

Security Sector Reform in Palestine

Introduction and Context of Reform

Palestine is a political entity trying to come into statehood in a context that has been deemed as one of the world's most intractable conflicts. Israel continues to exercise ultimate control over most of the territories officially governed by the Palestinian Authority (PA). It has aptly been described as "an uncertain political hybrid that falls far short of sovereignty."¹ All security-related activities in Palestine have to be seen in the light of Israel's interference with affairs in the territories. This is the prime reason why security sector reform (SSR) in Palestine presents a peculiar situation since the framework for security governance is not for a state but a transitional regime with only partial domestic and international legitimacy. In addition, for more than a decade, Yasser Arafat's personal, patrimonial, and authoritarian rule coexisted alongside formal democratic arrangements, and while he often managed to maintain his legitimacy through material incentives and political repression, he also repeatedly undermined the effectiveness and credibility of security institutions.² The Oslo Accords of 1993 gave birth to the Palestinian Authority, and eventually in 1994 the Palestinian Authority Security Forces (PA SF) which were one of the first structures created by the PA. The purposes of these agreements, among other things, were to allow the Palestine Liberation Organization (PLO) to police Palestinians in the Occupied Territory as a means of furthering Israeli security concerns and advancing the process of creating an independent Palestinian sovereign state in the West Bank and the Gaza Strip. While Arafat frequently promised, without much success, to restructure the security apparatus by reducing the number of forces and combating corruption, at the same time in order to prevent challenges to his authority, Arafat encouraged a 'divide and conquer' strategy.³ Conflict and competition between the various security agencies and its leaders was a consequence of this strategy. Compounded by the destruction and consequent retaliation of Israeli forces during the second Intifada, and the continued security challenge by militants, the PA SF faces enormous institutional challenges and a major credibility deficit. The overall capacity of the PA SF and their ability to fulfill their functions remains weak and as noted, has been hindered by a myriad of domestic and international obstacles.

SSR in Palestine has been a difficult process due to the PA's intricate power structures and the devastation of Palestinian security capacities by Israel. Previous attempts to reorganize the PA security sector have been blocked by Arafat, and other elements of the political elites.⁴ The current process of SSR in Palestine has been characterized by the considerable involvement of international and regional actors. In fact, when international efforts to reform the Palestinian Authority

¹ Brown; 2005. p. 3.

² Friedrich, 2005. p. 4.

³ Jones, 2004. p. 158.

⁴ Friedrich, 2005. p. 7.

commenced in 2002, the security services received early and prominent attention. The developments of security sector reform/reconstruction in Palestine follow different visions depending on the political actors involved, and on the understanding and strategic perspectives of the Israeli-Palestinian conflict. Indeed Israel and the United States view the SSR process in Palestine primarily as a 'reorganization' of the security forces in order to address Israeli security concerns and suppress Palestinian violence.⁵ The reformist agenda, advocated by the PA and supported, judging by the elections, by the Palestinian citizenry and backed by the EU, aims to transform security institutions so that they can be more effective and democratically accountable in order to guarantee the security of the Palestinian people.⁶ However, in the post-Arafat period, both the 'restructuring' and the 'reformist' agendas agree that the re-assertion of the Palestinian Authority's legitimate monopoly of force and the reconstruction of security capacities is the priority. The Palestinian reform plan, in conjunction with international plans, is among other things, to integrate all agencies that serve the interests of security into three main bodies.⁷ The overall aim of the reform is to centralize command and control of the security apparatus and to supervise and implement security sector reforms in all fronts.⁸

The election of Mahmoud Abbas as the new PA President in January 2005 has opened what many spectators hope will be a new era in Palestinian politics. Additionally, what can be deemed as a successful disengagement effort by Israel in the Gaza part of the Occupied Territories, presents a new challenge and an expansion of responsibilities and administrative duties for the PA, and their security agents. However, with national parliamentary elections occurring in January 2006, the challenge remains to establish a PA with the legitimacy, accountability, capabilities, and creativity of reforming a security sector along democratic principles of governance.

Palestinian Security Services

The Palestinian security forces were originally created with the purpose of establishing a strong Palestinian security presence in the West Bank and Gaza that would meet the needs of Israeli security interests and counter internal strife in the Occupied Territories.⁹ It should be noted that the PA SF has often been described as a hybrid force, as the security forces are partly police force and partly rudimentary army.¹⁰ However, with time and the current reforms being proposed, this distinction between the different branches of the Palestinian security forces is becoming

⁵ Friedrich, 2005. p. 2.

⁶ Ibid.

⁷ GlobalSecurity.

⁸ Ibid.

⁹ Friedrich, 2005. p. 6.

¹⁰ Luft, 1999.

clearer. A reason for their apparent hybrid-like form is that the PA SF was established on an ad-hoc basis, and in isolation of wider reforms. Israeli and other international observers have often criticized the proliferation of Palestinian police, intelligence, security, and paramilitary bodies. The PA had the legal right to create security forces in accordance with the Oslo and Cairo Agreements, which allowed for up to six different security services and the appointment of 30,000 officers.¹¹ However, the number of officers integrated into the PA Security Forces has been much greater than that and the combined strength is something between 40,000 to 45,000 agents.¹² In fact, the Palestinian Territories have the highest security personnel to civilian population ratio in the world.¹³

The PA police for example, increasingly grew in size under the leadership of Arafat, who used recruiting as a means of keeping his followers happy and providing jobs.¹⁴ Furthermore, he created several more forces than stipulated by the agreements, including five intelligence units, thus reflecting the proliferation of the security apparatus as a manifestation of Arafat's leadership style. As a result, the different intelligence agencies operate without any clear delineation of their operations remits. As of early 2005 and after some recent restructuring, the six official security services of the PA include Civil Police (for law enforcement); Preventive Security (for internal security); Civil Defense (emergency and rescue); National Security Forces (Palestinian Proto-army); Military Intelligence, and a General Intelligence unit. In addition, there are also a number of non-official PA agencies such as the Naval Police; Presidential Security; Border Police; Special Security; and a Special Force. The Palestinian security sector is characterized by the lack of clear differentiation of tasks among the various branches, and the consequent blurring of police and military spheres.

Although before 2000 the security services gradually became more professional and developed better relationships with civil society¹⁵, the frequent violation of Palestinian human rights by members of the PA SF has been quite problematic. The methods of extra-judicial punishment, lengthy detentions, and use of harsh torture techniques have created resentment among the public.¹⁶ They have even been implicated in attacks against Israeli citizens following the violence that erupted in 2000.¹⁷ The local and international training of PA SF members has thus far not been very effective at instilling a culture of human rights or respect for the rule of law. There were efforts in 2002 under the "100 Days Plan" to streamline and

¹¹ Albasoos, 2005 p. 10.

¹² Friedrich, 2005.

¹³ SAI, 2005. p. 31.

¹⁴ "The Palestinian Authority: The Security Forces and Other Armed Elements."

¹⁵ Brown, 2002, p. 37.

¹⁶ Albasoos, 2005. p. 11.

¹⁷ Brown, 2002. p. 35.

reorganize the PA security sector¹⁸, but these were then blocked by Arafat. In July 2004, Arafat finally issued a decree calling for the consolidation of the PA security forces. However, while the decree has been a step forward for SSR, the decree did not specify how to operationalize this measure. On April 2005, President Abbas issued another presidential decree, which included the directives to unify the security services under the jurisdiction of the Ministry of Interior (MoI), in the hopes of obtaining a more capable security sector.

Military

The Palestinian military security services have been involved in a variety of issues not related to security, and include tasks such as tax-collection and solving local disputes.¹⁹ It has been noted that it will be difficult to disentangle these types of activities from their main area of work.²⁰ This is correlated with the politicization of the security forces, which also poses a significant obstacle to reforms. The establishments of “personal fiefdoms”²¹ among the Commanders have made reform efforts also very difficult. Under the auspices of the international community, the reform process that began in May 2002 aim at creating a security force with the appropriate role of helping to build a Palestinian State. In the past, both the UK and the US have provided military training for the ‘Special Forces’ and the ‘Preventive Security Organization’. Rebuilding institutional capacities and physical infrastructure have been noted as key priorities.²² Since early 2005, the National Security Forces have been working with the UK Military in both the Gaza Strip and the West Bank, improving communication and operation capabilities.²³ With the end of Arafat’s era, a partial change in leadership within the PA SF has occurred, with a younger leadership more loyal to the MoI.²⁴ Furthermore, following the criticism that the PA SF needed downsizing, Abbas’ administration has made some steps to cut down military personnel and enforce the retirement of senior officers.

Internal Security

The Palestinian Police were given a clear mandate in the Oslo Accords, and since then have been large recipients of international donors. In comparison to other

¹⁸ The most prominent parts of the plan included establishing the separation of powers, rule of law, strengthening the judiciary system, restructuring governmental bodies, and restructuring the Palestinian security agencies and unifying the police, preventive security and civil defense bodies under the Ministry of the Interior.

¹⁹ Ibid. p. 36.

²⁰ Brown, 2005, p. 16.

²¹ Friedrich, 2005. p. 7.

²² Ibid. p. 8.

²³ SAI, 2005. p. 58.

²⁴ Ibid. p. 56.

security forces, there is greater uniformity of training and doctrine. Initial efforts to establish and equip the police were provided by the EU and the UN, but this support fell short of creating a modern police force capable of maintaining law and order.²⁵ There are current efforts at better preparing the internal forces. Since 2004, there has been assistance by DFID to study and identify possible reform programs to support the PA Civil Police. In early 2005, the EU COPPS (European Union Coordinating Office for Palestinian Police Support) was established. It has been noted that the main focus of EU involvement is in a Palestinian Civil Police Development Program (PCPDP), which has started to have some impact on civilian policing in terms of both capacity building and transformational change.²⁶

One of the most recent developments is the Israeli disengagement of Gaza which started in July 2005, and the subsequent take over by the Palestinian leadership. The recently established Palestinian Authority's border controls demonstrate that the security forces in charge of internal security are unable to carry out this task properly. It had been reported previously that through the Gaza-Egypt border, both terrorists and weapons are passing freely.²⁷

Ministry of Interior and National Security (MoI)

In 2002 Arafat appointed the first Palestinian interior minister, which was an important development to establish accountability within the security sector. The minister initially had the jurisdiction over the Civil Police, the Preventive Organization and the Civil Defense (the three branches of internal security). This was, however, a flawed outcome as the minister encountered a myriad of obstacles including an unclear chain of command, and lacked political backing and support.²⁸ At a recent international conference in London in March 2005 where efforts to rationalize security governance in Palestine were discussed, the international community envisioned that only the internal security functions should reside within the MoI.²⁹ However, the PA has opted to have all PA SF under the MoI and under the Presidential Decree of 14 April 2005, security services such as the National Security Forces have been integrated into the ministry.³⁰ Although the General Intelligence unit (GI) does not technically have to report to the MoI, it began to do so in May 2005, whilst continuing to report to the president. However, the MoI in fact has little control over the not integrated forces, such as the GI and the Special Security Forces. Furthermore, the MoI currently does not have inspection mechanisms in place to oversee ministerial policy decisions. This characterizes the

²⁵ Albasoos, 2005. p. 26.

²⁶ SAI, 2005. p. 57.

²⁷ Rubin, 2005.

²⁸ Brown, 2002. p. 36.

²⁹ SAI, 2005. p. 57.

³⁰ Ibid. p. 16.

autonomy that exists between the Minister of Interior and the commanders of the PA SF.³¹

Militant and Non-State Actors

The PA continues to face the challenge of non-statutory security actors who have gained prominence and power since 2000 due to the fragmentation of the PA's central authority.³² These actors include groups such as Hamas's military wing, Palestinian Islamic Jihad, Tanzim, Al-Aqsa, and the Popular Front for the Liberation of Palestine. Their existence directly impacts the capability of the PA and its security forces, and challenges their exclusive legitimate monopoly on the use of force. It has also been noted that it is increasingly difficult for the PA SF to effectively confront the better-organized and equipped militant groups, particularly with Israel's refusal to allow the rearmament of the security services or the transit of donated European military equipment.³³ The disarmament of Hamas has become a major contending issue. The PA has pursued a policy of 'non-confrontation', meaning that it has chosen not to confront and directly disarm Hamas.³⁴ Following the peace summit in Sharm El-Sheikh Summit in February 2005, the PA and the Government of Israel agreed, among other things, to resolve the issues of militants that appear on Israeli list of fugitives. Abbas has been able to achieve a cease-fire with militant groups; though the process has not been easy, it is something that Israel in the past was never able to achieve.³⁵ Under this agreement, militants are provided immunity from Israeli reprisals as long as they sign a commitment not to engage in activities against the spirit of this ceasefire. Furthermore, these fugitives would be placed under the custody of the PA.³⁶ Moreover, Abbas recently received a pledge from militant groups to end mass public displays of weapons as well as attacks against Israel from Gaza.³⁷ The PA also holds the views that militants should be integrated into the PA SF, as some of them are former members of the security forces. The first challenge to this position are the risks associated with incorporating militants whose activities have run contrary to the security force which they would be integrated into. The second is that the PA SF needs downsizing, and the integration of former militants would only inflate the current personnel size.

There are important first steps being established to address non-state security actors, albeit these are fragile measures that need delicate coordination. Abbas' plans for law and order in Palestine envision eventually disarming and demilitarizing these groups in the hopes that these actions will enable leaders of organizations such as

³¹ Ibid. p. 56.

³² Friedrich, 2005. p. 7.

³³ Dajani, 2005.

³⁴ SAI, 2005 p. 43.

³⁵ Dajani, 2005.

³⁶ SAI, 2005. p. 55.

³⁷ Dajani, 2005.

Hamas to run for office not as militia commanders, but as representatives of a political movement, beginning in the legislative elections in January 2006.

Legal and Judicial Reform

Although there has been significant legal development by the Palestinian Authority, and significant reforms were laid down, the framework has been difficult to implement in practice. As a result PA officials often operate outside legal structures. The law inherited by the PA derives from a mix of Israeli law, Jordanian law (particularly in the West Bank), Egyptian law (in Gaza), British mandatory law, and Ottoman law. Although initially the legislative framework established was characterized as authoritarian, eventually many laws were dramatically reformed. While in most Arab countries the content and application of the law is generally very authoritarian, in the Palestinian case, the content of the law in comparison is very liberal.³⁸ Liberal laws were passed on matters related to freedom of assembly or the independence of the judiciary for instance. It has been argued that Palestinians had the necessary legal provisions for a strong constitutional court prior to even adopting a constitution.³⁹ However, the application of these laws has been terribly problematic and often non-existent. In fact, it has been noted that many of the decisions taken by the PA have no legal basis, resulting in authoritarian actions despite the existing legal framework.⁴⁰

The Palestinian judiciary has also been found as inadequate and ill prepared, and has been a central focus for reformers. The national judiciary has the role of overseeing among other things, the legality of national security decisions and actions, but it is not explicitly included in the national security decision-making process.⁴¹ In a recent survey, respondents said that the judiciary is “the weakest link in the governance structure of the Palestinian National Authority.”⁴² Judges are reportedly too few in numbers, poorly trained and supported. Being controlled by Israel for decades, after 1994 the PA attempted to strengthen Palestinian courts with a lot of support from the international community. Judicial independence has been a problem, and there has been conflict between the chief of justice and the minister of justice over the responsibility of judicial appointments. There has been legal framework for judicial independence, particularly the law passed in 1998. This law, passed by the Palestinian Legislative Council (PLC), among other things, establishes court organization and operation, and aims to create a strong and autonomous judiciary that is almost without comparison to any other judiciary in the region. However, the President did not approve this law until 2002.⁴³ Another issue is that

³⁸ Brown, 2002. p. 29.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid. p. 53.

⁴² Jones, 2004. p. 10.

⁴³ Brown, 2002. p. 30.

it has been questioned whether senior leaders have been committed to the implementation of these laws, as there have been cases in where PA officials have refused to accept court orders.⁴⁴

Overall, Palestinian legal and judicial systems have been created, at least on paper. There are also a variety of international agencies and donors such as the UNDP BCPR who is providing support through judicial training for example.⁴⁵ However, the implementation of these systems remains complicated. As a World Bank concluded in an analysis of the Palestinian judicial reform “legal development, despite public statements to the contrary, has not been a priority of the Palestinian Authority.”⁴⁶

Institutional Framework and Oversight

On the whole, legislative oversight in the Palestinian security sector has been insufficient. One of the main problems is the absence of legislation, and hence no legal framework or specialized committees, to regulate the role and conduct of the Palestinian Security Forces. Since the National Security Council (NSC) is currently non-functional and the Ministry of Interior and Security does not control all the PA SF there is no central point of national security decision-making. Although there are some civilian bodies within the Palestinian Legislative Council capable of oversight responsibilities, such as the Interior Committee, the Committee of Human Rights and Public Freedoms, the Budget and Financial Affairs Committee or the Legal Committee, supervision of the PA SF has been generally absent. In the past, when PLC members questioned the conduct of the security services, they had no authority to hold anyone responsible. Only Arafat had such authority and held the security agencies in his own hands, and he was essentially unanswerable to the council.⁴⁷ The post of Prime Minister (PM) was created in 2003. In theory, according to Article 153 of the Palestinian Basic Law, the Prime Minister is the head of the national security forces. But the law is somewhat ambiguous because it also states that the President of the State is its ‘supreme head’. During Arafat’s presidency, the PM had very little influence over national security matters. The National Security Council was created in 1994, in order to address the criticism at that time that civilian control over the security services was lacking. Although the NSC was operational, it has not been officially established by law. Since the death of Arafat, the NSC is no longer functional. At a recent international conference in London, the possibility of strengthening the role of the NSC to make it the central repository of security decision making was discussed.⁴⁸ More recently, there have been other efforts for more oversight and decision-making control of security

⁴⁴ SAI, 2005. p. 31.

⁴⁵ UNDP BCPR.

⁴⁶ Jones, 2004. p. 161.

⁴⁷ Brown, 2002. p. 35.

⁴⁸ SAI, 2005. p. 57.

issues. Although the Cabinet has submitted four draft bills in December 2004 and January 2005 to the PLC—on matters related to the Police, GI, the National Security Forces and the NSC—the lack of majority combined with little interest in the PLC, has made it difficult to implement these policies.⁴⁹ In March 2005, the PLC ratified the Military Retirement and Pensions Law, but the retirement process of these security agents has been slow and inefficient.⁵⁰ The lack of willingness of the PLC to exercise an oversight function is combined with the lack of parliamentary expertise, a strong nationalistic political culture, and a Fatah dominated council.⁵¹ The PLC was recently undergoing the reading of draft legislation on National Security, with input and support from the international community, which if established, would go a long way to establish a framework for clear oversight.⁵² Finally, civil society in Palestine is weak, and for the time being unable to exercise effective oversight control of the security forces.⁵³ A Human Rights ombudsman was established at an early time in the PA and it has evolved into a leading human rights organization. However, beyond reporting, documenting and publicizing abuses carried out by the security services, there is not much else it can do.⁵⁴

International Involvement/cooperation

International involvement in the Palestinian security sector occurs in a variety of ways, including training and equipping, and technical assistance to the police, the military and intelligence agencies. Some of the activities being carried out in Palestine include a USAID sponsored Rule of Law (ROL) program to build Palestinian courts, legal offices and law schools, and even more general projects such as the GTZ funded 'Institutional Promotion' programs that encourage wide-ranging good governance building.⁵⁵ Additionally, the Palestinian justice system has received the pledge from a host of countries and international institutions in the amounts of \$100m worth of projects.⁵⁶ There is also a Security Sector Working Group (SSWG) which includes American, Australian, British and Canadian personnel, who have been working closely with the PA on the disengagement of Gaza and long-term security planning.⁵⁷ Since the Sharm al-Sheikh summit in February 2005, the US has played the leading role in security assistance with the dispatching of a 'security coordinator', while subcontracting the UK, Egypt, and

⁴⁹ Ibid. p. 53.

⁵⁰ Ibid. p. 53.

⁵¹ "Security Sector Reform in the Palestinian Territories: Challenges and Prospects." p. 8.

⁵² SAI, 2005. p. 53.

⁵³ "Security Sector Reform in the Palestinian Territories: Challenges and Prospects." p. 8.

⁵⁴ Brown, 2002. p. 37.

⁵⁵ USAID, GTZ.

⁵⁶ Jones, 2004. p. 171.

⁵⁷ Australian Department of Foreign Affairs, 2005.

Jordan for training and equipment support.⁵⁸ The EU Member States have been noted for their commitment to Palestine and have supported it on a host of reform issues, particularly through the coordination of programs that support the PA Civil Police. However, it is argued that wider coordination of activities and efforts are needed with the international community in order to target priorities and avoid duplication.⁵⁹ Other regional states involved in the SSR process in Palestine include Egypt and Jordan. While it is uncertain to what extent Egypt will participate as a long-term player in SSR, it will probably remain at least as a source of specialist training.⁶⁰ Jordan has had a long history with the Palestinian security sector, including hosting Palestinian forces. It is expected that Jordan's role may increase, despite a history of a tumultuous relationship.

Conclusion: An overview of Palestine's SSR process

Although in 'paper' Palestine is in the process of establishing of attempting to establish effective and democratic security structures, the security sector is not yet fully institutionalized, and is at best, marginally effective. There is strong and widespread popular demand for reform, reflecting the dissatisfaction with the current security system.⁶¹ Palestinian security agencies do not have a complete monopoly on the use of force, because of the existence of militant groups and Israeli interference. The fact that the National Security Council does not function and the ongoing difficulties in trying to consolidate the PA security forces under the Ministry of Interior, means that there is still no central point on national security decision making. Under Arafat security forces were kept under executive control, and neither a culture of democratic oversight nor civilian expertise was developed. The lack of a central and accountable body for oversight and decision making of security issues impinges on the entire process of security sector reform, and it is probably one of the most important factors affecting SSR.

Non-state actors carry on playing an influential role on the efficacy of the Palestinian security sector, continuing to confront the PA forces, and present the ongoing challenge of how to disarm and reintegrate these militant forces. Among the many continued difficulties that exist in Palestine's SSR process, is the Gaza Strip/West Bank divide. The PA SF are split by the geographical distance, and while the Gaza Strip forces tend to generally be stronger than those in the West Bank, the problem arises on how to create an equally prepared force. Another impediment is that many security agents oppose security reforms with the fear that these changes could threaten their positions of power.⁶² Moreover, considering that PA SF is an important source of employment, finding alternative economic activities and

⁵⁸ Friedrich, 2005. p. 3.

⁵⁹ SAI, 2005. p. 57.

⁶⁰ Ibid. p. 58.

⁶¹ Bocco, 2005. p. 14.

⁶² Friedrich, 2005. p. 5.

demilitarizing Palestinian society remain problematic. While the SSR process in Palestine is incomplete, there have been recent efforts that fulfill the obligations under Phase 1 of the 'Road Map', which include a cease-fire, the commencement of dismantling terrorist groups through the confiscation of illegal weapons, and attempt to consolidate the authority of the security structures.⁶³ While the democratization of the PA may prove to be an important momentum for confidence building with Israel, there is still a long-standing conflict that is without resolution. Israel continues to maintain the option to directly intervene in the territory under control of the PA. Even where Israeli forces have withdrawn, such as in the Gaza strip, PA forces are not fully trusted. For instance, the Israeli parliament has recently been considering passing a law chiefly aimed at Palestinians in the Gaza Strip, which would give Israeli security forces the right to detain suspects without a lawyer, and without being heard in court.⁶⁴ There have also been instances when Israel has not allowed senior officials to travel between Gaza and the West Bank for meetings with American security advisers.⁶⁵ These are just some squabbles of a long disputed conflict, that demonstrates the fragility of Palestinian Authority, and the fact that they are not wholly responsible for judicial or security matters in Palestine. The formula for the successful and effective fulfillment of Palestinian security responsibilities ultimately depends on a myriad of complex issues tied into capability, political environment, the elections in January 2006, international support, and Israeli actions. Ultimately, the challenge of the Palestinian Authority is to build a nationally-supported vision of how the security sector should be reformed, and be able to implement a broad strategy in order to achieve tangible results.

⁶³ Dajani, 2005

⁶⁴ Amnesty International, 2005.

⁶⁵ "Legal Weapon- Palestine's Security Forces."

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