temporary Israeli withdrawals and to allow Palestinian residents of East Jerusalem to participate in elections.
- **Articulate a political context within which Palestinian moves take place.** Palestinians fear that behind Sharon's plans to disengage from Gaza and build the barrier lie the attempt to separate Gaza politically and physically from the West Bank, consolidate Israel's hold on areas of the West Bank by thickening settlements, and indefinitely put off any final political settlement. To assuage this concern and maximise the chances that Palestinian pragmatists can rally around a political program, it is imperative that the Quartet -- and the U.S. in particular -- flesh out their endgame vision and insist that they will not accept any unilateral attempt to define the final borders.

Amman/Brussels, 28 September 2004

²³² The Palestinian Basic Law, adopted by the PLC in October 1997, ratified by Arafat in May 2002, then amended to establish the position of prime minister and ratified again by Arafat on 18 March 2003, functions as the PA's constitution during the interim period specified by the Oslo Agreement.

APPENDIX A

MAP OF WEST BANK



APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

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ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers. ICG also publishes *CrisisWatch*, a 12-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.icg.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

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