

AMERICAN UNIVERSITY OF BEIRUT

RE-EXAMINING
THE ROLE OF PALESTINE'S
INDEPENDENT COMMISSION FOR HUMAN RIGHTS (ICHR)
WITHIN THE 1990s HUMAN RIGHTS SURGE
AND OSLO'S STATE-BUILDING PROGRAM

by
DELORIS SAAD

A project
submitted in partial fulfillment of the requirements
for the degree of Master of Arts in Public Policy and International Affairs
to the Department of Political Studies and Public Administration
of the Faculty of Arts and Sciences
at the American University of Beirut

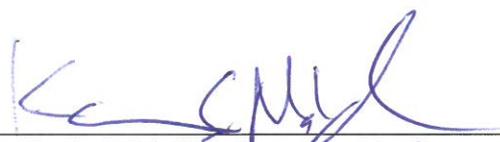
Beirut, Lebanon
January 2019

AMERICAN UNIVERSITY OF BEIRUT

RE-EXAMINING
THE ROLE OF PALESTINE'S
INDEPENDENT COMMISSION FOR HUMAN RIGHTS (ICHR)
WITHIN THE 1990s HUMAN RIGHTS SURGE
AND OSLO'S STATE-BUILDING PROGRAM

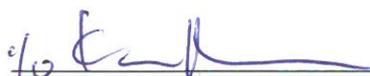
by
DELORIS SAAD

Approved by:



Dr. Karim Makdisi, Associate Professor
Department of Political Studies and Public Administration

First Reader



Dr. Coralie Hindawi, Associate Professor
Department of Political Studies and Public Administration

Second Reader

Date of project presentation: January 25, 2019

AMERICAN UNIVERSITY OF BEIRUT

THESIS, DISSERTATION, PROJECT RELEASE FORM

Student Name: SAAD

DELORIS

NICOLAS

Last

First

Middle

Master's Thesis

Master's Project

Doctoral Dissertation

I authorize the American University of Beirut to: (a) reproduce hard or electronic copies of my thesis, dissertation, or project; (b) include such copies in the archives and digital repositories of the University; and (c) make freely available such copies to third parties for research or educational purposes.

I authorize the American University of Beirut, to: (a) reproduce hard or electronic copies of it; (b) include such copies in the archives and digital repositories of the University; and (c) make freely available such copies to third parties for research or educational purposes after:

One --- year from the date of submission of my thesis, dissertation, or project.

Two --- years from the date of submission of my thesis, dissertation, or project.

Three --- years from the date of submission of my thesis, dissertation, or project.

Deloris Saad

07/02/2019

Signature

Date

ACKNOWLEDGMENTS

This project has been inspired by an internship at the International Service for Human Rights in Geneva, funded by Open Society Foundations, and supervised by Mr. Clement Voule, currently the United Nations Special Rapporteur on Rights to Freedom of Peaceful Assembly and Association. My gratitude is addressed to all these parties, who have provided me with the opportunity to learn more about National Human Rights Institutions and ask the questions which eventually led to the development of this project.

My recognition and gratitude are also addressed to my project committee, Dr. Karim Makdisi and Dr. Coralie Hindawi, who have supported and supervised within a short time frame, while providing helpful comments and remarks.

Finally, the warmest gratitude goes to my family, especially my mother – Minerva Khnaizir , and boyfriend – Hekmat Francis - who have provided me with unfailing support throughout the research and writing of this project, despite the challenges faced. None of this would have been possible without them. Thank you!

AN ABSTRACT OF THE PROJECT OF

Deloris Saad for

Master of Arts

Major: Public Policy and International Affairs

Title: Re-Examining the Role of Palestine's Independent Commission for Human Rights (ICHR) within the 1990s Human Rights Surge and Oslo's State-Building Program

The 1990s marked an important milestone in human rights, leading to several advancements including but not limited to the establishment of additional declarations, international tribunals and an increase in popular activism.

In addition, there was an increased focus on nationalizing human rights within states, emphasizing, as well, the necessity of creating national human rights institutions – which are state bodies with the constitutional and legislative mandate to protect human rights.

In Palestine, and through the state-building programs suggested through Oslo, an Independent Commission for Human Rights was created. Its role will be further contested throughout its paper particularly with the presence of other NGOs before nationalizing human rights and the limitations/obstacles it faced.

While being an officially recognized institution, the ICHR seems to be closely linked to the Oslo process which led to a deterioration rather than an advancement in terms of human rights, this time, creating an additional authority, the PA, committing violations as well.

CONTENTS

ACKNOWLEDGEMENTS.....	v
ABSTRACT	vi
Sections	
I. INTRODUCTION.....	1
II. NATIONAL HUMAN RIGHTS INSTITUTIONS.....	6
III. HUMAN RIGHTS IN PALESTINE.....	10
IV. ICHR.....	15
A. Commission: Mandate and Structure.....	15
B. ICHR vs Al Haq.....	20
V. HUMAN RIGHTS POST-OSLO.....	22
A. Throughout the Negotiations.....	22
B. Violations post-signing.....	23
1. Violations by the Palestinian Authority.....	23
2. Violations by the Israeli Forces.....	26
VI. CONCLUSION.....	31
BIBLIOGRAPHY	34

SECTION 1

INTRODUCTION

The 1990s marked an important milestone in world politics, with the dissolution of the Soviet Union and thus the consequent ending of the Cold War Era – greatly linking the anti-communist pro-democracy movement to the advancement of human rights. While the importance of human rights had been previously highlighted through the passage of the Universal Declaration of Human Rights in the 1940s, the human rights movement re-emerged in the 1990s – thus, making these two periods ones of the most remarkable in terms of international law making and development of declarations¹. These significant advances seem to have been expected, especially at a time when the “architecture” of international relations and the “domestic political and social configurations” in several countries were ill-defined² and required revisiting.

In the 1990s, however, the approach included more and more emphasis on individual protection against the state rather than the previously promoted colonial liberation and the creation of boundless nations³. International non-governmental organizations (NGOs) such as Amnesty International changed their advocacy approaches focusing on individual investigations. Moreover, politicians were calling for the integration of human rights in foreign policy of states, and international conferences on the necessity of institutionalizing individual human rights were all taking place at the time⁴. Particularly for the latter, it emphasized the need for the

¹ Weitz, Eric D. "The Human Rights Surges of the 1940s and 1990s: A Commentary on Margaret E. McGuinness and William A. Schabas." *Diplomatic History* 35, no. 5 (2011): 793-796. <http://www.jstor.org/stable/44254535>.

² Weitz. "The Human Rights Surges of the 1940s and 1990s".

³ Moyn, Samuel. *The Last Utopia: Human Rights in History*. Cambridge, Massachusetts and London, England: Harvard University Press, 2010: 4.

⁴ Moyn, Samuel. *The Last Utopia: Human Rights in History*. (Cambridge, Massachusetts and London, England: Harvard University Press, 2010)

national incorporation of international human rights directly linking it to the issue of state sovereignty and national citizenship⁵. Thus, human rights were no longer to be limited to universal declarations and international human rights law but rather to the state and its duties towards its citizens.

One of the institutions through which this was suggested to be done were national human rights institutions, which are entities that were primarily discussed by the Economic and Social Council in 1946, and later through a seminar by the Commission on Human Rights (currently the Human Rights Council) in 1978⁶. These institutions are State bodies with a “constitutional and/or legislative mandate to protect and promote human rights”⁷. More thorough discussions on their mode of governance took place through the first international workshop on national Institutions for the Promotion and Protection of Human Rights in Paris in 1991, which provided the government and the growing number of human rights NGOs with the opportunity to sharpen the mentioned debate, and eventually resulted in the Paris Principles. These principles usually entail the mode of governance of NHRIs, particularly with regards to their mandate and competence, autonomy from the government, independence (to be guaranteed by a statute), pluralism, adequate resources and finally the adequate powers of investigation.

I was introduced to this discussion on human rights and national human rights institutions through the Open Society Internship on Rights and Governance; which

⁵ Koo, J.-W., and F. O. Ramirez. "National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions, 1966-2004". *Social Forces* 87, no. 3 (2009): 1321-1353. doi:10.1353/sof.0.0167.

⁶ Bauer, Joanne. "Human Rights in The Post-Cold War Era: The Cases of North Korea, China, And Burma| Carnegie Council for Ethics in International Affairs". *Carnegiecouncil.Org*, 1994. https://www.carnegiecouncil.org/publications/archive/dialogue/1_01/articles/503.

⁷ "National Human Rights Institutions: History, Principles, Roles and Responsibilities". Office of The United Nations High Commissioner for Human Rights, 2018. https://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf.

included an intensive training course in Budapest, Hungary and then an internship at the International Service for Human Rights in Geneva, Switzerland. In fact, throughout the training course, I was exposed to the evolution of human rights in general, and national human rights institutions in specific as one of the protection mechanisms for human rights and human rights defenders. My internship at the International Service for Human Rights, then, included a research that entailed a comparison between a model law designed to assess how ready NHRIs in west Africa were to act as the mentioned protection mechanism and their respective mandates. In fact, this model law, developed by the ISHR, was based on the Paris Principles and included a set of criteria that relate to the effectiveness of the respective NHRI. The documents according to which I developed my research included the UNDP toolkit on NHRIs, the Global Alliance for National Human Rights Institutions (GANHRI) website, the analyses of the Sub-Committee on Accreditation and so on. Having come across several NHRIs all around the world, I was very much interested to learn that the Palestinian NHRI was one of the very first to be established. In fact, it was established in 1993 throughout the mentioned era of the re-emergence of human rights. Thus, and taking into consideration the complexity of the situation in Palestine at the time (i.e. the 1990s) as well as the fact that NHRIs are “state” bodies, it was interesting for me to look further into this commission, its status, mandate and role – which ended up being the main inspiration for this project.

In fact, Palestine was undergoing many changes throughout that period, primarily because of the end of the first Intifada and the signing of the Declaration of Principles on Interim Self-Government Arrangement i.e. Oslo Accords. This declaration kick started negotiations between the Palestinian Liberation Organization and the Israelis to reach a final status agreement based on the two-state solution with

the purpose of ending decades of confrontation and conflict, recognizing the mutual existence of both signing parties as well as their legitimate and political rights with the main purpose being to live in peaceful coexistence⁸. At that time and after the signing of the Oslo Accords on the 13th of September 1993, the Palestine Independent Commission for Human Rights (ICHR) was founded. Its main purpose was to advance human rights within Palestine through harmonizing and legislating policies, interacting with the UN mechanisms, advocating for marginalized groups, raising awareness and education and coordinating and networking⁹. Its creation was not peculiar as it fell closely in line throughout the mentioned trend of nationalizing international human rights law. Thus, this national human rights institution was mandated to protect and promote human rights at the level of the state-to-be-established, Palestine.

What is particularly interesting is that prior to the establishment of the commission and the global promotion of nationalizing human rights, Al Haq, a local organization was already adopting a nationalist conception of human rights. This was through translating the mentioned concept into a “new political idiom” and translating that, in turn, into action through a broad set of practices, including but not limited to, providing legal services, advocacy for political prisoners, analyzing occupation from a legal perspective, and spreading information abroad.¹⁰ This organization was already highlighting reprisals by the Israelis and calling for international support, which in turn was also used as a justification for the creation of the commission. The specific

⁸ "Declaration of Principles on Interim Self-Government Arrangements". *Peacemaker. Org*, 1993. https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesInterimSelf-Government%28Oslo%20Accords%29.pdf.

⁹ "Independent Commission for Human Rights". *Ichr.Ps*, 2018. <http://ichr.ps/en/1>

¹⁰ Allen, L. (2013). *The Rise and Fall of Human Rights: Cynicism and Politics in Occupied Palestine*. Stanford, California: Stanford University Press.

variations between their description of the situation and their use of language, “occupation”, “evacuation”, “violations”, “allegations on the use of torture” and the justification of the creation of the ICHR raises many questions; specifically, with regards to the latter’s connection with the Oslo process. The new approach suggested by the ICHR had already been adopted by Al Haq and was already being implemented since its creation in 1979. Thus, there seems to be a paradox between the nature/role the commission plays and the context within which it was created, which will be further explored throughout this paper.

SECTION 2

NATIONAL HUMAN RIGHTS INSTITUTIONS

The end of the twentieth century marked an important milestone for human rights, emphasizing their importance, including them within several political discussions and creating many tools, declarations and entities to ensure their protection.

In fact, throughout that period, gross human rights violations in conflicts were being investigated through the establishment of international tribunals such as the ones in Rwanda and the former Yugoslavia.¹¹ Moreover, popular activism was spreading, especially with the protests that “engulfed” the Soviet bloc, the destruction of the South African apartheid and the rise to power of the African National Congress¹². These movements played an important role in the drafting of major human rights declarations at that time with consistent advocacy and research by reform associations, political parties, religious groups, prominent intellectuals, nationalist movements and veteran associations.¹³ The International Criminal Court (ICC) was also established by a Treaty, even though it was effective from July 2002, to enable and lead on the trial of persons accused of genocide, crimes against humanity and war crimes. The establishment of the ICC and tribunals at that time also reflected how human rights were no longer limited to the existing declarations and the

¹¹ Mall Dibiasi, Caroline. "Changing Trends in Palestinian Political Activism: The Second Intifada, The Wall Protests, And the Human Rights Turn". *Geopolitics* 20, no. 3 (2015): 669-695. doi:10.1080/14650045.2015.1028028.

¹² Weitz, Eric D. "The Human Rights Surges of the 1940s and 1990s: A Commentary on Margaret E. McGuinness and William A. Schabas." *Diplomatic History* 35, no. 5 (2011): 793-96. <http://www.jstor.org/stable/44254535>.

¹³ Weitz. "The Human Rights Surges of the 1940s and 1990s".

Human Rights Council but were to be put into action through holding the perpetrators accountable at the international level.

Moreover, and parallel to these international developments, state-level modifications were occurring as well, with nationalizing human rights and including them within state legislation through specific bodies. This was in addition to the mushrooming of non-governmental human rights organizations working particularly for that same purpose, within the state.¹⁴

This institutionalization of human rights at the national level seems to be closely linked to the end of the Cold War Era i.e. 1990s, when the necessity of protecting and promoting human rights re-emerged after it had been passed on through the Universal Declaration for Human Rights in 1948. In fact, discussions on how and through which modes of governance this transition - from international human rights law to a more national state-linked approach to human rights - would be implemented started in the 1970s but later materialized in the 1990s with the first international workshop on national Institutions for the Promotion and Protection of Human Rights in Paris in 1991. These national institutions were suggested as state bodies – which are independent financially and programmatically from the “state” – and would be one of the best relay mechanisms to protect and promote human rights. They would fulfill their purpose by having their own mandate incorporated within the national legislation, spreading local awareness on rights and governance and collaborating with all the relevant stakeholders to report and act upon any violations. Thus, the purpose of establishing an NHRI was to ensure that the authorities/government

¹⁴ Mall Dibiasi, Caroline. "Changing Trends in Palestinian Political Activism: The Second Intifada, The Wall Protests, And the Human Rights Turn". *Geopolitics* 20, no. 3 (2015): 669-695. doi:10.1080/14650045.2015.1028028.

comply with international human rights law and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights, and Fundamental Freedoms (the UN Declaration) at the national level and to thus enhance the overall human rights status within a specific country.¹⁵ This declaration had been discussed before but was finally adopted by the UN General Assembly in 1998. It entailed a set of articles, recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels.¹⁶ The declaration content, thus, served as basis to the design of the role that an NHRI should play with discussions on the national incorporation of international human rights and the relevance of the latter to the issue of state sovereignty and national citizenship.¹⁷ The Paris Principles also discussed in Paris in 1991 and throughout the mentioned workshop were adopted in 1993 and included the criteria according to which an NHRI's legitimacy and status is determined. The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) would review and analyze accreditation applications and make recommendations to ICC Bureau members on the compliance of applicants (NHRI institutions) with the Paris Principles, with "A status" symbolizing the most compliance.¹⁸ An A status usually not only reflects compliance but results with a set of privileges and advocacy channels to the respective commission; They can participate fully in the work and meetings of NHRIs

¹⁵ GANHRI (2018)

¹⁶ "OHCHR | Declaration on The Right and Responsibility". *Ohchr.Org*, 2019. <https://www.ohchr.org/en/professionalinterest/pages/rightandresponsibility.aspx>.

¹⁷ Koo, J. and Ramirez, F. (2009). National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions, 1966-2004. *Social Forces-Oxford Journals*, 87(3), pp.1321-1353.

¹⁸ GANHRI (2018)

internationally and regionally as a voting member, hold office in the ICC Bureau, participate in the Human Rights Council sessions, submit documentation and take floor under any agenda item. The mentioned period i.e. 1990s thus witnessed the booming of NHRI all around the world, particularly after 1993.

SECTION 3

HUMAN RIGHTS IN PALESTINE

The global discussion on human rights closely translated within Palestine. In fact, by the end of the 1980s and beginning of the 1990s, increasing numbers of Palestinians and Israelis were adopting human rights “as a language and politics of change”¹⁹- not only to criticize the situation and point out the apparent day-to-day violations but also to promote “human rights consciousness” as a way of thinking.²⁰

Even though this evolving consciousness posed a threat to Israel’s national security as well as their “anything can be justified in the fight against terrorism”²¹, it played a major role in leading to the start of the direct Israeli-Palestinian negotiations in 1991.²²

Eventually, the negotiations led to the signing of the Oslo Accords in 1993, making it the most “dramatic political development since the first Arab-Israeli war of 1948²³ - through which Israel was established forcing 700, 000 Palestinians to flee their land.²⁴ In fact, to understand the context within which Oslo was signed as well as its implications on human rights, it should be noted that fifty years of conflict preceded it. Four major wars were fought, and tens of thousands of people were killed within an unending cycle of Israeli and Palestine Liberation Organization (PLO)

¹⁹ Hajjar, Lisa. "Human Rights in Israel/Palestine: The History and Politics of a Movement". *Journal of Palestine Studies* 30, no. 4 (2001): 21-38. doi:10.1525/jps.2001.30.4.21.

²⁰ Hajjar. "Human Rights in Israel/Palestine: The History and Politics of a Movement". . .

²¹ Ibid

²² Ibid

²³ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". *Human Rights Quarterly* 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>

²⁴ Glazer, Steven. "The Palestinian Exodus In 1948". *Journal of Palestine Studies* 9, no. 4 (1980): 96-118. doi:10.1525/jps.1980.9.4.00p0251k.

violence.²⁵ Thus, even though Oslo was opposed by many from its start, it did present a “resurgence of hope” to many others.

This set of agreements between the Palestinians and the Israelis included Israel accepting the PLO as the representative of the Palestinians and withdrawing from the Gaza strip and the Jericho area whereas the PLO was to renounce terrorism and recognize Israel’s right to exist in peace²⁶. These were five-year interim agreements which were integral to the whole peace process and were to act as basis to permanent status agreements, which would in turn lead to the implementation of security Council Resolutions 242 in 1967 and 338 in 1973.

“Security Council resolution 242 (1967) of 22 November 1967:

- 1. Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
 - (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;*
 - (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force**
 - 2. Affirms further the necessity
 - (a) For guaranteeing freedom of navigation through international waterways in the area;*
 - b) For achieving a just settlement of the refugee problem;*
 - (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones**
 - 3. Requests the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;*
 - 4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible. Adopted unanimously at the 1382nd meeting. 2) Resolution 338 (1973) of 22 October 1973*
- The Security Council,*

²⁵ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". *Human Rights Quarterly* 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>

²⁶ "Declaration of Principles on Interim Self-Government Arrangements". *Peacemaker. Org*, 1993. https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesInterimSelf-Government%20Oslo%20Accords%29.pdf.

1. Calls upon all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;
2. Calls upon the parties concerned to start immediately after the ceasefire the implementation of Security Council resolution 242 (1967) in all of its parts;
3. Decides that, immediately and concurrently with the ceasefire, negotiations shall start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East". 27

This was essential at a time where Palestinians were losing trust in the leadership's policies, blaming it for jeopardizing Palestinian national rights²⁸. Thus, scholars have highlighted Oslo as Arafat's only hope at asserting the PLO's authority and legitimizing its role within Palestine²⁹ to explain why he agreed and signed the agreements despite having rejected similar suggestions previously.

However, scholars having assessed it at the time it was signed and those who assessed it in the years to come have stated that Oslo was "an instrument of power, an instrument of the occupation, and an instrument for the endless prolongation of an open-ended process of negotiation"³⁰ and that from a human rights lens, it only causes a deterioration in the overall human rights situation. Edward Said emphasizes how Oslo was the first time in the history of Palestine when leadership actually gave up on Jerusalem, self-determination, and the refugees, actually "allowing them to become part of an undetermined set of "final status negotiations"³¹. The Palestinian unity was broken with Oslo being the dividing tool, masked under the "state-building,

²⁷ <http://www.un.org/Depts/dpi/palestine/ch3.pdf>

²⁸ Chomsky, Noam. "The Oslo Accords: Their Context, Their Consequences". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press., 2013. <https://www.jstor.org/stable/j.ctt15nmhrq.7>.

²⁹ Chomsky, Noam. "The Oslo Accords: Their Context, Their Consequences". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press., 2013. <https://www.jstor.org/stable/j.ctt15nmhrq.7>.

³⁰ Khalidi, Rashid. "INTERVIEW WITH HANAN ASHRAWI". *Journal of Palestine Studies*44, no. 1 (2014): 76. doi:10.1525/jps.2014.44.1.76.

³¹ Said, Edward W. *Peace and Its Discontents: Essays on Palestine In the Middle East Peace Process*. London: Vintage, xxix, 1995.

self-determination” umbrellas³². Even though Said claims that there had been no legal consultants to support the Palestinians throughout the negotiations/signing of the agreements, it was the first time in the twentieth century where an “ anti-colonial liberation movement not only discarded its own considerable achievements but also made an agreement to cooperate with a military occupation before the occupation had ended and before the government of Israel had admitted that it was in effect a government of military occupation”³³.

In addition, the very purpose of the agreements creates a clear paradox when it comes to international human rights law in general, particularly at a time when this was an ongoing global discussion. In fact, the primary objective of Oslo i.e. self-determination (for Palestine) is a universal right according to international law; however, the state’s right to rule and its sovereignty also constitute internationally recognized rights and provides the respective state (Israel) with a means to justify its sovereignty “protection”.

Thus, the international discussions on self-determination within Palestine as a human right VS the right of Israel, as a “sovereign state” to protect its sovereignty creates clear contradictions and makes the interpretation of any international law conflict with the boundaries of state and nation. He explains how Israel/Palestine is an “exceptional” context within which this controversy arises, especially that the Israeli rule over the West Bank and Gaza is the result of a military conquest. Thus, the very discussion of human rights within the territories (even before the signing of Oslo) can be contested in a sense by explaining how occupation within Palestine is a rather complex one (to be explained next) as well as how both conflicting parties have

³² Said. *Peace and Its Discontents*.

³³ Said, Edward W. *Peace and Its Discontents: Essays on Palestine In the Middle East Peace Process*. London: Vintage, 1995.

international law backing up their practices. Said explains how, technically, an occupation should constitute “a ceasefire in an ongoing state of war” and is thus temporary and contrary to “the normal/normative international standards of government” cutting any form of “political reciprocity” between the governors and the governed³⁴. In fact, Israel has not sought “the right to represent the Palestinians” within the territories but rather only the right to rule, occupy their lands until a final resolution is reached³⁵.

However, and despite all of the controversies, the agreements were signed and were meant to lead the final status negotiations and settlement and formed the ending of the first Intifada and the start of the formation of a Palestinian Interim “Self-Government” Authority³⁶. The agreements included a set of articles which clarified the several modes of governance for the 5 years post-Oslo and were followed by a set of institutional changes such as the transfer of governance to the Palestinian authority (PA) and the formation of new bodies, one of which being the Independent Commission for Human Rights – a national human rights institution with a mandate to nationalize human rights throughout this transition.

³⁴ Said, Edward W. *Peace and Its Discontents: Essays on Palestine In the Middle East Peace Process*. London: Vintage, 1995.

³⁵ Said, Edward W. *Peace and Its Discontents: Essays on Palestine In the Middle East Peace Process*. London: Vintage, 1995.

³⁶ "Declaration of Principles on Interim Self-Government Arrangements". *Peacemaker. Org*, 1993. https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesnterimSelf-Government%28Oslo%20Accords%29.pdf.

SECTION 4

ICHR

The Independent Commission for Human Rights (ICHR) was founded only weeks after the Oslo agreements were signed. In fact, on the 30th of September 1993, a delegation from Amnesty International visited Yasser Arafat, the Chairman of the Palestinian Liberation Organization and the President of the newly established (through Oslo) Palestinian National Authority, in Tunis.³⁷ The purpose of Amnesty's delegation's visit was to obtain a commitment from Arafat to ensure the preservation of human rights that would be under Palestinian jurisdiction through Oslo. Surprisingly, Arafat directly presented the delegation with a signed decree which establishes in, turn, a higher commission for human rights i.e. a national human rights institution – the ICHR³⁸. According to the decree, the commission's role is to ensure that the Palestinian's "governmental action and structure" are in harmony with international human rights law standards³⁹. The well-known spokeswoman, Dr. Hanan Ashrawi, thus took the initiative to start implementing the decree and established a five-member preparatory committee for the commission⁴⁰.

A. Commission, mandate and structure:

The decree entailed a description of the necessity of the independency and effectiveness of the commission as well as an apparent ombudsman function, in-line

³⁷ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". *Human Rights Quarterly* 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>.

³⁸ Azzam "Update: The Palestinian Independent Commission for Citizens' Rights".

³⁹ Ibid

⁴⁰ Ibid

with the global discussion on NHRIs and the Paris Principles. Its mission was to , thus, “follow up and ensure the existence of the requirements for the protection of human rights in the various Palestinian laws, legislation, and regulations as well as in the work of the various departments, organs and institutions in the state of Palestine and in the PLO” .⁴¹ Thus, and even though the commission itself was established by an executive decree, the primary claimed concern by Arafat was to ensure its independency from the executive branch of the established governing body in order to ensure its objectivity. The decree also provided the ICHR with the ability to draft its own constitution, laws and basic regulations in order to further ensure independence and effectiveness⁴² – as the latter is key within the regulating NHRI Paris Principles. This was to be done through several steps:

Step 1: Consistent research and documentation to actually ensure that the commission is well informed of the situation on the ground, in order to identify problem areas and propose solutions.

Step 2: Ongoing availability to the public i.e. readiness to address all the complaints received relating to abuses, inappropriate official conduct and corruption. Cases and compliments are reviewed, prioritized, investigated and action is taken accordingly.

Step 3: Through the relevant governmental entities, arriving at friendly settlements while redressing all the issues raised by the victims of any violations.

⁴¹ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". *Human Rights Quarterly* 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>.

⁴² Palestine Independent Commission for Human Rights (ICHR), Asia Pacific Forum of National Human Rights Institutions (APF) , Office of the High Commissioner for Human Rights (OHCHR) and United Nations Development Programme (UNDP). *Capacity Assessment of The Palestine Independent Commission for Human Rights*, 2011.

Step 4: “Regularly undertaking reviews of draft legislation, procedures, and governmental administrative processes. After this review, proposed alternative language for legislative amendments as well as new legislation that would ensure the rule of law are presented to the Legislative Council”⁴³.

NHRIs, such as the ICHR, are usually assessed by the Sub-Committee on Accreditation(SCA) within the Global Alliance for National Human Rights Institutions (GANHRI), formerly known as the International Coordinating Committee, to be given a status – usually A, B or C.

To be given an A status, a commission has to undergo close revision and analysis on the behalf of the ICC (or currently SCA) and to reflect programmatic and financial independency, collaboration with civil society actors and other organizations, transparency through constant reporting and the ability to induce thorough investigation and reporting of human rights violations which are all binding conditions within the mentioned guiding Paris principles.

The Palestinian ICHR has been assessed repeatedly in 2005, 2009 and 2015. Even though the SCA has highlighted several concerns, such as, the absence of a clear definition of human rights within the Presidential decree (forming the ICHR) and its by-laws, the lack of a “dismissal procedure” for the board members, and the fact that all of its functions are funded by international donors i.e. external sources which reflects total dependency, the commission was given an A status.

⁴³ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". Human Rights Quarterly 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>.

Such a status not only means that it is currently capable of defending human rights and raising human rights violations at the international level but also means that the way it was formed, and its mandate provide it with the adequate tools to do so.

In fact, this status/role can be problematized particularly that the formulation of such a commission came at a time when NHRIs, in general, were being promoted and human rights re-emerged, with an emphasis on the state role in protecting them – and not when collective human rights violations as well as occupation started i.e. 1940s and onward. Therefore, the ICHR’s mandate was to be a part of the “state” – which was to be formalized because of Oslo - and to protect human rights according to international human rights law with Western support.

It should be noted, however, that the ICHR’s mandate restricts it to human rights violations committed by the Palestinian authorities only – which falls in line with the purpose of establishing an NHRI in the first place i.e. a state body to assess the “state”. However, within Palestine’s very specific situation i.e. occupation, its role can be contested. On one hand, the ICHR is not able to deal with any complaints against the occupying power, and on the other hand, the internal division with what was determined as Palestinian territory post-Oslo further limits who and which areas it can cover. To further explain, Palestinian territory was divided to that controlled by the PA (in the West Bank) and that controlled by Hamas (in Gaza) limiting the accessibility of the ICHR to any prisons or detention centers in Gaza for instance. In 2011, Hamas has initiated, but not completed – to this date, steps to establishing its own human rights commission and thus has clearly challenged the mere legitimacy of the commission as well as its impartiality from the start⁴⁴.

⁴⁴ Palestine Independent Commission for Human Rights (ICHR), Asia Pacific Forum of National Human Rights Institutions (APF) , Office of the High Commissioner for Human Rights (OHCHR) and

Taking that into consideration – while also noting the changes within human rights at the global scale – makes its creation within the mentioned circumstances and the rather “quick” issuing of the officializing decree by Arafat not very surprising. In the 1990s, and especially after the signing of Oslo, the “human rights industry” blossomed within Palestine and the funds multiplied significantly. This has already started in the early 1990s and as the first intifada was “wounding” down. The human rights industry thus developed with the mushrooming of human rights organizations i.e. a rather “material success” while the actual human rights situation further deteriorated⁴⁵. Violations at the hands of the Israeli forces, settlers, and the PA security services worsened making this industry a “technocratic tool” to provide skills and trainings on human rights – as if they were a set of skills to be taught – rather than analyzing them within their political context.

Palestine was a major example of how the role of the “state” as well as “who” constitutes the state, the global/local development of national human rights organizations and the controversy within international human rights law all come together and interreact to affect the overall status of human rights. This “state in the making” status creates additional challenges of consent, authority and legitimacy as well as how they constitute “stateness” as Lori Allen points out⁴⁶. In fact, she highlights the deep “cynicism” with the Palestinian society particularly when it comes to the human rights “industry” which became well established throughout the Palestinian territories post-Oslo and which was reinforced by an international

United Nations Development Programme (UNDP). *Capacity Assessment of The Palestine Independent Commission for Human Rights*, 2011.

⁴⁵ Allen, L. (2013). *The Rise and Fall of Human Rights: Cynicism and Politics in Occupied Palestine*. Stanford, California: Stanford University Press.

⁴⁶ Mall Dibiasi, Caroline. "Changing Trends in Palestinian Political Activism: The Second Intifada, The Wall Protests, And the Human Rights Turn". *Geopolitics* 20, no. 3 (2015): 669-695. doi:10.1080/14650045.2015.1028028.

community and its funding without actually positively impacting the human rights status in Palestine⁴⁷.

B. ICHR vs AL Haq:

Prior to the establishment of the ICHR, there were a few human rights organizations within Palestine who were highlighting the violations, in general, without excluding the occupation related ones.

Moreover, nationalism which was suggested through the re-emergence of human rights in the 1990s was not a new approach despite it actually being a “trend” at that time. In fact, one of the most important contribution of nationalists was the idea of a right to self-determination, which can be invoked by ethnonational groups in order to found independent nation-states. Thus, both of these ideas of rights and self-determination as well as the both interlinked, have had philosophical origins that go back to the Enlightenment thoughts⁴⁸.

Several organizations and agencies had already adopted this approach and advocated accordingly, as a result, way before the 1990s.

Al Haq, a local human rights organization in Palestine was one of these organizations, with this nationalist approach adopted since its formation in 1979. While the ICHR was calling for nationalizing human rights and empowering the state institutions in a way to favor this transition, Al Haq was already reporting against

⁴⁷ Allen, L. (2013). *The Rise and Fall of Human Rights: Cynicism and Politics in Occupied Palestine*. Stanford, California: Stanford University Press.

⁴⁸ Dahbour, Omar. "National Rights, Minority Rights and Ethnic Cleaning". In *Nationalism and Human Rights in Theory and Practice in The Middle East, Central Europe, And the Asia-Pacific*, 95-122. Grace Cheng. Palgrave MacMillan, 2019.

<http://www.hunter.cuny.edu/philosophy/repository/files/nationalrights.pdf>.

torture, evacuations and the occupation as a whole while highlighting the role of the state to do so.

The ICHR supporters have explained that even though the approaches might be similar, there are many differences between NHRIs and human rights NGOs. First, the establishment of an NHRI as a “quasi-governmental” agency place it in a “unique position” between “an independent judiciary, the elected representatives of the people, and the executive branch of government”⁴⁹. Its positionality gives it accessibility to governmental files, allows it to conduct investigations using more resources and eventually leads to the provision of recommendations that help create laws. Thus, its ombudsman function “ a people’s person” gives it the responsibility to hold public officials accountable and to ensure the compliance with minimum human rights standards, which has been the major justification for its creation in Palestine i.e. creating a longer-term impact (which can also be extracted from President Arafat’s original purpose in 1993) .⁵⁰

⁴⁹ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". Human Rights Quarterly 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>.

⁵⁰ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". Human Rights Quarterly 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>.

SECTION 5

HUMAN RIGHTS POST-OSLO

The interim-agreements, through which the ICHR was created, have been recurrently criticized for having given more power to the occupier i.e. Israel while not even giving the ICHR the authority to report on its violations.

From a human rights lens, violations can be determined throughout the whole process starting from the negotiations and moving on to the signing of the agreements and the consequent deterioration of the human rights status within Palestine.

It is important to refer to some of the main articles within the Universal Declaration of Human Rights to better understand the status of some major human rights pre and post Oslo especially after the creation of an official body i.e. the ICHR to do so. This is all not with the aim to compliment or undermine the role of the ICHR nor to attribute any changes within the human rights situation to its creation but to better understand what the role that a national human rights institution created within a rather peculiar situation i.e. occupation has played.

A. Throughout the negotiations:

The negotiations started off being secret without references to the Palestinian people and with the complete marginalization of many movements that opposed this settlement. In fact, the PLO leadership promoted Oslo as transitory and necessary to obtain peace as well as a Palestinian independent state with Jerusalem as its capital. Israeli and Palestinian leaders pressured their “respective constituencies” to restrict criticisms to make sure that the talks are not hindered. Moreover, discussions were re-

directed from targeting the violations by the occupier (as promoted by Al Haq) to those on the necessity of a peace process with the occupier. Moreover, the commitment of Palestinians to human rights slightly decreased throughout the negotiations, with many hoping that they would lead to conflict resolution, more respect for rights and eventual peace. In fact, Raja Shehadeh, who was a legal adviser to the Palestinian negotiating team, quit throughout the negotiations claiming that none of the negotiating parties was using international law as framework for the agreements.

In addition, and even though these negotiations were to facilitate governance within Palestine and to strengthen the role of the Palestine authorities within human rights, through the creation of the ICHR, they ended up blurring the vision of human rights activists. First, the lines of “governmental responsibility” became unclear as well as whom to hold accountable for the violations⁵¹. Second, the actual focus of the negotiations was security and territory rather than rights.

As a result, instead of strengthening human rights and promoting the rights such as that of self-determination identified through the declaration, it ended up emphasizing conflict resolution as an issue of geography i.e. one that would be solved with a “permanent separation”. Human rights activism became further constrained within the “separation agendas of Israeli and Palestinian national elites” making it more difficult to formulate mandates, coordinate strategies, promote human rights and actually limit violations.

B. Violations post-signing:

⁵¹ Hajjar, Lisa. "Human Rights in Israel/Palestine: The History and Politics of a Movement". *Journal of Palestine Studies* 30, no. 4 (2001): 21-38. doi:10.1525/jps.2001.30.4.21.

1. Violations by the Palestinian Authority:

Through Oslo, the five-year interim agreements which were to be an integral part of the whole peace process and on which negotiations on the permanent status were to be based⁵², the Palestinian Interim Self-Government Authority was formed. It was given rights and obligations that “add up to far less than sovereignty, and scarcely more than mere autonomy”⁵³. Having emerged from thirty years of armed struggle and “commando/guerrilla mentality”, the Authority had yet to develop the proper skills of civil and democratic governance⁵⁴.

This body was to be “democratically” elected i.e. an apparent state-building exercise enforcing the principles of self-government and allowing Palestinians to choose a governing body under agreed supervision and international observation⁵⁵. This preparatory step was considered essential towards the “realization of the legitimate rights of the Palestinian people and their just requirements” .⁵⁶ However, those who had been working for years to defend Palestinian’s rights were placed in an inevitable position of opposing the first Palestinian government.

This not only raises many questions on the legitimacy of this government (given through Oslo) but also places several constraints on their work. In fact, their criticism of the PA as an authoritarian ruling body had to be advocated for through channels such as the media, courts, political parties, PLC, bar association which are all

⁵² Declaration of Principles on Interim Self-Government Arrangements". *Peacemaker. Org*, 1993. https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesinterimSelf-Government%28Oslo%20Accords%29.pdf.

⁵³ Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". *Human Rights Quarterly* 20, no. 2 (1998): 339. <http://Update: The Palestinian Independent Commission for Citizens' Rights>.

⁵⁴ Azzam, "Update: The Palestinian Independent Commission for Citizens' Rights.

⁵⁵ Declaration of Principles on Interim Self-Government Arrangements".

⁵⁶ Ibid

vulnerable to PA repression or intervention – which in turn led to a severe impediment for public support for human rights.⁵⁷

It is thus not surprising that the human rights within Palestine suffered a significant deterioration post-establishment of this authority⁵⁸, specifically starting 1994.

According to Hajjar, the actual structure and agenda of the PA, through the negotiated agreements, provided Israel with the needed security and control within Palestinian territories.⁵⁹

- The right to life seems to have suffered post-Oslo within the Palestinian territories. In fact, and despite the numerous violations of Israeli forces, their military administration has rarely sentenced people to death, nor has it ever carried out a court-ordered execution although they have used extrajudicial executions.⁶⁰ Thus, the death penalty was introduced by the PA and faced significant opposition from all human rights organizations.⁶¹ This is in addition to the numerous abuses within the security courts – where the capital trials were conducted – and which could be seriously doubted particularly that legal justice for the defendants was mostly unavailable.⁶² Thus, and since the signing of the Oslo and the transfer of governance to the PA – 72 individuals have been sentenced to death – with 13 executed.⁶³ The elected PA subjected the security forces to the ultimate punishment to demonstrate that they “are not above the law” with the security forces themselves having utilized their power

⁵⁷ Hajjar, Lisa. "Human Rights in Israel/Palestine: The History and Politics of a Movement". *Journal of Palestine Studies* 30, no. 4 (2001): 21-38. doi:10.1525/jps.2001.30.4.21.

⁵⁸ Hajjar. "Human Rights in Israel/Palestine"

⁵⁹ Ibid

⁶⁰ Ibid

⁶¹ Hajjar, Lisa. "Human Rights in Israel/Palestine: The History and Politics of a Movement". *Journal of Palestine Studies* 30, no. 4 (2001): 21-38. doi:10.1525/jps.2001.30.4.21.

⁶² Hajjar. "Human Rights in Israel/Palestine".

⁶³ "Statistics on The Death Penalty in The Palestinian Authority and Under Hamas Control in Gaza". *B'tselem*, 2019. https://www.btselem.org/inter_palestinian_violations/death_penalty_statistics.

and weaponry to conduct both public and private affairs with impunity.⁶⁴ The authoritarian nature of the PA at the time increased the levels of violence in the West Bank and Gaza even though it cannot be entirely attributed to that. The longer history of disenfranchisement, misrule, and illegality associated with the occupation is also to be blamed.⁶⁵

- Mass arbitrary arrest campaigns were implemented with the detention of hundreds of people.⁶⁶
- The detainees consistently subjected to torture through various means such as “deprivation from sleep, being tied in painful physical positions, burning with cigarettes and electric instruments, hanging by the ankles from the ceiling and beating with electrical cables and sticks in addition to kicking, punching, humiliation and threats”.⁶⁷ In addition, most of them were not allowed a fair trial – not even being informed of the charges against them before trial.
- The Palestinian security forces use the illegal practice of holding family members hostage as a means of pressure on suspects and their families.

2. *Violations by the Israeli forces:*

When it comes to violations by the Israelis, it should be noted that Israel’s occupation is characterized by five categories of major violations of

⁶⁴ Ibid

⁶⁵ Ibid

⁶⁶ The Palestinian Human Rights Monitoring Group and B’Tselem: The Israeli Information Center for Human Rights in the Occupied Territories. *Human Rights in The Occupied Territories Since the Oslo Accords: Status Report*, 1996.

⁶⁷ The Palestinian Human Rights Monitoring Group and B’Tselem: The Israeli Information Center for Human Rights in the Occupied Territories. *Human Rights in The Occupied Territories Since the Oslo Accords: Status Report*, 1996.

international human rights law.⁶⁸ However, the changes that occurred post-Oslo are also notable with a clear deterioration of the overall human rights status.

- The right to life:

The 5th article of the Universal Declaration of Human Rights (No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment), for instance, has severely been violated under Oslo.

Post-Oslo and in 1995, the PA was given responsibility and “full civil and security control” for seven autonomous Palestinian areas as part of the Interim Agreement on the West Bank and the Gaza Strip, also known as “Area A” .⁶⁹ Meanwhile, “Area B” includes a mixture of PA and Israeli security control while “Area C” is sixty percent under full control of the Israeli army but which includes many Palestinian villages, the largest being Al-Tuwani.⁷⁰

Within these settlements and this new division at the time, the inhabitants were subjected to acts of violence, particularly children. In fact, the path to the local school which was situated in Al-Tuwani is fenced off by settlers and thus the journey of children from and to school constitutes a direct violation of their rights as children.

- The Right to Equal Access to Public Services (Water + Healthcare)

Article 40 of the Interim Agreement was included to deal with the “Water and Sewage” to better underline how these public services will be handled. However, this

⁶⁸ "Israel: 50 Years of Occupation Abuses Ramp Up - Pressure for Accountability on All Sides". *Human Rights Watch*, 2017. <https://www.hrw.org/news/2017/06/04/israel-50-years-occupation-abuses>.

⁶⁹ Hart, Jason, and Claudia Lo Forte. "Mandated to Fail? Humanitarian Agencies and The Protection of Palestinian Children" . *Disasters* 37, no. 4 (2013): 627-645. doi:10.1111/disa.12024.

⁷⁰ Hart, Jason, and Claudia Lo Forte. "Mandated to Fail? Humanitarian Agencies and The Protection of Palestinian Children"

has led to Israel's control over the water resources and thus the violation of the Palestinian water rights through three ways.⁷¹

- The water agreement was limited to groundwater resources and the remainder of the Mountain Aquifer. In fact, Israel agreed on only the Eastern Aquifer as part of the deal and thus kept sovereignty over the other parts in addition to surface water. Moreover, the percentage of water to be accessed by Palestinians was calculated based on "needs" providing them with a fixed amount without taking into consideration the potential increases rather than calculating that based through a rights-based approach i.e. a fair share.
- Oslo's division of areas A, B and C had several implications on the availability of water resources as well as the necessary infrastructure to use it. In fact, most of the available surface water as well as the necessary infrastructure was in area C i.e. the area mostly until Israeli control. The PA was thus unable to provide the adequate amounts of water to the Palestinians leading to a "de-development" of the Palestinian water sector.⁷²
- The Joint Water Committee (JWC) was created and was given complete decision-making power over water management. Even though this committee includes both Israeli and Palestinian experts, Israelis have veto power and can refuse or postpone any infrastructural developmental project.

In fact, this system of management is one where one of the parties has "no option but to assent to the colonization of its own land under the guise of mutual cooperation".⁷³ This has not only deprived Palestinians from their basic right to

⁷¹ "20 Years Since Oslo: Palestinian Perspectives". *Ma.Boell.Org*, 2013. http://ma.boell.org/sites/default/files/perspectives_-_issue_5.pdf.

⁷² "20 Years Since Oslo: Palestinian Perspectives". *Ma.Boell.Org*, 2013. http://ma.boell.org/sites/default/files/perspectives_-_issue_5.pdf.

⁷³ "20 Years Since Oslo: Palestinian Perspectives"

access public services but has also costed them so much money to actually “buy” this service. Till 2013, Palestinians had had to buy around 50 million cubic meters of water per year from Israel ⁷⁴ with the negotiation status on water related management severely deteriorating, especially since Oslo. Palestinians have consistently been excluded from one of their basic rights and the overall damage to Palestine’s landscape, economy, health, food and agricultural systems are irreversible. No Palestinian production wells have been approved and the structures (including 21 wells and 34 agricultural cisterns, essential for agriculture and herding that have been built by the Palestinians) have been demolished by the Israelis. With the new division of areas due to Oslo, accessibility to water and sanitation has been limited, the “daily threat of expropriation and displacement” has increased and the discriminatory regime already in place was further formalized. ⁷⁵

In addition, and with regards to the health services, the situation for the Palestinian people, too, worsened (including primary health, public health, and access to hospital services). ⁷⁶

- The Right to Culture, Nationality and Citizenship

Jerusalem, which was considered the center of Palestinian life, given its rich religious historical and cultural heritage as well as its “geographic position at the junctions of communication and road networks between the Southern and Northern parts of Palestine” suffered under Oslo. ⁷⁷ Its status was linked to the final-status agreements making its fate a political issue. In fact, and directly after Oslo, Israel expanded its

⁷⁴ Ibid

⁷⁵ "20 Years Since Oslo: Palestinian Perspectives". *Ma.Boell.Org*, 2013.
http://ma.boell.org/sites/default/files/perspectives_-_issue_5.pdf.

⁷⁶ Aars, Haakon. "Public and Primary Healthcare before and after the Oslo Accords: A Personal Reflection." In *the Oslo Accords 1993–2013: A Critical Assessment*, edited by Bauck Petter and Omer Mohammed, 193-204. Cairo; New York: American University in Cairo Press, 2013.
<http://www.jstor.org/stable/j.ctt15nmhrq.22>.

⁷⁷ "20 Years Since Oslo: Palestinian Perspectives"

settlements around Jerusalem, closed Palestinian institutions, and refused 94 percent of permits for Palestinians to build houses in the city and its vicinity. Moreover, Israel has extended parts of the wall (which was already illegally built) and which is in contradiction with international wall and has deployed checkpoints all around the city, significantly limiting the mobility of Palestinians. In fact, Israel's urban policy seems to be aimed at ensuring a 73.5% of Jewish majority and has adopted a mechanism of urban planning, home demolitions, expropriation of land specifically to do that.

- The Right to Public Freedoms:

Even though public freedoms were to be respected and safeguarded under Oslo, they ended up being further controlled with Israel overseeing and controlling the number of Palestinian Christian and Muslim worshippers who are allowed access to the city's holy sites.

- The Right to Equality in Dignity and Rights

Even though women in Palestine have always been excluded from any positions of power, this slightly improved under Oslo⁷⁸ with seven women who got to the government and many who had been appointed as mayors and judges. However, this cannot be considered an advancement in terms of equality since other women's rights suffered greatly after Oslo. Early marriages, for instance, became more common especially due to the bad economic situation. Hanan Ashrawi explains how marrying their girls became a way to reduce the family's economic burden.

⁷⁸ Schüllerqvist, Lotta. "'we Have Opened Doors, Others Have Been Closed': Women Under the Oslo Accords". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press, 2013. <https://www-jstor-org.ezproxy.aub.edu.lb/stable/pdf/j.ctt15nmhrq.11.pdf?refreqid=excelsior%3A90ae134ca2153643e57be0df5d99e20a>.)

SECTION 7

CONCLUSION

The 1990s were indeed an important milestone for human rights, providing states and human rights activists with additional tools to advocate for and protect them – both internationally through additional declarations, tribunals and courts and nationally through state bodies legislated to fulfill this purpose i.e. national human rights institutions. Particularly in Palestine, the interpretation of these global discussions was challenging.

First, and in general, human rights law is considered “increasingly complicit” particularly in cases of mass disempowerment and domination i.e. the occupation of Palestinian territories.⁷⁹ This is because the approach used in human rights discussions is usually a “one-size fits all” without being sensitive to the social, political and legal context within which the law is to be implemented. It is for that reason that this legal framework, within which human rights is to be institutionalized, has been cautioned against in contexts of military occupation.⁸⁰

Second, the discussions on human rights greatly increased post-signing of the Oslo interim agreements making them part of the booming of the human rights industry and the delivery of foreign funds as well as part of the neo-liberal state-building program within Palestine. This could be further researched through closely analyzing the state-building program at the time within the occupied territories, as well as the feasibility of forming a state within that very specific context.

⁷⁹ Viterbo, Hedi. "Rights as A Divide-And-Rule Mechanism: Lessons from The Case of Palestinians In Israeli Custody". *Law & Social Inquiry* 43, no. 03 (2018): 764-795. doi:10.1111/lsi.12270.

⁸⁰ Viterbo. "Rights as A Divide-And-Rule Mechanism".

In addition, and within only weeks from the signing of the agreements, the Independent Commission for Human Rights (ICHR) was formed and provided with the legislative power to promote and protect human rights. However, several controversies seem to arise when this is closely analyzed.

First and foremost, the mandate of the commission limited its authority to be inclusive of violations by the PA and not by the occupying power or Hamas.

Second, the negotiations on Oslo were secretive and the decree establishing the commission was established directly through a visit by Amnesty International to President Arafat, rather than after a close analysis of the human rights status in Palestine. Further research could include a comparative study of the violations highlighted by Al Haq vs those by the ICHR.

Thirdly, the commission itself was formed by a decree issued by Arafat who signed Oslo despite public opposition to it, while himself being the head of the Palestine Liberation Organization and at the same time the Palestinian Authority. Thus, the actual role that the ICHR has played seems to be paradoxical especially that Oslo in general has been considered a means for Israel to have achieved “its tactical and strategic objectives at the expense of nearly every proclaimed principle of Arab and Palestinian nationalism and struggle”.⁸¹ Those who argue that Oslo has been a success and has played a positive role in building the state of Palestine and strengthening the national identity use the “election of a legislative council, the founding of economic, social, and public institutions, ministries, and organizations (including the ICHR) in the territories”⁸² to justify their positionality. However, if one is to closely analyze what

⁸¹ Said, Edward W. *Peace and Its Discontents: Essays on Palestine In the Middle East Peace Process*. London: Vintage, XXV, 1995.

⁸² Omer, Mohammed. "Some Gaza Impressions, Twenty Years After Oslo". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press. (2013), 2013. <https://www-jstor->

Oslo has achieved, a clear deterioration of human rights can be identified. Additionally, the accords gave the PA “a clear mandate of demobilization, first and foremost of the militants but also of the society at large”⁸³ with weakening civil society and the already existing human rights organizations and creating a new set of “state-like institutions” to fall in line with the state-building program.

The role of the ICHR, thus, can be contested; while being an officially recognized “state-institution” issued by a decree and established through legal and “democratic” procedures, it was directly preceded (within weeks only) by the signing of Oslo which was a process that led to the deterioration of human rights. Not being able to address the issue of occupation or any violations implemented by the occupier or Hamas, or to have access to many of the entities from which data on the violations is usually obtained further undermines its role as a human rights protector and limits it to an Oslo-created state-like institution.

org.ezproxy.aub.edu.lb/stable/pdf/j.ctt15nmhrq.18.pdf?refreqid=excelsior%3Aab6b0de9b9a6830d89c6c92dbc66f516

⁸³ Tørres, Liv. "The Oslo Accords and Palestinian Civil Society." In *the Oslo Accords 1993–2013: A Critical Assessment*, edited by Bauck Petter and Omer Mohammed, 41-50. Cairo; New York: American University in Cairo Press, 2013. <http://www.jstor.org/stable/j.ctt15nmhrq.10>.

REFERENCES

- Weitz, Eric D. "The Human Rights Surges of the 1940s and 1990s: A Commentary on Margaret E. McGuinness and William A. Schabas." *Diplomatic History* 35, no. 5 (2011): 793-96. <http://www.jstor.org/stable/44254535>.
- Moyn, Samuel. *The Last Utopia: Human Rights in History*. (Cambridge, Massachusetts and London, England: Harvard University Press, 2010)
- Koo, J.-W., and F. O. Ramirez. "National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions, 1966-2004". *Social Forces* 87, no. 3 (2009): 1321-1353. doi:10.1353/sof.0.0167.
- Bauer, Joanne. "Human Rights in The Post-Cold War Era: The Cases of North Korea, China, And Burma| Carnegie Council for Ethics in International Affairs". *Carnegiecouncil.Org*, 1994. https://www.carnegiecouncil.org/publications/archive/dialogue/1_01/articles/503.
- "National Human Rights Institutions: History, Principles, Roles and Responsibilities". Office of The United Nations High Commissioner for Human Rights, 2018. https://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf.
- "Declaration of Principles on Interim Self-Government Arrangements". *Peacemaker.Org*, 1993. https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_930913_DeclarationPrinciplesnterimSelf-Government%28Oslo%20Accords%29.pdf.
- "Independent Commission for Human Rights". *Ichr.Ps*, 2018. <http://ichr.ps/en/1>
- Allen, L. (2013). *The Rise and Fall of Human Rights: Cynicism and Politics in Occupied Palestine*. Stanford, California: Stanford University Press.
- Mall Dibiasi, Caroline. "Changing Trends in Palestinian Political Activism: The Second Intifada, The Wall Protests, And the Human Rights Turn". *Geopolitics* 20, no. 3 (2015): 669-695. doi:10.1080/14650045.2015.1028028.
- GANHRI (2018)
- "OHCHR | Declaration on The Right and Responsibility". *Ohchr.Org*, 2019. <https://www.ohchr.org/en/professionalinterest/pages/rightandresponsibility.aspx>.
- Hajjar, Lisa. "Human Rights in Israel/Palestine: The History and Politics of a Movement". *Journal of Palestine Studies* 30, no. 4 (2001): 21-38. doi:10.1525/jps.2001.30.4.21.
- Azzam, Fateh S. "Update: The Palestinian Independent Commission for Citizens' Rights". *Human Rights Quarterly* 20, no. 2 (1998): 338-347. <http://Update: The Palestinian Independent Commission for Citizens' Rights>

Chomsky, Noam. "The Oslo Accords: Their Context, Their Consequences". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press., 2013. <https://www.jstor.org/stable/j.ctt15nmhrq.7>.

Khalidi, Rashid. "INTERVIEW WITH HANAN ASHRAWI". *Journal of Palestine Studies* 44, no. 1 (2014): 76-87. doi:10.1525/jps.2014.44.1.76

Said, Edward W. *Peace and Its Discontents: Essays on Palestine In the Middle East Peace Process*. London: Vintage, 1995.

Palestine Independent Commission for Human Rights (ICHR), Asia Pacific Forum of National Human Rights Institutions (APF), Office of the High Commissioner for Human Rights (OHCHR) and United Nations Development Programme (UNDP). *Capacity Assessment of The Palestine Independent Commission for Human Rights*, 2011.

Dahbour, Omar. "National Rights, Minority Rights and Ethnic Cleaning". In *Nationalism and Human Rights in Theory and Practice in The Middle East, Central Europe, And the Asia-Pacific*, 95-122. Grace Cheng. Palgrave MacMillan, 2019. <http://www.hunter.cuny.edu/philosophy/repository/files/nationalrights.pdf>.

Glazer, Steven. "The Palestinian Exodus In 1948". *Journal of Palestine Studies* 9, no. 4 (1980): 96-118. doi:10.1525/jps.1980.9.4.00p0251k.

The Palestinian Human Rights Monitoring Group and B, Tselem: The Israeli Information Center for Human Rights in the Occupied Territories. *Human Rights in The Occupied Territories Since the Oslo Accords: Status Report*, 1996.

"Israel: 50 Years of Occupation Abuses Ramp Up - Pressure for Accountability on All Sides". *Human Rights Watch*, 2017. <https://www.hrw.org/news/2017/06/04/israel-50-years-occupation-abuses>.

Hart, Jason, and Claudia Lo Forte. "Mandated to Fail? Humanitarian Agencies and The Protection of Palestinian Children" 37, no. 4 (2013): 627-645. doi:10.1111/disa.12024.

"20 Years Since Oslo: Palestinian Perspectives". *Ma. Boell.Org*, 2013. http://ma.boell.org/sites/default/files/perspectives_-_issue_5.pdf.

Aars, Haakon. "Public and Primary Healthcare before and after the Oslo Accords: A Personal Reflection." In *the Oslo Accords 1993–2013: A Critical Assessment*, edited by Bauck Petter and Omer Mohammed, 193-204. Cairo; New York: American University in Cairo Press, 2013. <http://www.jstor.org/stable/j.ctt15nmhrq.22>.

Schüllerqvist, Lotta. "'we Have Opened Doors, Others Have Been Closed': Women Under the Oslo Accords". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press, 2013. <https://www-jstor-org.ezproxy.aub.edu.lb/stable/pdf/j.ctt15nmhrq.11.pdf?refreqid=excelsior%3A90ae134ca2153643e57be0df5d99e20a>

Viterbo, Hedi. "Rights as A Divide-And-Rule Mechanism: Lessons from The Case of Palestinians In Israeli Custody". *Law & Social Inquiry* 43, no. 03 (2018): 764-795. doi:10.1111/lsi.12270.

Omer, Mohammed. "Some Gaza Impressions, Twenty Years After Oslo". In *the Oslo Accords 1993–2013: A Critical Assessment*. American University in Cairo Press. (2013), 2013. <https://www-jstor-org.ezproxy.aub.edu.lb/stable/pdf/j.ctt15nmhrq.18.pdf?refreqid=excelsior%3Aab6b0de9b9a6830d89c6c92dbc66f516>

Tørres, Liv. "The Oslo Accords and Palestinian Civil Society." In *the Oslo Accords 1993–2013: A Critical Assessment*, edited by Bauck Petter and Omer Mohammed, 41-50. Cairo; New York: American University in Cairo Press, 2013. <http://www.jstor.org/stable/j.ctt15nmhrq.10>.