



Australian Government
Department of Foreign Affairs and Trade



DFAT THEMATIC REPORT PALESTINIAN TERRITORIES

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ACRONYMS

COGAT	Coordinator of Government Activities in the Territories
DFLP	Democratic Front for the Liberation of Palestine
FGM	Female Genital Mutilation
HJC	High Judicial Council
ICHR	Independent Commission for Human Rights
ICRC	International Committee of the Red Cross and Red Crescent
IDF	Israeli Defense Forces
IMF	International Monetary Fund
ISF	Israeli Security Forces
LGBTI	lesbian, gay, bisexual, transgender or intersex
MADA	Palestinian Center for Development and Media Freedoms
PA	Palestinian Authority
PCP	Palestinian Civil Police
PFLP	Popular Front for the Liberation of Palestine
PIJ	Palestinian Islamic Jihad
PLC	Palestinian Legislative Council
PLO	Palestine Liberation Organization
PNC	Palestinian National Council
PNSF	Palestinian National Security Force
TI	Transparency International
UNHCR	United Nations High Commissioner for Refugees
UNOCHA	United Nations High Commissioner for Humanitarian Affairs
UNRWA	UN Relief and Works Agency for Palestine Refugees in the Near East
WHO	World Health Organization

1. PURPOSE AND SCOPE

1.1 This Thematic Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to the Palestinian Territories.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:
Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources in the Palestinian Territories and Israel. It takes into account relevant and credible open source reports, including those produced by the US Department of State, the UK Border Agency, the Immigration and Refugee Board of Canada and the World Bank; relevant UN agencies, including the Office of the UN High Commissioner for Refugees, the UN Relief and Works Agency for Palestine Refugees in the Near East, the UN Children's Fund, the UN Development Programme; recognised human rights organisations such as Human Rights Watch, Amnesty International and international non-governmental organisations such as the International Committee of the Red Cross and Red Crescent, Transparency International and Reporters without Borders; Palestinian and Israeli non-governmental organisations and reputable news organisations and online sources. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 In 1923 the League of Nations granted the UK a Mandate over Palestine. In 1947, following World War Two and the Holocaust, the British Government ended its Mandate and the UN General Assembly voted to create a Jewish homeland by partitioning Palestine into two independent states; one Jewish and one Arab.

2.2 The State of Israel declared independence in May 1948 and granted the opportunity of citizenship to all members of the Jewish faith throughout the world. The Arabs opposed the UN's partition, which led to the 1948 Arab-Israeli War, during which Israel acquired more land than had been proposed during partition and Jordan took control of the region now known as the West Bank. In September 1948, the area now known as the Gaza Strip came under the control of the All-Palestine Government (a government established by the Arab League). The 1949 armistice agreement that concluded the Arab-Israeli War set the land borders that are commonly referred to as the 'Green Line'. Despite this agreement, Gaza was gradually reduced as more Jewish refugees moved into the area. As a result the All-Palestine Government relocated to Cairo and eventually dissolved in 1959, after which Gaza was administered by the Egyptian military.

2.3 Ongoing border disputes between Israel and the Palestinians and Arab countries have led to a series of conflicts and have resulted in further changes to these boundaries.

- During the *Six Day War* in June 1967, Israel took control of east Jerusalem and the West Bank from Jordan, and the Gaza Strip from Egypt (as well as the Golan Heights from Syria and the Sinai from Egypt (later returned)).
- The *First Intifada* between Israel and the Palestinians took place from 1987 to 1993 and concluded with the Oslo Peace Accords which established the Palestinian Authority; an interim body that has a governing mandate over the West Bank and Gaza until a final status outcome is agreed between Israel and the Palestinians.
- Following the *Second Intifada* (2000 to 2005) Israel unilaterally withdrew from the Gaza Strip in 2006; it had previously had a presence there, which included Israeli settlements.
- In 2007, after a brief civil conflict between Palestinian factions, the Palestinian organisation, Hamas, took control of the Gaza Strip and became its de facto government. As a result, Israel implemented a blockade on Gaza which has been in continuous force since June 2007.

2.4 Since the establishment of Israel there have been numerous negotiations on the 'final status' of the situation and considerable international engagement has been dedicated to achieving a two state solution. These efforts have failed to achieve a resolution. Recent Israeli military campaigns against Hamas militants, in response to Hamas attacks from Gaza—Operation *Cast Lead* (December 2008 to January 2009), Operation *Pillar of Defense* (November 2012), and Operation *Protective Edge* (July to August 2014)—have caused widespread destruction in the Gaza Strip and resulted in casualties on both sides of the conflict.

2.5 On 29 November 2012, the UN General Assembly upgraded the status of 'Palestine' to 'non-member observer'. The UN has recognised Mahmoud Abbas, the President of the Palestinian Authority (which

currently controls the West Bank), as the head of state of 'Palestine' since September 2013. On 30 September 2015, the Palestinian flag was raised at the UN Headquarters in New York for the first time. Australia, among other countries, has not recognised a 'State of Palestine'.

DEMOGRAPHY

2.6 The Palestinian Territories are divided into two geographical areas; the West Bank and the Gaza Strip. The West Bank is approximately 5,860 square kilometres in area and has a population of 2.7 million (not including approximately 500,000 Israeli settlers residing in the West Bank and east Jerusalem). The West Bank is landlocked and lies between Israel and Jordan. The Gaza Strip is approximately 360 square kilometres and has a young and growing population of 1.8 million, with over 70 per cent of the population under 29 years of age. The Gaza Strip lies between Israel, Egypt and the Mediterranean Sea.

2.7 The Oslo Peace Accords divided the West Bank into three areas. Area A comprises 18 per cent of the West Bank and is under Palestinian Authority civil and security control. Area B comprises 21 per cent of the West Bank and is under Palestinian Authority civil administration and Israeli security control. Area C, comprising the remaining 61 per cent, is under Israeli civil and security control.

2.8 Israel and the Palestinian Territories both claim Jerusalem as their capital. Prior to 1967, the city was divided into west Jerusalem (under Israeli control) and east Jerusalem (under Jordanian control). Israel now has civil and security control of all of Jerusalem after taking control of east Jerusalem in 1967 and formalising its annexation by law in 1980. Palestinians in Jerusalem have a special residency permit, issued by Israeli authorities, which allows them to work and reside there.

2.9 Palestinian Arabs are the majority ethnic group in the Palestinian Territories, making up essentially all of the population in the Gaza Strip and the majority of the population in the West Bank. The remainder of the population in the West Bank are Bedouin (not including Israeli settlers). The official language of the Palestinian Territories is Arabic but English is widely used in official communication. Hebrew is also spoken by many Palestinians in the West Bank (see 'Race and ethnicity' below). Approximately 98 per cent of the population practice Sunni Islam, the official religion. There are approximately 52,000 Christians across the West Bank, Gaza and east Jerusalem (see 'Religion' and 'Palestinian Christians' below).

2.10 The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) provides economic, health and education support to around five million Palestinian refugees in the West Bank and the Gaza Strip and in neighbouring countries with large Palestinian refugee communities; Syria, Lebanon and Jordan. In the West Bank there are 774,167 registered refugees, a quarter of whom live in one of the 19 camps administered by UNRWA in the West Bank. In the Gaza Strip, 70 per cent of the population are registered refugees. The eight camps administered by UNRWA in the Gaza Strip house around half a million of Gaza's 1,258,559 refugees and have some of the highest population densities in the world. (For further information on the refugee status of Palestinians, see 'Groups of Interest' below).

ECONOMIC OVERVIEW

2.11 The Palestinian economy is volatile. It is heavily reliant on foreign aid, vulnerable to spikes in conflict and is directly affected by the political situation at any given time. Overall, the Palestinian Territories are classified by the World Bank as lower middle-income with a GDP of USD12.7 billion and a GNI per capita of USD3,060. The UNDP's Human Development Index ranked the Palestinian Territories 113 out of 188

countries in 2015, placing it in the 'medium human development' category. The International Monetary Fund (IMF) reported that growth across the Palestinian Territories in 2016 was around 3.3 per cent.

2.12 In the West Bank, growth in 2016 was around 2.7 per cent, a reduction from 5.3 per cent in 2014. This drop was due to weak investment, less donor aid and unreliability of revenue transfers from Israel. The economy in Gaza is closed and stagnant due to Israel's blockade and the international community's economic sanctions against Hamas. Gaza's 5.5 per cent growth rate in 2016 was heavily dependent on the reconstruction activity following the 2014 conflict.

2.13 The poverty rate in Gaza was 39 per cent in 2014, which was over double the poverty rate of the West Bank. Almost 80 per cent of Gaza's population is dependent on aid. According to the IMF, real GDP in Gaza is unlikely to reach pre-2014 conflict levels before 2018.

2.14 The movement of people and goods in and out of Gaza is restricted by Israel and Egypt due to security concerns and has reduced economic activity and livelihoods. Israel's maritime blockade of Gaza has affected the fishing industry, which was traditionally a key source of income. Gaza's fishing boats are restricted from venturing beyond six nautical miles (11.1 kilometres) from the shoreline, heavily constraining commercial fishing. Access to external markets and the flow of economic goods in and out of the West Bank through Israel is also restricted. Under the *Protocol on Economic Relations* (also known as the Paris Protocol), signed by Israel and the Palestinian Territories following the Oslo Accords, Israel collects revenues (including import taxes and value added tax) on behalf of the Palestinian Authority and transfers them on a monthly basis. In the first quarter of 2015 Israel withheld all transfers and according to the World Bank, the Palestinian Authority loses USD285 million annually under the arrangement.

2.15 The Palestinian Authority has faced accusations of corruption and embezzlement of public funds. The Palestinian Territories are not included in Transparency International's (TI) Corruption Perception Index but TI's Global Corruption Barometer for 2016 focused on the Middle East and North Africa region and included survey results from the Palestinian Territories. Seventy per cent of people surveyed in the Palestinian Territories felt that corruption had increased in the past 12 months, but only 13 per cent of Palestinians reported paying a bribe for access to public services, compared to the regional average of 30 per cent. The Palestinian Authority has an Anti-Corruption Commission and the Coalition for Integrity and Accountability (a group of Palestinian NGOs), works closely with TI to monitor and report corruption issues. Neither body has enforcement powers.

Health

2.16 According to the World Bank, life expectancy in the Palestinian Territories is 73 years. The infant mortality rate is 21 per 1,000 births and all births are attended by a skilled health worker. According to the Palestinian Central Bureau of Statistics, the fertility rate in 2013 was 3.7 in the West Bank and 4.5 in Gaza. In comparison, the 2014 fertility rate in Australia was 1.9.

2.17 The health sector in both the West Bank and the Gaza Strip is overstretched, with inadequate physical infrastructure and severe shortages of essential medication, especially in Gaza. Health services are provided by the Palestinian Authority, NGOs, private clinics and UNRWA. UNRWA manages 22 primary health facilities in Gaza and 42 in the West Bank and provides support for family planning, mental health and physical rehabilitation for victims of conflict. The UNRWA Environmental Health programme also controls the quality of drinking water and provides sanitation services to prevent disease outbreak.

2.18 In 2012 UNRWA published a report predicting that Gaza will become an unliveable place by 2020 based on several factors that continue to remain of concern, including the rising population and declining access to water, sanitation and electricity. During January 2016, there were blackouts of up to 20 hours per

day in Gaza due to deteriorating electricity supply. Malnutrition rates among children under five is on the rise, especially in Gaza where the rate between 2000 and 2010 increased by 60 per cent.

2.19 Specialised care, for example cancer treatment, is limited in the Palestinian Territories. In some cases, Israeli authorities issue permits to enter Israel for humanitarian reasons, which include health emergencies. The Palestinian Authority Ministry of Health is able to refer patients to six specialty hospitals in the East Jerusalem Hospital Network provided Israeli humanitarian entry permits are obtained. It is difficult to travel to Israel or other countries to access specialised care.

2.20 Medical systems can be overwhelmed during periods of increased hostility. The World Health Organization (WHO) reported that in October 2015, during the wave of stabbing attacks in the West Bank and east Jerusalem, 3,500 people required treatment after Israeli authorities released tear gas on crowds and medical access to victims was hampered: 32 Palestinian Red Crescent Society ambulances were attacked and damaged while paramedics attempted to evacuate injured people.

Education

2.21 Palestinians are highly educated. The adult literacy rate is 96 per cent and for 15 to 24 year olds it is 99 per cent. Under *Article 24 of Palestinian Basic Law*, public primary school education, covering ten years of schooling, is free and compulsory. Public secondary education is also free but not compulsory. The gross enrolment ratio at the primary education level is 95 per cent, at the secondary education level it is 82 per cent and at the tertiary education level it is 44 per cent. There are 49 mostly public tertiary education institutions in the Palestinian Territories and a small number of NGO-run and private institutions. The language of instruction is Arabic but English is also taught widely in Palestinian schools.

2.22 UNRWA manages 245 schools in Gaza, delivering education to 232,504 students. In the West Bank UNRWA manages 97 schools for 50,566 students. In both areas, UNRWA follows the curriculum of the Palestinian Authority. UNRWA schools are widely viewed as delivering high quality education. According to the US Department of State, UNRWA schools do not experience any interference from the Palestinian Authority in the West Bank or from Hamas in the Gaza Strip.

Employment

2.23 Unemployment, especially youth unemployment, is high and rising. According to the World Bank, the overall unemployment rate in 2016 was 27 per cent, an increase from 25 per cent in 2015. The unemployment rate in the West Bank is 17 per cent. In Gaza, overall unemployment is 41 per cent and the youth unemployment rate is 65 per cent. Across the Palestinian Territories labour force participation is 45.7 per cent and women's participation in the workforce is low at 15.4 per cent.

2.24 Restrictions on freedom of movement and goods impact on Palestinian employment opportunities. Palestinian 'day workers' move in and out of Israel, both legally and illegally, each day seeking work, mostly in construction. Access to this employment is unreliable and fluctuates depending on the security situation (see 'Freedom of movement' below). There are few protections for day workers, especially illegal ones who receive low pay and no safety insurance. The Palestinian Authority provides healthcare, social insurance and pensions for legal Palestinian day workers but is dependent on Israel to transfer these overheads, which are deducted by Israel from the salaries of Palestinian workers.

2.25 DFAT assesses that high unemployment, poverty and a lack of economic opportunity are significant motivating factors behind outward migration from the Palestinian Territories.

POLITICAL SYSTEM

2.26 In theory, the Palestinian Territories has a mixed presidential and parliamentary political system. In practice, the governance system is complex and has changed several times since 1949. Some governance mechanisms are currently suspended; the *Palestinian Basic Law* provides for democratic elections but a Palestinian Legislative Council election has not been held since 2006 (according to Article Four of the 2007 *Elections Law* they should be held every four years). The Palestinian governance system is also unique in that it has very limited control of land, water and markets. The *Palestinian Basic Law* is the de facto constitution of the Palestinian Territories. The various political entities of the Palestinian Territories are outlined below.

Political Parties

Fatah

2.27 Fatah (*Harakat al-tahrir al-watani al-Filastini*—English: Palestinian National Liberation Movement) is a socialist, secular political party that was established by Yasser Arafat in 1959 and was led by him until his death in 2004. The current leader of Fatah, Mahmoud Abbas (Abu Mazen), is also the President of the Palestinian Authority (PA – see below); these dual roles give him considerable control and influence. Fatah has experienced periods of significant internal disunity since Abbas came to power in 2004. Fatah is the largest faction in the PA and Fatah’s Central Committee, the party’s highest decision-making body, is therefore a significant influence in the PA. The Central Committee is elected by General Conference, the first of which was held in 1963, and the latest (seventh) General Conference was held in 2016, at which President Abbas was re-elected as the Chairman of the Central Committee.

Hamas

2.28 Hamas (*Harakat al-Muqawamah al-Islamiyyah*—English: Islamic Resistance Movement), an Islamist organisation and political party founded in 1987 as an offshoot of the Egyptian Muslim Brotherhood, won an outright majority of seats in Palestinian Legislative Council (PLC – see below) elections in January 2006. Following failed attempts at a Fatah-Hamas power-sharing government, Hamas violently took control of the Gaza Strip in 2007 and became the de facto authority in Gaza. Hamas’ political leader is Khaled Mashal, who is currently exiled and living in Qatar. The Australian Government lists Hamas as a terrorist organisation.

Reconciliation

2.29 Fatah-Hamas reconciliation remains the subject of much speculation and debate. In May 2011 and again in May 2014, the two factions signed agreements for a transitional, technocratic (independent) government to be formed. The most recent national consensus government of 2014 collapsed in late 2015. In January 2017, Fatah and Hamas announced they would again attempt to form a national unity government and hold elections for the Palestinian National Council (see paragraph 2.36) but no timeline was set.

Palestinian Authority (established by the Oslo Accords)

2.30 The main political body in the Palestinian Territories is the Palestinian Authority (also referred to as the Palestinian National Authority), which was established by the Oslo Accords in 1994 and acts as an interim body with a restricted mandate in the West Bank and Gaza (however, the PA has not controlled Gaza since

2007). The PA cannot undertake final status negotiations (the PLO does this – see paragraph 2.37 below) and does not control borders, currency or natural resources but does conduct some foreign relations.

2.31 The President of the PA (Abbas) is directly elected by Palestinians living in the Palestinian Territories (in theory, both the West Bank and Gaza, but Presidential elections have not taken place in the Palestinian Territories since 2005 and Abbas has held the position since then). The President exercises executive powers. The President appoints the Attorney General, promulgates laws, and can issue decrees which have the force of law under Article 43 of Palestinian Basic Law. The President also appoints the Prime Minister. Article 36 of the 2005 amendment to the Palestinian Basic Law limits the presidency of the PA to four years, and no more than two consecutive terms (noting however that elections have not been held recently).

2.32 The current Prime Minister is Dr Rami Hamdallah. The Prime Minister forms, manages and presides over a Council of Ministers (maximum of 24 ministers) charged with devising and implementing general policies, preparing the budget and implementing laws, and maintaining public order and internal security. Traditionally ministers have been from or closely linked to Fatah.

Palestinian Legislative Council

2.33 The Palestinian Legislative Council (PLC) is the Parliament of the Palestinian Territories and includes 132 members, including members from factions not included in the Palestinian Liberation Organization (see below), such as Hamas. PLC Members' terms are limited to the same interim period of the PA, as per the arrangements made by the Oslo Accords. The PLC proposes and ratifies laws and forms special committees. A two-thirds majority in the PLC is needed to amend the Palestinian Basic Law. The PLC also elects the PLC Presidency Office, which includes the Speaker, two Deputy Speakers and the Secretary General. The PLC, which was first elected in 1996, ceased functioning in the both Gaza and the West Bank in 2007 due to Hamas' takeover of Gaza.

Palestine Liberation Organization (a pre-Oslo Accords institution)

2.34 The Palestine Liberation Organization (PLO) is an umbrella institution that represents all Palestinians, encompassing those that live in the Palestinian Territories and those that are living as migrants and refugees abroad. It was founded in 1964 and therefore pre-dates the Oslo Accords. The PLO is the highest decision-making body and legislative authority for all Palestinians and serves as the Palestinian national movement. It represents the 'State of Palestine' at the United Nations. In practice, there is significant overlap between the leadership and membership of the PLO and the Oslo Accords institutions outlined above (the PA and the PLC). For example, the current Chairman of the PLO, Mahmoud Abbas, is also President of the PA, the PLC, and the leader of Fatah.

2.35 The PLO consists of various Palestinian factions including the pre-eminent Fatah party and a number of other factions such as the Popular Front for the Liberation of Palestine (PFLP), and the Democratic Front for the Liberation of Palestine (DFLP). It does not include Islamist militant factions such as Hamas or the Palestinian Islamic Jihad (PIJ). The PLO has a history of militancy and terrorism but it renounced terrorism in 1988.

Palestinian National Council

2.36 The Palestinian National Council (PNC) is the PLO's Parliament in-exile, and is meant to meet every two years. However the last extraordinary meeting of the PNC was in 2009 to replace PNC members who had passed away. The PNC has 669 members, mostly appointed by the PLO's Executive Committee (see paragraph 2.36 below). A key function of the PNC is to elect the Executive Committee and the PLO Central

Council. The Central Council acts as an intermediary body between the PNC and Executive Committee, and makes policy decisions when the PNC is not in session. The Central Council has 130 members, including 15 PLC members, and is presided over by the Speaker of the PNC.

The Executive Committee

2.37 The Executive Committee of the PLO has 18 members who act as a cabinet and assume all PLO responsibilities in accordance with PLO policies and resolutions. For example the Executive Committee establishes and oversees PLO departments, including the Negotiations Affairs Department (which is responsible for negotiations with Israel) and other subsidiary bodies such as the Palestine Liberation Army. The members of the Executive Committee elect the Chairman of the PLO, and therefore the Head of the Executive Committee. Abbas was elected and took over as President of the Executive Committee in January 2005 following the death of Yasser Arafat.

Regional and Local Government

2.38 The Palestinian Territories are divided into 16 governorates, led by Governors; 11 in the West Bank (Nablus, Qalqilya, Tubas, Salfit, Tulkarm, Jenin, Jericho, Ramallah, Bethlehem, Hebron and Jerusalem) and five in the Gaza Strip (North Gaza, Gaza City, Deir el-Balah, Khan Yunis and Rafah). The governorates are supervised by the Ministry of the Interior. The Governors are directly appointed by the President of the PA and they are responsible for the police force within their jurisdiction and the delivery of some state services such as health and education.

2.39 The governorates are further divided into municipalities, each administered by a Mayor. Municipalities are supervised by the Ministry of Local Government. There are 141 municipalities (116 in the West Bank and 25 in the Gaza Strip). Mayors are responsible for the delivery of key infrastructure such as public markets, local transport, water, electricity, sewerage, waste management and a range of other areas such as town planning, construction licensing and health monitoring.

2.40 Municipalities contain villages. Villages are administered by a village council, of which there are 275 across the Palestinian Territories.

HUMAN RIGHTS FRAMEWORK

2.41 Following its acceptance as a UN Observer State, the 'State of Palestine' became a party to the major international human rights instruments on 2 April 2014, including; the *International Convention on the Elimination of all Forms of Racial Discrimination*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child* and its *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, and the *Convention on the Rights of Persons with Disabilities*. The 'State of Palestine' formally joined the International Criminal Court in April 2015.

2.42 The Palestinian Basic Law guarantees fundamental rights for citizens, including equality before the law regardless of race, sex, colour, religion, political views or disability; personal freedom; freedom of belief; freedom of opinion and freedom of residence and movement.

National Human Rights Institution

2.43 The Independent Commission for Human Rights (ICHR) is the national human rights institution of the Palestinian Territories. The ICHR was established in 1993 by a Presidential decree of Yasser Arafat; Article 31 of Palestinian Basic Law states that the reports of ICHR be submitted to the President and the Legislative Council. The draft law to regulate the ICHR was submitted to the Palestinian Legislative Council (PLC) in 2005 but is yet to be passed given the PLC ceased to function in 2007.

2.44 The ICHR is compliant with the 'Paris Principles' (Principles relating to the Status of National Institutions) and has consistently been granted 'A' status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, most recently in November 2015. Seventy two of 111 countries currently have 'A' status. The ICHR hires its own staff and the 17 members of the board of commissioners come from within the Palestinian Territories and the diaspora to ensure all communities are represented. The ICHR has a headquarters in Ramallah and five regional offices, three in the West Bank and two in Gaza.

2.45 The ICHR publishes an annual report documenting human rights violations and making recommendations for improvements to the human rights situation. However it is unclear as to what extent these recommendations are implemented, given that the PLC is not functioning and has therefore been unable to investigate claims of human rights violations or introduce any new legislation to protect the rights of Palestinians.

FREEDOM OF MOVEMENT

2.46 The *Palestinian Basic Law* provides for freedom of movement and the PA does not generally restrict freedom of movement in the West Bank (noting the PA does not control the Gaza Strip). In practice, Israel restricts the movement of Palestinians within the West Bank and passage of Palestinians between the West Bank and the Gaza Strip is only approved in exceptional cases. The Coordinator of Government Activities in the Territories (COGAT) is a unit within Israel's Ministry of Defense that is responsible for implementing the government's policy in the Palestinian Territories. COGAT administers numerous checkpoints throughout the West Bank, including permanent and temporary 'flying' checkpoints. According to UNOCHA, in December 2015 there were 70 permanent checkpoints in the West Bank. The physical presence of the Israeli forces in the West Bank and east Jerusalem impacts daily life for all Palestinians residing there.

2.47 Entry into Israel and Israeli-controlled areas (such as the settlements in the West Bank) by Palestinian residents of the West Bank is subject to eight criteria (with varying documentation required under each criterion, ranging from smart ID cards, supporting documentation and security evaluations).

- **Health needs;** specific medical needs (cancer and dialysis treatment, appointments scheduled by hospitals, and chronic patients), accompanying a patient or visiting a patient.
- **Legal needs;** participation in court proceedings, medical tests for a court proceeding or Palestinian lawyers requiring access to Palestinian detainees in Israel.
- **Education needs;** Employees or pupils of east Jerusalem schools, academic studies in Israel (only if no alternative besides Israel and if studies focus on cooperation, co-existence and peace), medical conventions or training.
- **Economy and Employment;** employment in Israeli settlement zones (with varying requirements in each area, for example only for married individuals over the age of 26 in some areas), senior Palestinian businessmen, traders, international organisation workers, church workers, clergy, East Jerusalem Electric Corporation workers, Temple Mount/Al Haram Al Sharif workers, tour guides,

- tourism workers, Red Crescent society emergency medical teams and two exceptional needs – seeking employment in Israel or attending a work-related meeting in Israel.
- **Religious Worship;** during Islamic festivals (requires an exceptional civil measure), Friday prayers at Temple Mount/Al Haram Al Sharif, Christian holidays, and family visits during holidays.
- **Senior Palestinian Officials;** Head of the PA, the Prime Minister, senior PA officials and their first-degree relatives.
- **Population movement for various needs;** this criteria encompasses employees of the PA civil administration and other exceptional needs such as attending a wedding, funeral, family unification or visiting relatives who are in Israeli detention. It also allows and Palestinian men over 55 and Palestinian women over 50 to enter without a printed permit.
- **Additional guidelines;** Palestinians travelling abroad via the Allenby Bridge.

2.48 Palestinians residing in the Gaza Strip all face a more stringent process to enter Israel, based on similar criteria to those outlined above for West Bank residents, along with individual security evaluations, the security evaluations of members of their family, and a review of the overarching security, political and strategic interests of the State of Israel. There are tight quotas on the number of Gazans allowed into Israel and age restrictions are enforced; DFAT understands that male Gazans aged between 12 and 35 are unlikely to be approved. For the month of Ramadan in 2016, men above 45 years of age did not require a permit to attend prayers at Haram al-Sharif/Temple Mount in Jerusalem but men aged between 35 and 45 required a permit and men aged 12 to 35 were not allowed entry.

2.49 There are only two crossings between the Gaza Strip and Israel. Erez crossing is open for passenger traffic entering Israel between 7.30am and 3.00pm each day, and for passenger traffic exiting Israel from 7.30am to 7.00pm each day. Kherem Shalom crossing is open for transportation of goods from 7.00am to 4.00pm on Sunday to Thursday.

2.50 Rafah is the only crossing between the Gaza Strip and Egypt. Following the overthrow of Hamas' close ally, Mohammed Morsi, in July 2013 the new Egyptian administration, under the leadership of President Abdel Fatah el-Sisi, implemented restrictions on the movement of Gazans into Egypt through Rafah. As a result, the Rafah crossing has mostly been closed since mid-2013 and movement in and out of Gaza is very difficult for most Gazans. Nonetheless many residents continue to seek opportunities to exit Gaza, including for access to specialised health care and employment. In the first half of 2016 the Rafah crossing was only open for 11 days, with a monthly average of 1,896 exits and entries, compared to 40,816 crossings on average per month in the first half of 2013. There are currently thousands of Palestinians registered with UNHCR as humanitarian cases waiting to leave Gaza through Rafah. Israel sometimes permits Gaza residents to travel abroad through the Erez crossing and then the Allenby Bridge crossing into Jordan: in the first half of 2016 an average of 243 Gazans per month exited this way. However, Jordan has also been known to enforce restrictions that prevent Gazans from crossing the Allenby Bridge.

2.51 Some residents of Gaza use informal means to exit and enter Gaza. An illegal tunnel system is used to smuggle people and goods in and out of the Gaza Strip to Egypt. The volume of this traffic is difficult to measure given that it is done covertly. Israeli and Egyptian authorities are actively engaged in finding and destroying the tunnel system.

SECURITY SITUATION

2.52 There has been repeated conflict between Israel and the Palestinians and Arab countries since 1948, with periods of intense hostilities during the Six Day War (1967), the Yom Kippur War (1973), the First Intifada (1987-1991), the Second Intifada (2000-2005) and Israel-Gaza conflicts (2008, 2012 and 2014). During the 2014 Israel-Gaza conflict (also known as Operation Protective Edge) 2,000 Gazans were killed,

including 1,200 civilians. The humanitarian situation in Gaza deteriorated significantly following the 2014 conflict and it continues to be severe. On 6 May 2016 the first significant escalation of violence in the Gaza Strip since the end of the 2014 conflict occurred. Fire was exchanged between Hamas and the IDF after the IDF discovered and destroyed an illegal smuggling tunnel. Hamas fired five mortar rounds at Israeli soldiers and engineers in the security perimeter at the Gazan border. Israel retaliated with artillery fire and airstrikes mostly targeted at militant positions. One Gazan woman was killed.

2.53 In the second half of 2015 violence escalated between Israel and the Palestinians in the West Bank and east Jerusalem with stabbing attacks predominantly carried out by Palestinian youths against Israelis. At its peak in October 2015, there were 78 Palestinian attacks against Israelis, taking the form of stabbings, shootings and car-rammings. From 1 October 2015 to 10 April 2016, 25 Israelis and 205 Palestinians were killed. Israel implemented additional security measures in response to the violence. The violence persisted throughout 2016 although its intensity was reduced; in September there were six stabbing attacks, one car-ramming and one rock throwing incident, mostly in Jerusalem and Hebron, which resulted in the deaths of five Palestinians and injury to six Israelis. In October 2016, an Israeli civilian and police officer were killed in a drive-by shooting attack in east Jerusalem. The Palestinian assailant was shot and killed by Israeli police following a brief pursuit. In December 2016 a young Palestinian man was shot dead by Israeli forces following an alleged stabbing attempt in the West Bank. In January 2017, four Israeli soldiers were killed in a truck-ramming in east Jerusalem. The Palestinian attacker was shot dead at the scene. Palestinian security forces in the West Bank coordinate with Israel on security matters.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Apart from a small population of Palestinian Bedouin (and excluding Israeli settlements), the Palestinian Territories are ethnically and linguistically homogenous; its inhabitants are Arabic-speaking, Arab-Palestinian. Discrimination based on racial, ethnic or linguistic grounds is rare. Article nine of the *Palestinian Basic Law* states that ‘Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability’.

Bedouin

3.2 Historically, the Bedouin community traversed the present-day Israel, as well as neighbouring Arab states and the West Bank. There are approximately 40,000 Bedouins in the West Bank, half of whom live in Area C. Their traditionally nomadic herder lifestyle is increasingly curtailed by Israeli restrictions on freedom of movement and forced displacement from informal settlements; particularly in Area C. Palestinian Bedouins suffer from high rates of poverty and unemployment, issues with access to water, electricity and healthcare and low rates of education. Bedouins are not included in this report as, at the time of writing, there have been no instances of them seeking protection in Australia.

RELIGION

3.3 In principle, Palestinian society describes itself as secular but Article 4 of the *Palestinian Basic Law* states that Islam (Sunni) is the official religion while maintaining ‘respect for the sanctity of all other divine religions’. Article 18 guarantees ‘freedom of belief, worship and the performance of religious functions, provided public order or public morals are not violated’.

3.4 Ninety eight per cent of people living in the Palestinian Territories (excluding Israeli settlers) identify as Sunni Muslim. Although Shia were present in small numbers in historical Palestine (pre-1948), today there are very few; Shia today are generally recent converts residing in Gaza who cite political alignment with Lebanon’s Hezbollah and Iran as reasons for their conversion. Christianity is the main minority religion practiced in the Palestinian Territories. Relations between Muslims and Christians are generally harmonious, with each group preferring to focus on their shared identity as Palestinians rather than their religious differences. There is no official data on the presence of atheists or agnostics in the Palestinian Territories. Palestinians are required to include their religion on their identification cards.

3.5 The principles of Islamic *Sharia* are dominant in the legislation of the Palestinian Territories. Personal status laws, which govern marriage, divorce, child support and inheritance, are based wholly on religious laws; *Sharia* applies for Muslims and Christians apply the established laws of their respective ecclesiastical systems.

Muslims

3.6 As the majority religion in the Palestinian Territories, Muslims rarely experience discrimination on religious grounds. They do however face some restrictions on their religious observance. For example, in order to prevent intolerant, inflammatory or anti-Semitic sermons, the PA provides Imams in the West Bank with a weekly theme for Friday prayers.

3.7 In Gaza, Hamas implements a more conservative interpretation of Islam than that in the West Bank. This interpretation has led to restrictions on women's freedom of movement within Gaza, enforcement of Islamic dress codes and interference in cultural activities that Hamas believes contravene Islamic values (also see 'Women' below). According to the US Department of State, although public schools in Gaza follow the same curriculum as the West Bank, Hamas has been known to interfere if they deem the curriculum violates Islam. Hamas has not interfered in UNRWA schools. There are also several Salafist militant groups who practice ultra-conservative Sunni Islam but their focus is generally on waging *Jihad* (religious war) against Israel, rather than actions against other Gazans.

3.8 Since 1967, Palestinian Muslims have faced restricted access to Haram al-Sharif/Temple Mount in Jerusalem, a complex which contains key Muslim religious sites – the Dome of the Rock and the al-Aqsa Mosque in addition to its status role in Judaism. These restrictions include specific visiting hours and age restrictions which effectively deny young males from entering the complex. Occasional, ad-hoc closures can also occur due to Israeli security concerns.

3.9 DFAT assesses that, as the religious majority, Palestinian Muslims rarely experience official or societal discrimination on the basis of their religion. Gazan Muslims occasionally experience, however, a low level of interference from Hamas authorities enforcing conservative religious values.

Palestinian Christians

3.10 According to the US Department of State, there are approximately 52,000 Palestinian Christians living across the West Bank, Gaza and east Jerusalem. This number correlates to the 2013 estimations of local NGO, the Jerusalem Inter-Church Center, that there were 52,010 Christians across the Palestinian Territories – 26,000 Greek Orthodox, 17,000 Latin (Roman) Catholics, 2,000 Greek Catholics, 1,250 Syrian Orthodox, 280 Syrian Catholics, 1,800 Lutherans, 1,150 Armenian Orthodox, 200 Armenian Catholics, 880 Copts, 800 Anglicans, 250 Maronites, 200 Evangelicals and 200 Ethiopian Christians (who reside only in east Jerusalem). The majority of Palestinian Christians reside in east Jerusalem, Bethlehem, Ramallah and Nablus. Between 1,200 and 1,500 Christians live in Gaza. There are also very small numbers of Samaritans (around 400), Evangelists and Jehovah's Witnesses in the West Bank but these groups do not identify as Christians.

3.11 The overall number of Christians in the Palestinian Territories is decreasing. In the 1950s Christians made up 15 per cent of the total population; they now comprise only two per cent. This is partly because the birth rate is lower amongst the Christian community but mostly due to increased emigration of Palestinian Christians in recent years. Christians tend to be middle-class, well-educated and occupy senior positions in government and the private sector. Many West Bank Christians are employed in the civil service. As such, they are competitive for skilled employment opportunities abroad. In Gaza, the political and economic environment led to spikes in emigration during the Hamas takeover of Gaza in 2007 and the conflicts with Israel in 2008, 2012 and 2014. Following the Hamas takeover of Gaza, many Christians were forced out of government jobs and their businesses suffered as the Hamas-aligned elite emerged.

3.12 There is no process for official recognition of religious organisations in the Palestinian Territories. In the West Bank, each church group seeks PA approval individually. The PA recognises the arrangements made

under Ottoman rule – referred to as the ‘status quo’. The Ottoman agreements allowed for Greek Orthodox, Latin (Roman) Catholic, Armenian Orthodox, Assyrian, Coptic, Ethiopian Orthodox, Greek Catholic, Syrian Orthodox, Anglican and Lutheran communities to have their own ecclesiastical courts that can rule on personal status legal matters. The Nazarene Church, Assemblies of God and some Baptist churches are not officially recognised but have their own arrangements with the PA which allow them to operate freely. Other churches, such as Jehovah’s Witnesses and some Evangelists are able to operate but are forbidden to proselytize or make legal determinations on personal status issues. According to the US Department of State, the PA refuses to register the marriages of Jehovah’s Witnesses.

3.13 Palestinian election law reserves six of the 66 seats in the Palestinian Legislative Council (which has not met since 2007) for Christian candidates – one in Gaza City, one in Ramallah, two in Bethlehem and two in east Jerusalem. There are no seats reserved for any other religion. The current Minister of Tourism, the Minister of Finance and Minister of National Economy are Christians. The appointments of Mayors and Governors are also subject to quotas that support the inclusion of Christians. For example, under special statute the mayor, deputy mayor and the majority of the municipal council of Bethlehem are Christian. Vera Baboun, a Christian, was appointed as Bethlehem’s first female mayor in October 2012. Her appointment received some negative societal responses, including an attack that damaged her private vehicle, but media reporting at the time attributed the reactions more to her gender than her religion (see ‘Women’ below).

3.14 There are 37 Christian schools in the West Bank and two in Gaza. About 70 per cent of the teachers and students in Christian schools are Muslim. Religious education is compulsory in schools operated by the PA, from grades one to six. There are separate courses on religion for Muslims and Christians but there is no final exam on Christianity in the government system, unlike Islam which has a dedicated exam. A Government review committee is currently considering whether to include other religious education in state schools.

3.15 The Christian community actively supports inter-faith dialogue and provides a range of community services that are utilised by all Palestinians, from Christian schools through to hospitals in both the West Bank and Gaza. In Gaza, several of the main charitable organisations are run by members of the Christian community. During the conflict in 2014 churches in Gaza became shelters for internally displaced people, including Muslims. Christian leaders report that their status in Palestinian society allows them to mediate between the Palestinians and Israel, and advocate for tolerance.

Places of Worship

3.16 In the West Bank, the Ministry of Religious Affairs provides funding for the construction of new mosques, the maintenance of around 1,800 existing mosques and the salaries of most Imams. Some Christian organisations also receive government funding but it is limited and not available to all. In the old city of Gaza, the Church of Saint Porphyrius and the Katib al-Wilayah Mosque are adjacent. However a recent attempt to construct an orthodox church and a mosque side-by-side in Gaza City was not successful. After President Arafat granted a piece of land in 1998, the mosque was built but the church has not been constructed due to community opposition.

3.17 Many Christian religious sites are in Jerusalem, such as the Church of the Holy Sepulchre, or in Bethlehem, such as the Church of the Nativity. Access to these sites is often impeded by the West Bank Separation Barrier and the delays or difficulties in crossing this barrier to access Bethlehem. In Bethlehem, Palestinian Christian businesses rely on the tourism industry surrounding the religious sites.

3.18 Government employees who are Christian are granted paid leave on Christian religious holidays, in addition to the Muslim public holidays that the rest of the civil service receives. Traditionally, Christian religious holidays are openly observed in the West Bank, especially Christmas, with businesses and churches displaying decorated trees, wreaths, lights and Santa Clauses. However, in 2015 the traditional Christmas

festivities were toned down with some churches choosing not to decorate their exteriors. Christian leaders reported that this was to show respect for fellow Palestinians following the wave of violent stabbing attacks in Jerusalem and the subsequent tense community feeling. On the other hand, for the comparatively small population of Christians in Gaza, the growing religious conservatism in Gaza after almost a decade as a closed society has meant that Christians in Gaza celebrate religious holidays in a discreet manner and avoid highly visible displays of Christian worship. Christians from both the West Bank and Gaza can be granted 'religious permits' from the Israeli authorities to travel to Jerusalem on holy days. The US State Department reported that, in 2014, 20,000 permits were granted to West Bank Christians to attend Easter services in Jerusalem and 600 permits were granted to Christians from Gaza (but not for any Gazans aged 16-35). Anecdotally, many Christians from Gaza do not take advantage of religious permits as they do not want other Gazans to think they receive special treatment.

Interfaith marriage

3.19 Interfaith marriages do sometimes occur but they are rare. Given Sunni Islam is the majority religion most of the population marry within the Islamic faith. Most Christians encourage marriage within their own religious group. Christians, usually women, sometimes marry Muslims but they must convert to Islam before marriage. Generally, the Mufti will seek permission from the parents of the Christian before approving the marriage.

Violence

3.20 On 26 February 2014 a hand grenade was detonated near the main gate of the Church of the Latin Convent (a Catholic church) in Gaza City. The Church's walls were also defaced with graffiti. The grenade left a small hole and no one was injured. In 2007 a Hamas mob allegedly murdered a Christian leader who ran a Christian bookshop. In both cases the authorities conducted investigations but the offenders were never identified and no charges were ever laid. There have been no recent reports of violence against Palestinian Christians.

3.21 Overall, DFAT assesses that Palestinian Christians in the West Bank are generally free to practice their religion without interference. They enjoy a high degree of inclusion and participation in Palestinian society, for example through quotas for political representation. Palestinian Christians who experience a low level of official discrimination and societal discrimination generally live in Gaza. In Gaza, Christians live within their community and maintain a low profile. Palestinian Christians, both in the West Bank and Gaza, rarely face violence on a day-to-day basis. As members of the broader Palestinian society, Palestinian Christians experience the same freedom of movement and access restrictions imposed by Israel.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.22 The ongoing rivalry between Fatah and Hamas can affect the official and societal treatment experienced by their supporters in each party's stronghold (Fatah is strongest in the West Bank and Hamas controls the Gaza Strip). The 2006 elections saw Hamas win 74 of 132 seats, Fatah won 45 seats and the remaining 13 seats went to smaller parties and independents. Hamas formed a government without Fatah but the government failed, and a subsequent coalition government formed between Fatah and Hamas also failed. In 2007, Hamas took control of Gaza and the West Bank returned to PA control.

3.23 Hamas is more active in the West Bank than Fatah is in the Gaza Strip. Hamas has strong support in Hebron City and won the 2015 Hebron University student elections. Human Rights Watch reported that PA Security Services have arrested students for alleged affiliation with Hamas. In April 2015, a member of a Hamas-affiliated student group at Birzeit University in Ramallah was arrested and allegedly beaten during his

24-hour detention. Hamas has alleged that more than 200 of its West Bank members were arrested and tortured by the PA in July 2015. The PA publicly stated that they did arrest 100 Hamas members for inciting violence against the PA.

3.24 In Gaza, Fatah is present but there are significant constraints on its activities and its supporters can face difficulties if identified. According to the US Department of State, employment in some government positions in Gaza, especially in the security services, is reserved for Hamas members. Fatah members in the Gaza Strip have a greater risk of official and societal discrimination than Hamas supporters in the West Bank. However, there are credible examples where both groups of people have been subject to violence, harassment and moderate levels of official and societal discrimination, which would increase in frequency and severity if an individual was a high-profile and active critic of either Hamas in Gaza or Fatah in the West Bank.

3.25 Beyond Fatah and Hamas there are a handful of political parties who describe a shrinking space for political opposition members in both the West Bank and Gaza. Some of these parties are members of the Palestine Liberation Organisation (PLO) and some are not. PLO factions include Fatah, the Popular Front for the Liberation of Palestine, the Palestinian National Initiative, the Third Way, the Democratic Front for the Liberation of Palestine, the Palestinian People's Party and the Palestinian Democratic Union. Apart from Hamas, the non-PLO factions are the Palestine Islamic Jihad, the Popular Front for the Liberation of Palestine-General Command and a number of Salafist militant groups, which mostly operate in Gaza. Political opposition parties face financial constraints. The parties in the PLO are supposed to receive financial support from the PA central budget, but this rarely happens in practice.

3.26 Political opposition also takes the form of student activism and the PA and Hamas security forces are known to monitor the activities of student activists. In January 2015, the PA arrested and interrogated a student activist for 13 days based on an anti-government comment that he posted on Facebook.

3.27 Although Palestinian political parties are united in their opposition to Israeli occupation, this sense of solidarity does not apply to Palestinian internal politics, which is very divided and volatile. High-profile political opposition members face a moderate level of official discrimination from the PA in the West Bank or Hamas in Gaza and are at risk of harassment or violence, especially from Hamas or the Israeli authorities. Broadly speaking, low ranking or low profile political supporters face a lower risk, subject to the qualification outlined in 3.25 above.

GROUPS OF INTEREST

Palestinian Refugees

3.28 The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) defines a 'Palestine refugee' as someone 'whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict'. UNRWA allows descendants of these refugees to be registered with them, even where registered descendants have obtained citizenship in third countries, such as Jordan. Most Palestinians in Jordan are Jordanian citizens. Palestinians in Lebanon are rarely citizens. UNRWA provides services and manages camps for Palestinian refugees in Jordan, Lebanon, Syria, the Gaza Strip and the West Bank (including east Jerusalem).

3.29 The Office of the UN High Commissioner for Refugees (UNHCR), which secures the well-being of refugees defined on the basis of the 1951 Refugee Convention, does not generally address Palestinian

refugee concerns (as covered by UNRWA). UNHCR was established after UNRWA and Article 1D of the 1951 Refugee Convention precludes UNHCR from looking after a refugee population for which a UN body already exists. However, the status of Palestinian refugees and the intersection of UNRWA and UNHCR operations are interpreted in different ways by different international and state actors. The Australian courts have provided an interpretation of Article 1D but DFAT does not take a legal view on this issue.

People suspected of collaboration with Israel

3.30 Collaboration with Israel, which includes sharing information or intelligence with Israeli authorities that could harm the Palestinian cause, carries the death penalty in the Palestinian Territories. However, given the context, engagement with Israel cannot be avoided and there are instances of cooperation that do not amount to collaboration, such as joint security operations. Hamas authorities in Gaza seek to prosecute collaborators. On 18 April 2016, Hamas sentenced five Palestinians to death by firing squad for collaborating with Israel. Three of the men were from Gaza City, one from Rafah in southern Gaza and one from Nuseirat refugee camp in central Gaza. They have not been executed yet. In 2015, the US Department of State reported that Hamas unlawfully executed at least one person for suspected collaboration with Israel. The UN Commission of Inquiry on the 2014 Gaza conflict found that 20 men and one woman were executed for suspected collaboration with Israel in 2014, without a judicial process. Eighteen of these suspects were executed by Hamas in public on 22 August 2014 as an open warning on the consequences of collaboration. Hamas did not release the names of the victims, in order to protect their families from reprisal attacks. There are also billboards throughout Gaza that warn people of the consequences of collaborating with Israel, including at the Erez crossing, the only checkpoint for Gazans crossing into Israel.

3.31 Israeli human rights organisations have claimed that Israeli Security Forces pressure Palestinians in both the West Bank and Gaza to collaborate by using; false promises, coercion, violence and exploitation of personal distress (including when urgent medical attention is required) and sometimes torture. While some instances of genuine collaboration do occur, contacts told DFAT that anyone who has spent time in Israel would come under suspicion of their community and the authorities as a potential collaborator, especially those that have been held in Israeli detention - the assumption being that they may have been recruited as a spy or collaborator during their detention. Anecdotally, DFAT understands that when a Palestinian detainee is given a light sentence, this can create an increased perception that a collaboration deal has been struck with Israel. Contacts also told DFAT that even a rumour or suggestion that someone was passing information to Israel or was supportive of Israel could taint them, and their relatives, and would result in them being ostracised and distrusted by their community. On a societal level, most Palestinians, in Gaza and the West Bank, support the death penalty for collaborators. Relatives of collaborators may find it difficult to find employment and marry.

3.32 In the West Bank, the same suspicions surround passing of information, spying and collaboration exist. However, economic collaboration is unique to the West Bank, which is not under blockade like Gaza. Sale of Palestinian property and land to an Israeli is seen as a form of collaboration. There are anecdotal reports that families who have sold West Bank property to Israelis will leave their houses abandoned and, when the Israeli settlers move in, say that their home was forcibly acquired. Palestinian authorities are known to attempt to track the money transfers in suspected cases of sale to Israelis.

3.33 DFAT assesses that Palestinians suspected of collaboration with Israel face a high risk of official and societal discrimination, and face the possibility of execution through judicial means in the West Bank and through both judicial and extrajudicial means in Gaza. The likelihood of being a suspected collaborator increases based on the amount of contact an individual has with Israeli authorities and the intensity of this contact. The risk would be higher for Palestinians in Israeli detention.

Forced Recruitment in Gaza

3.34 Statistics on forced recruitment in Gaza are not available and it is difficult to build a complete picture of the prevalence and nature of this practice. Anecdotally, contacts told DFAT that forced recruitment is not widespread as it is not difficult for Hamas' armed wing to find supporters, given there are few options for employment in Gaza and many young men are willing to join the armed fight. There are also limited options for entertainment and leisure in Gaza. Hamas runs summer camps for schoolchildren and based on various reports, these camps involve some level of militant training, including weapons handling and lessons on Hamas doctrine but do not result in forced recruitment. About 100,000 children attend Hamas' summer camps; 50,000 attend the alternative camps run by Palestinian Islamic Jihad, but the majority, around 250,000, attend the more popular UNRWA summer camps.

Palestinian minors in Israeli detention

3.35 The security and judicial treatment of Palestinian minors (defined as below 18 years of age) under the Israeli military justice system is an issue of concern for a range of domestic and international human rights organisations. Palestinian minors in the West Bank are subject to Israeli military law and can be tried in juvenile military courts or held in administrative detention. However, under the law, only those above 12 years of age can be held criminally responsible and sentences are deferred until the minor is 14 years old. Even within Area A Israeli authorities are able to arrest and detain minors under military law if the minor is deemed to be a security risk. Between September 2015 and January 2016, 464 Palestinian minors were arrested or detained by Israeli security forces in the West Bank, following the upsurge in violent attacks, some of which were perpetrated by Palestinian minors. As of 25 January 2017, there were 335 Palestinian minors in Israeli detention. According to the UN Commission on Human Rights, around 8,000 Palestinian children under the age of 18 were detained and prosecuted by Israeli military courts between 2000 and 2015. Palestinian minors can also be subject to Israeli civil code in some instances and recent changes to Israel's civil code mean that stone-throwing, an offence commonly committed by Palestinian minors, now carries a penalty of up to twenty years, depending on the severity and intentions of the stone-thrower.

3.36 In 2013 and 2014 the UN Working Group on Grave Violations Against Children received 139 affidavits from children aged 16 and 17 years old and 69 affidavits from children below the age of 16 which described a range of ill-treatment from Israeli authorities during arrest, transfer, interrogation and detention, including blindfolding during transfer, painfully hand-tied, physical violence, verbal abuse and intimidation, inadequate notification of their legal rights and strip-searches. Seventy-nine of these children were arrested at night and 28 reported being held in solitary confinement while under interrogation. Israel's government has since undertaken reforms to improve its treatment of Palestinian minors but there has been little progress. Complaints of severe ill-treatment of Palestinian minors by IDF personnel are handled by Israel's Military Advocate General and less severe cases are investigated by the IDF.

3.37 DFAT assesses that Palestinian minors can experience ill-treatment and discrimination in Israeli detention. Those that participate in stone-throwing or more violent activities are more likely to be arrested or detained by Israeli authorities.

Settler violence in the West Bank

3.38 There are approximately 550,000 Israeli settlers living in around 223 settlements in Area C of the West Bank or Area H-2 in Hebron City. These settlements are not accessible to Palestinians without a special permit and a reason to enter. Demolitions and confiscation of Palestinian property continues to occur. According to UNOCHA, between July and August 2016, 177 Palestinian-owned structures in the West Bank

were demolished or confiscated by Israeli authorities. Some of these were demolished on punitive grounds; to punish the occupants for alleged perpetration of attacks against Israel and others were demolished or confiscated for lacking a building permit. On 6 February 2017, the Israeli Knesset (parliament) passed the *Land Regularisation Bill*, allowing Israel to expropriate private Palestinian land in the West Bank where outposts have been constructed (outposts are informal settlements that are not part of the long-standing settlement blocs authorised by the Israeli government).

3.39 Violence perpetrated by Israeli settlers against Palestinians in the West Bank is common. Human Rights Watch reported that between January and November 2015, 84 Palestinians had been injured in 130 incidents, including property destruction and physical attacks, sometimes resulting in deaths. For example, on 31 July 2015, Israeli settlers threw Molotov cocktails into a Palestinian home in the village of Douma, killing an 18-month old infant and his parents.

3.40 Violence is particularly prevalent in Hebron, a city that has been divided into two areas since 1997. Area H-1, covering 80 per cent of the city, has 160,000 Palestinian residents and is controlled by the PA and Area H-2, the remaining 20 per cent of the city, is controlled by Israel and has 40,000 Palestinian residents and around 800 Israeli settlers, plus 1,000 IDF soldiers who provide protection for the settlers. Under the 1997 Hebron Protocol, the Temporary International Presence in Hebron, staffed by civilians from six contributing countries (Denmark, Italy, Norway, Sweden, Switzerland and Turkey) maintains an observer mission and reports on breaches of the agreements made between the PA and Israel in regards to Hebron. Hebron is a friction point because the Palestinian and Israeli settler communities are living in close quarters. Violent harassment is perpetrated by both sides, including physical violence, threats, destruction of property or critical services such as water pipes, and stone-throwing. Between 22 September 2015 and 24 March 2016, 26 Palestinians were shot dead in Hebron by Israeli settlers or IDF soldiers following alleged, attempted or actual stabbing attacks or car-rammings. In the West Bank, Israeli settlers are subject to Israeli civilian penal law and the Palestinian population is subject to Israeli military law and local Palestinian laws. Many human rights groups claim that this, coupled with the physical protection that the settlers receive from the IDF, results in impunity for settlers who perpetrate violence. Israeli NGO, Yesh Din, reported that 85 per cent of investigations into settler violence in 2015 were closed by Israeli authorities due to lack of evidence or inability to locate the suspects.

3.41 DFAT assesses that all Palestinians in the West Bank are at risk of violence, especially those Palestinians living in close proximity to Israeli settlements and areas of ongoing tension, such as Hebron, but overall numbers of victims remain low.

Civil Society Organisations

3.42 There are a number of domestic and international civil society and human rights organisations that operate throughout the Palestinian Territories and actively comment on issues such as the political environment, the rights of women and the human rights practices of Palestinian and Israeli authorities. In the West Bank these organisations are generally able to function independently; however, DFAT was told that freedom of expression has deteriorated in recent years, which has led to greater levels of self-censorship. Some organisations reported that although the PA does coordinate with civil society organisations, constructive engagement can be difficult and their advocacy and recommendations are often ignored. In Gaza, the Hamas authorities are less tolerant of civil society. The US Department of State reported that Hamas did not allow civil society organisations in Gaza to oppose Hamas' political or religious ideology and Hamas authorities undertake low-level harassment of civil society representatives by questioning them, inspecting offices or seeking tax payments.

3.43 DFAT assesses that civil society is active in the Palestinian Territories but civil society members critical of the authorities face a moderate level of official discrimination and may be subjected to surveillance by the authorities.

Media

3.44 The *Palestinian Basic Law* guarantees a free press. It outlines the right to establish media outlets and prohibits government censorship. In practice, the authorities restrict freedom of expression and contacts described widespread self-censorship, especially when criticising the authorities. The Palestinian Territories were ranked 132 out of 180 nations by Reporters without Borders in its 2016 World Press Freedom Index, which cited ongoing issues for journalists who support Fatah in Gaza and pro-Hamas media in the West Bank. Freedom House rated the Palestinian Territories 2016 Press Status as 'not free'.

3.45 There are five major Palestinian newspapers. The PA fully funds *Al-Hayat al-Jadidah* and partially funds *Al-Ayyam* in the West Bank. Hamas funds *Al-Risala* and *Filistin* in Gaza. The Jerusalem-based *Al-Quds* is family-owned and considered more independent than other Palestinian newspapers; however, given its east Jerusalem location it is subject to Israeli military censorship. The West Bank has over a dozen TV stations and between 60 and 70 radio stations but the PA regulates all television and radio licenses, which must be renewed each year. Gaza has a few TV stations and about 20 radio stations. In November 2015, Hamas' *Al-Aqsa* TV station was banned from broadcasting in the West in light of the escalation of violence between Israel and the West Bank and its potential for Hamas to incite further violence. The PA-run *Palestine TV* is able to broadcast in Gaza. Hamas has introduced a system of accreditation that requires all outlets and journalists to register with its authorities in Gaza. Other controls are imposed by Israeli authorities, for example, during *Operation Protective Edge* in 2014 Israeli forces raided media outlets in Gaza due to their affiliation with Hamas. According to Freedom House, Israel continues to hold Palestinian journalists in administrative detention but there are no official statistics on the number of people.

3.46 According to the Palestinian Center for Development and Media Freedoms (MADA), there was an increase in the number of violations against media personnel in 2015 including the closure of media outlets, arrest and detention of journalists and intimidation and physical assaults. In the West Bank, the PA arrested and interrogated 18 journalists in 2015 and generally released detainees after a short period of time. Journalists described this practice as an intimidation tactic to stop critical reporting of the PA, for example a cameraman was held and interrogated for five days for inciting against the PA. During 2015, Hamas arrested 13 journalists in Gaza. Palestinian journalists also have their movements restricted or are prevented from covering protests by Israeli authorities.

3.47 In 2014, MADA estimated that 34 per cent of West Bank residents and 28 per cent of Gaza residents access the internet. There are 72.1 mobile phone subscribers per 100 people. Authorities in the Palestinian Territories do not restrict access to the internet but both the PA and Hamas have the capacity to monitor private communications systems, including emails and blogs. The infrastructure for telecommunication services are all located within Israel and Israeli authorities are also able to conduct monitoring. In 2015, the PA and Hamas arrested and detained Palestinians based on their social media activity where it criticised the decisions of authorities or implied corruption at the official level or, in the case of the PA, incited violence against Israel.

3.48 Overall, DFAT assesses that reporters in the Palestinian Territories routinely practice self-censorship and those reporters and online bloggers who are critical of the authorities experience a moderate level of official discrimination. Their activities are likely to be monitored by the authorities. They may be arrested or detained, but are rarely convicted.

Women

Official Discrimination

3.49 In both the West Bank and Gaza, discrimination against women and girls occurs in law and in practice. There is no explicit discrimination against women in the *Palestinian Basic Law* and rape is illegal and carries a sentence of five to 15 years in prison; however, the basic law does not address spousal rape. Furthermore, if a rapist marries their victim they are relieved of any criminal responsibility for the act. In a 2015 gang rape case in the West Bank, the female victim was forced to select which attacker to marry. Despite the PA being signatory to international treaties that espouse rights for women, such as the *Convention on the Elimination of all Forms of Discrimination against Women*, domestic laws do not yet reflect these commitments. All personal status issues (marriage, divorce, inheritance, custody and alimony) are governed by religious laws, not civil code, and disproportionately discriminate against women.

3.50 Although women participate in all areas of Palestinian society, including government, business and civil society, there are cultural and social barriers that limit their levels of participation. Palestinian women have one of the lowest rates of labour force participation in the world, at only 14 per cent, although this does not include informal labour, which is reportedly higher. While this low rate of participation is broadly reflective of the high unemployment rates for both men and women, local NGOs did report that cultural norms dictate that a woman's traditional role is confined to the household. Palestinian labour law does provide some protections for women, such as maternity leave, but reliable contacts told DFAT that implementation is weak.

3.51 There are currently three female ministers in the PA cabinet (out of 24 positions). In Gaza, the Minister of Women's Affairs is the only female minister. The PA appointed the West Bank's first female governor in 2010 and two of the mayors in the West Bank are women. Women are guaranteed representation in electoral lists, but are not guaranteed a position except for in local elections, where women must hold 20 per cent of seats in local bodies.

3.52 In Gaza, Hamas maintains a strict social and religious code of conduct, including enforcing conservative dress codes for women and requiring that they be accompanied in most daily activities by a male relative. Muslim women in Gaza are expected, by authorities and broader society, to wear a headscarf. Many report that the pressure to do so comes from their families' not just from Hamas. Some women choose to not wear a headscarf and in at least one case, female students at a high school in Gaza successfully refused to wear a headscarf when an attempt was made to impose it.

Societal Discrimination and Violence

3.53 Violence against women is endemic across the Palestinian Territories. For example, in the most recent survey on violence conducted in 2011 by the Palestinian Central Bureau of Statistics, 37 per cent of women reported suffering violence from their husbands in the previous 12 months, 12 per cent reported experiencing sexual abuse and 59 per cent reported experiencing psychological abuse. However, credible local sources suggested there was significant under-reporting and few domestic violence cases have ever been successfully prosecuted in the Palestinian Territories. Amnesty International reported that 18 women and girls were victims of 'honour killings' in 2015. Credible contacts told DFAT that while honour killings have occurred over the years, there had not been any high-profile recent cases and it was not widely practiced in the West Bank, but may be more prevalent in Gaza; however, there are no reliable statistics to prove this.

3.54 The PA has established a family and juvenile protection unit within the police force in the West Bank and 30 per cent of West Bank police have received specialised violence against women training. Around four per cent of police are women. There are only five shelters providing assistance to victims in the

Palestinian Territories – four in the West Bank and one in Gaza. The one shelter in Gaza does not allow women to stay overnight; leaving women extremely vulnerable. Women in east Jerusalem have to rely on Israeli support services.

3.55 Local NGOs report that the overarching political situation and the high unemployment rate amongst men has disrupted traditional gender norms in Palestinian culture. Men feel emasculated by their inability to financially provide for their families and the hopelessness of their situation leads to increased rates of domestic violence. DFAT assesses that the application of *sharia*-law in personal status matters and conservative cultural attitudes mean that domestic violence is widely seen as a private matter. The level of domestic violence is under-reported. Women would find it difficult to safely leave a violent relationship, given the lack of access to state protection and movement restrictions which would hinder their ability to relocate internally.

3.56 As personal status issues are managed by *sharia* law or the ecclesiastical laws of the different religions, there is no civil law that determines the minimum age for marriage in the Palestinian Territories. According to the Palestinian Central Bureau of Statistics, in 2009 around 22 per cent of Palestinian women were married before the age of 18. NGOs reported in 2013 that this figure had decreased to around 19 per cent. However, the figure is likely to be higher given the underreporting of unregistered or unofficial customary marriages and forced marriages. Women's rights groups told DFAT that awareness of underage marriage is increasing. Online reports of a Hamas-sponsored mass wedding of 450 child brides in Gaza emerged in 2009 but were later found to be false.

3.57 NGOs consistently report that Female Genital Mutilation (FGM) is a rare occurrence in the Palestinian Territories. The US Department of State did not report any cases of FGM in 2016. The practice is prohibited by Palestinian law.

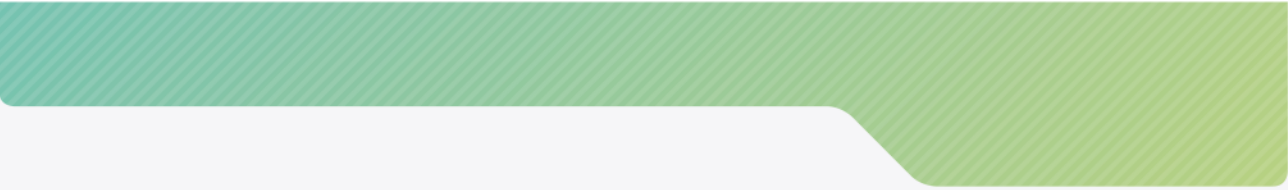
3.58 Overall, DFAT assesses that although the situation for women in the Palestinian Territories is better than that prevailing in most Middle Eastern countries, Palestinian women face a high risk of societal and official discrimination and violence, particularly domestic or intimate partner violence.

Sexual Orientation and Gender Identity

3.59 There are numerous societal, cultural and legislative barriers faced by the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in the Palestinian Territories. Palestinian law prohibits same-sex sexual activity. The PA has not recently prosecuted individuals suspected of such activity, although one NGO told DFAT that there were two to three arrests per year. There is no anti-discrimination legislation in relation to sexual orientation or gender identity or hate crimes against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals.

3.60 In 2016 the US Department of State reported that PA security officers in the West Bank and Hamas officials in Gaza are known to harass and sometimes detain people because of their sexual orientation or gender identity. The New York Times reported that in February 2016, a former commander of Hamas' armed wing, the al-Qassam Brigade, was extra-judicially executed by his brigade on suspicion of homosexuality and theft. DFAT was told by one NGO that there are isolated examples of discrimination but there is no systematic discrimination against LGBTI individuals, because in order to discriminate, authorities would first have to acknowledge that LGBTI individuals existed.

3.61 In practice, there are societal and cultural barriers which preclude LGBTI people from living openly anywhere in the Palestinian Territories. Sexuality, and especially homosexuality, is a taboo subject and, on a societal level, collective values are prioritised over individual rights. There are few local NGOs working on LGBTI issues and there are few support mechanisms. There are 'Queer' parties held eight times per year in



nightclubs in the West Bank and these events are advertised on Facebook. There is no transgender community, but there are a small number of transgender individuals who do not receive any formal support. Historically, LGBTI individuals have been linked to collaboration with Israel as LGBTI status is seen as something that can be used by Israeli intelligence services to blackmail and subsequently recruit an individual as a spy.

3.62 Overall, DFAT assesses that the vast majority of Palestinians have conservative views about sexual orientation and gender identity. DFAT assesses that LGBTI individuals in the Palestinian Territories face a moderate risk of official discrimination and a moderate level of societal discrimination. The level and frequency of discrimination in the West Bank is not dependent on the socio-economic status or urban versus rural location of those involved. The situation for LGBTI individuals in the Gaza Strip is not transparent but anecdotally, the risk of violence is higher. Traditional, conservative values continue to preclude most LGBTI people from disclosing their sexual orientation or gender identity. LGBTI individuals would likely hide their identity beyond their immediate family. They would often conceal it from their families as well.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

Extra-Judicial Killings

4.1 Credible sources told DFAT that, while extra-judicial killings by PA and Hamas security forces are not systemic or chronic, they do occur; punishment of government officials is rare. During the 2014 conflict between Gaza and Israel there were cases of abduction, torture and extrajudicial killings of Palestinians by Hamas forces. Hamas particularly targeted people in Gaza accused of collaborating with Israel. The UN Commission of Inquiry on the 2014 Gaza conflict found that 20 men and one woman were executed for suspected collaboration in 2014, without a judicial process. Eighteen of these suspects were executed by Hamas in public on 22 August 2014. According to the US Department of State, Hamas unlawfully executed at least one person for suspected collaboration with Israel in 2015. There are no recent reports of extrajudicial killings by the PA in the West Bank.

4.2 Palestinians are sometimes killed by Israeli soldiers, most commonly in the security response to knife, gun or car-ramming attacks by Palestinians. These killings result from a range of situations, but in general they occur at checkpoints and border crossings controlled by Israeli soldiers or in close proximity to Israeli settlements. For example, during 16 to 19 September 2016 five Palestinian males were killed in separate incidents near settlements in and around Hebron, following alleged stabbing or car-ramming attacks against Israelis. On 27 April 2016, a pregnant Palestinian woman and her younger brother were shot dead at the Qalandiya military checkpoint near Ramallah in the West Bank. Israeli soldiers claimed that the woman was holding a knife. Palestinian witnesses said the siblings appeared confused by the border crossing procedure. The security camera footage of the incident has not been released. On 24 March 2016, two Palestinian men were shot after allegedly stabbing an Israeli soldier in Hebron. The killing was recorded on video by a witness and shows that after killing one of the men instantly, the other was shot and injured and Israeli soldiers failed to render medical assistance. While the injured man lay disarmed on the ground an Israeli soldier shot him fatally in the head. Following a long trial, the soldier was convicted of manslaughter on 4 January 2017 and sentenced to 18 months in prison, a year's probation and a demotion in rank in February 2017. Several international human rights groups claim that these kinds of incidents represent extrajudicial killings.

Enforced or Involuntary Disappearances

4.3 According to the US Department of State, there have been no recent reports of politically motivated disappearances in the West Bank. In Gaza, Hamas detained individuals and was not transparent regarding the detention conditions or welfare of these individuals and did not always provide detainee's access to legal representation or allow them to communicate with their families.

DEATH PENALTY

4.4 Capital punishment applies to treason, including collaboration with Israel, and to serious criminal offences such as murder and drug trafficking. Under Article 109 of the *Palestinian Basic Law*, all death sentences must be endorsed by the President of the Palestinian Authority before they can be implemented. On 31 May 2016, three men were executed by Hamas in Gaza, all convicted of murder. On 18 April 2016, Hamas authorities in Gaza sentenced six men to death for collaborating with Israel. A further five were sentenced on 19 July 2016. Their executions have not been implemented yet. Authorities did not carry out any judicial executions in 2015, although at least 12 people were sentenced to death; two imposed by the PA in the West Bank and 10 imposed by Hamas in Gaza. In 2014, two judicial executions were recorded in Gaza and at least four death sentences were handed out, also in Gaza. Since taking control of Gaza in 2007, Hamas has continued to contravene the legal requirement for Presidential approval for executions. The method of execution is by hanging or firing squad.

TORTURE

4.5 Article 13 of *Palestinian Basic Law* prohibits torture. Between January and November 2015 the Independent Commission on Human Rights received 613 complaints of torture and other ill-treatment, mostly against police—179 complaints were from the West Bank and 434 from Gaza. The types of torture described included; being forced into stress positions for extended periods, sleep deprivation, beating, and intimidation. Human Rights Watch, Amnesty International and local NGOs all reported cases of torture. The US Department of State reported that the PA Ministry of Interior did not conduct any investigations into torture claims in 2016 and that impunity of security forces is also a problem in Gaza. Political prisoners such as opposition party members, journalists, bloggers and other people perceived to oppose either Fatah in the West Bank or Hamas in Gaza, as well as individuals perceived to be collaborating with Israel, are reportedly particularly at risk of torture.

4.6 DFAT assesses that reports of torture are consistent and plausible but is not aware of any evidence that suggests that torture is systematically or routinely undertaken by Palestinian authorities. People claiming to be victims of torture have limited avenues for seeking redress. They may also be reluctant to report the abuse for fear of further punishment.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Detention Conditions

4.7 In general, prison conditions in the Palestinian Territories are poor and there is a lack of transparency about prison conditions and operations. The US Department of State reported that PA prisons in the West Bank do not meet international standards due to overcrowding, inadequate ventilation and lighting and insufficient recreation and medical facilities. There are also lengthy periods of pre-trial detention and people are detained for political reasons. Despite little publicly available information, credible civil society organisations that have visited prisons in Gaza described them as worse than the West Bank. The PA and Hamas do not practice administrative detention. The International Committee of the Red Cross (ICRC) has access to all places of detention and detainees in the Palestinian Territories and Israel and regularly conducts prison visits but Hamas does deny ICRC access to high-profile detainees in Gaza. The Independent

Commission on Human Rights (ICHR) plays an ombudsman role and the PA does conduct investigations into alleged mistreatment in West Bank prisons. Suspicious deaths in custody reportedly occur in the Palestinian Territories but there are no official statistics that record this and DFAT cannot verify these claims. The likelihood of deaths in custody increases during times of conflict, for example, according to Amnesty International, during the Gaza-Israel conflict in 2014 three Gazan men died in Hamas custody shortly after their arrest.

4.8 Since 1967, 800,000 Palestinians have been arrested and detained by Israel. The US Department of State reported that, as of December 2015, there were 6,967 Palestinians in Israeli prisons, including 422 minors. These prisoners have a higher rate of administrative detention, restricted access to their families and a higher incidence of solitary confinement. Several Palestinian detainees have undertaken hunger strikes to protest against prison conditions and administrative detention. A law authorising force-feeding of hunger strikers was passed by Israel's Parliament in August 2015. Israel's Ministry of Justice has an Inspector for Interogee Complaints and interrogations are recorded on video and used as evidence in complaints investigations. Of the 1,000 complaints lodged with the Inspector since 2013, none have resulted in criminal proceedings.

Arbitrary Arrest and Detention

4.9 Articles 11 and 12 of the *Palestinian Basic Law* prohibit arbitrary arrest and detention and the PA generally adheres to this in the West Bank but there have been cases of arbitrary arrest of individuals, based on political association with Hamas or individuals who publicly criticise the PA. Legal proceedings in the PA judicial system are not speedy and can result in long periods of detention. According to the US Department of State, Hamas practices arbitrary detention in Gaza, especially in cases concerning individuals who publicly criticise Hamas.

4.10 The practice of administrative detention is routinely used by Israeli authorities to detain Palestinians. Under administrative detention orders, individuals are held without indictment or trial and the evidence used against them remains secret for security reasons and cannot be accessed by the detainee or their lawyer. Individuals are held for set periods, but these periods are able to be renewed and there is no overall upper time limit. The procedures surrounding administrative detention are not transparent and according to credible NGO sources, ill-treatment, such as beatings, rough handling and intimidation of detainees is common. Detainees are sometimes held incommunicado without access to a lawyer or their family. In 2015, the number of Palestinians being held under administrative detention in Israel increased to 584: the highest number since 2008.

Corporal Punishment

4.11 Corporal punishment is legal in the home. However, Article 29 of the *Palestinian Basic Law* grants protection to children from harmful or cruel treatment, including by their relatives. In May 2016, UNICEF reported that corporal punishment is commonly used in Palestinian schools and is generally an accepted way of disciplining children in Palestinian society.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 DFAT assesses there is no law or government policy which hinders access to state protection on the basis of religion or ethnicity. Any citizen can exercise avenues of redress through the police, judiciary or the Independent Commission of Human Rights. In practice, these avenues may be limited given the variable influence of the PA in the different areas of the West Bank; the inability of Hamas to control all state functions in the Gaza Strip; and the reluctance of people to access state protection, given the overarching political and security situation.

Security Forces and Police

5.2 There are six different PA security forces operating in the West Bank; the Palestinian Civil Police, the Palestinian National Security Force, the Military Intelligence Agency, the General Intelligence Service, the Preventive Security Organisation and the Presidential Guard. Palestinian Security Forces cooperate closely with Israeli authorities to maintain peace and order in the West Bank.

5.3 The Palestinian Civil Police (PCP) has 8,000 officers, of which 315 are women. A 2015 survey conducted by the EU found that the police provide a sense of safety and security and 91.6 per cent of Palestinians would contact the police if they were in danger. However, residents in Area C do not generally feel that the PCP could provide protection for them given their lack of jurisdiction in the Israeli-controlled area. Similarly, the Palestinian National Security Force (PNSF), with around 25,000 members, only has autonomy in Area A, limited involvement in Area B and no role in Area C, which undercuts its ability to provide protection for Palestinians.

5.4 Hamas maintains a sophisticated internal security apparatus and is able to maintain law and order in Gaza, but does not generally operate in a transparent way, making it difficult to judge its ability to provide protection.

Judiciary

5.5 The judiciary in the Palestinian Territories is nominally independent and individuals are given the right to a fair trial, as stipulated by the *Palestinian Basic Law*, but in reality the judiciary has limited control over its jurisdiction due to Israeli restrictions. Palestinians living in Area C of the West Bank are subject to Israeli military law. Palestinians living in Area B fall under PA civil law and Israeli military law for criminal and security issues. In Area A, Palestinians are subject to the PA's legal system but Israeli authorities do undertake incursions into Area A, and have arrested Palestinians in Area A under Israeli military laws. Laws in the Palestinian Territories are a mix of Jordanian, Egyptian, Ottoman and British laws that have been inherited over time. Aspects of this patchwork of different laws were consolidated by the Oslo Accords to create the current Palestinian judicial system. *Sharia*-law and the ecclesiastical laws of religions other than

Islam exist alongside the Palestinian judicial system and apply to personal status laws (see paragraph 3.5 above).

5.6 In the West Bank there are 37 courts divided into; Magistrate's Courts, Courts of First Instance and Courts of Appeal. Above this sits the High Judicial Council (HJC), which is a group of senior judges established in 2002 to oversee and enhance the independence of the judicial system and nominate judges, who are then appointed by the President of the PA. There are female judges and lawyers in the civil system and two female judges in the *Sharia* judiciary. Free legal representation is available for those who cannot afford legal services, but only in criminal cases and only during the trial phase.

5.7 The US Department of State has reported that the PA generally respects the independence of the judiciary and the role of the HJC in the West Bank. In politicised cases, the Palestinian judicial system does not appear to be fully independent from the government. In Gaza, Hamas acknowledges the treaties that the PA has signed up to and the *Palestinian Basic Law* but does not always apply them in practice. According to the US Department of State, Hamas directly appoints prosecutors and judges in Gaza and there are no women prosecutors but in general, courts in Gaza operate independently of Hamas and were often impartial. Although, Hamas security forces do tend to try civil cases in military courts.

5.8 DFAT assesses that application of Palestinian law is constrained by Israeli civil and security administration and other restrictions, but where the Palestinian judiciary is active it is generally effective and independent, except in politicised cases.

INTERNAL RELOCATION

5.9 The UK Border Agency has reported that the restrictions on freedom of movement enforced by Israeli authorities would make internal relocation extremely difficult for all Palestinians in the West Bank and the Gaza Strip. Israel maintains tight control of the Palestinian Population Registry and the residency status of all Palestinians; for example, there are separate permits that clearly denote if an individual is from Gaza or from the West Bank. It is not legally or physically possible to move between the West Bank and the Gaza Strip, except in exceptional circumstances. There are also severe restrictions on movement within the West Bank (see Chapter 2 'Freedom of Movement'). In general, there is a shortage of accommodation in the Palestinian Territories. In the West Bank it is difficult to obtain building permits, especially in areas that have large Israeli settlements. The destruction in Gaza following the 2014 conflict has resulted in massive housing shortages and reconstruction will take years. DFAT assesses that there are significant barriers to relocation between Gaza and the West Bank and within the West Bank and in most instances relocation would not be possible.

TREATMENT OF RETURNEES

5.10 In the Palestinian Territories, voluntary and involuntary returnees would have to be approved by Israel, as Israeli authorities control the exit and entry points and the Palestinian Population Registry. Jordanian and Egyptian authorities would likely need to secure Israel's approval before allowing returns through their respective borders with the Palestinian Territories. For further information on exit and entry procedures see 'Freedom of Movement' above.

DOCUMENTATION

Birth, Death and Marriage Certificates

5.11 When a child is born the hospital issues a 'notice of birth' on a form provided by the Ministry of Interior in either the West Bank or Gaza. Each form contains an individual, unique ID number. A completed copy of the notice of birth form, containing the details of the new born, is returned to the Ministry of Interior. In the West Bank the PA passes this information on to Israel for inclusion in their Palestinian Population Registry. In Gaza, Hamas passes this information on to the PA and then the PA informs Israel for registry purposes. Birth certificates state the religion of the child and the names of their parents and maternal and paternal grandparents. DFAT understands that the Palestinian Population Registry is closely managed by Israeli authorities and unregistered births would be unlikely.

5.12 Marriages are likewise formally reported to the Ministry of Interior for inclusion in the Population Register. When an individual updates their identity card, which happens periodically, their marital status would be included at that stage.

5.13 Death certificates are issued by the Ministry of Interior on application by a close relative of the deceased. The application must include copies of the ID documents of the deceased person and the close relative applying for the death certificate, as well as a copy of the 'notice of death' issued by the hospital or relevant District Health Department.

Identity Cards

5.14 The ID card is the official identity document in the Palestinian Territories. All Palestinians who reside in the West Bank, the Gaza Strip and east Jerusalem and have a unique ID number, provided at birth or at the time of granting residency (if born overseas). This ID number remains unchanged throughout one's life. The ID number directly corresponds to the Population Register maintained by Israel. The only number that would change is the ID document or the travel document/passport number. The ID number is linked to many other functions, including bank accounts, government records and services, credit card accounts and tax returns. Therefore, an individual would use their ID number regularly and the use of ID numbers would be traceable on various institutional systems. At 16 years of age, each person must obtain and carry their ID card. They must apply in person, accompanied by one parent.

5.15 The ID card shows an individual's name, address, photograph, religion and marital status. The ID card must be carried at all times and a failure to do so may attract a fine of NIS5,000 (AUD1,700) if the person does not present to a police station within five days for positive identification.

5.16 An ID card, held by Palestinian residents of the Palestinian Territories, is not sufficient for entry into Israel. A separate entry permit must be obtained from Israeli authorities.

5.17 DFAT assesses that it would be difficult to obtain a genuine ID card fraudulently as ID numbers are linked to the Population Register and Israeli authorities regularly conduct headcounts within households in the West Bank to confirm the identity of individuals and the composition of families. However, Israeli passports and ID documents, which are not biometric, are often subject to fraud. In 2015 Israel's Ministry of Interior reported that 22,248 Israeli passports and 131,000 Israeli ID documents had been stolen. Stolen identity documents are sometimes used by Palestinians to reside or work in Israel, but the incidence of this is unknown.

Travel Documents

5.18 Since the mid-1990s, Palestinian residents of the West Bank and Gaza have been able to obtain a travel document under the seal of *the Palestinian Authority*. On 13 April 2016, the Palestinian Minister of Civil Affairs announced that the government plans to issue travel documents under the seal of *the State of Palestine* but this has not taken effect yet. The Palestinian Authority travel document is accepted by 37 countries, including Israel and Australia. The Palestinian Authority travel document is issued by the Ministry of the Interior in Ramallah, including for residents of the Gaza Strip. Hamas is not involved in any of the steps that lead to the issuing of a Palestinian Authority travel document. Hamas does provide their own version of a travel document to Gazans but they are not recognised by any other country. At the time of writing most countries require Palestinians to have a visa for entry.

5.19 Palestinian residents of the West Bank can apply for a PA travel document directly with their local branch of Palestine's Ministry of Interior. Gaza residents must send their application to the Ministry of Interior's main office in Ramallah as Hamas is not involved in the process. The PA allows dual nationality and can theoretically issue a PA travel document to Palestinians residing in other countries (including Lebanon, Egypt, Jordan or Syria) but in practice, issuance is limited to residents of the Palestinian Territories in accordance with an interim agreement between Israel and the PLO.

5.20 Palestinian travel documents and passports are based on technology provided by the German government. They are not biometric but contain more security features than the non-biometric Israeli passport, which is more susceptible to being fraudulently created.