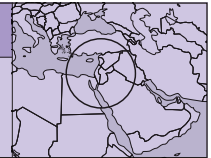


OCCUPIED PALESTINIAN TERRITORY

Anat Ben-David and Sam Bahour



Introduction

Access to information in the occupied Palestinian territory (OPT) has long been compromised by the Israeli occupation, ongoing violence and political instability. A further negative impact on access to information in the OPT took place in 2007, following the internal political crisis between Fatah and Hamas. As of 2009, two Palestinian governments operate in the OPT: a Fatah-led government in the West Bank, and a Hamas-led government in Gaza. Each government dismisses the legitimacy of the other. There are accordingly two Ministries of Telecommunication and Information Technology (MTIT), operating independently and implementing different information and communications technology (ICT) policies in Gaza and the West Bank.¹ Most countries refuse to recognise Hamas as the Palestinian ruling party despite them winning the parliamentary elections in January 2006, and as a result foreign aid to the Gaza Strip has been hindered. It is under these circumstances, then, that access to information in the OPT should be examined.

Policy environment

The United Nations Economic and Social Commission for Western Asia (ESCWA) ranks the OPT as having a low level of maturity when considering access to information and knowledge, referring to the relatively low internet penetration and high internet costs as a percentage of income, as well as to the unavailability of e-government services and insufficient number of public access points.² The low ranking reflects the halt in implementation of national projects initiated by the Palestinian National Authority (PA) between 2003 and 2005. These projects were in line with the Palestinian official ICT policy, as prepared by the ministerial high committee for the World Summit on the Information Society. The goals concerning access to information were set to promote ICT usage, provide affordable terminal stations, reduce licensing rates for internet service providers (ISPs) in rural areas, and roll out a national network of public access points.³

Projects such as the Palestinian e-government and e-learning initiatives were started, aimed at improving the internal connectivity of governmental institutions, the accessibility of education programmes and connectivity of education institutions. Nevertheless, the implementation of

these projects was discontinued in 2007 due to the change of government, the consequent disruption in foreign financial aid and the tension between the two administrations.⁴

As mentioned, the new administrations, working independently, implement different policies in Gaza and in the West Bank. The void in the policy environment, created by the internal political crisis and the lack of a single, coherent policy context, is being filled by the work of Palestinian non-governmental organisations, who have been active in promoting freedom of expression and providing access to information throughout the years.⁵ These organisations continue to receive foreign aid despite the political situation, and the money is invested in improving public access to information, encouraging the online consumption of information, and improving connectivity between Palestinian institutions.

Legislative environment

In line with international standards, freedom of expression and thought is protected by Article 19 of the 2003 amended Basic Law of Palestine.⁶ Article 3 of the same law protects the freedom of the press, and Article 27 protects the right to publish newspapers in all forms and prohibits censorship. Audiovisual media and the internet are not specifically mentioned in the Basic Law. Several initiatives and draft laws for the establishment of a Telecommunication Regulatory Authority (TRA), protecting data, intellectual property rights and privacy on the internet have been proposed, but not yet ratified.⁷

The right of free access to information and transparency of public information is currently not protected by legislation. In 2005, Transparency Palestine, the Coalition for Accountability and Integrity (AMAN - **الاتحاد الفلسطيني من أجل النزاهة - والشفافية**), promoted a draft law on access to information in Palestine. Unfortunately, the current absence of an operational Palestinian legislative council halted the process of ratifying this draft law.⁸

1 Ministry of Telecom and Information Technology (Gaza, Minister Yusef Mansi), www.mtit.gov.ps; Ministry of Telecom and Information Technology (Ramallah, Minister Mashhour Abu Daqqa), www.pmtit.ps
2 United Nations Economic and Social Commission for Western Asia (ESCWA) (2007) *National Profile for the Information Society in Palestine*. www.escwa.un.org/wsis/reports/docs/Palestine-07-E.pdf
3 World Summit on the Information Society (2003) *Contribution from Palestine*. www.itu.int/dms_pub/itu-s/md/03/wsis/c/S03-Wsis-C-0007!!PDF-E.pdf

4 ESCWA (2007) op. cit.

5 Rabah, J. and Daneels, I. (2005) Access to Information in the Occupied Palestinian Territories, *Palestinian Perceptions*, Issue 1. www.deza.admin.ch/resources/resource_en_25077.pdf

6 Palestinian National Authority (2003) *The Amended Basic Law*. www.elections.ps/pdf/The_Amended_Basic_Law_2003_EN.pdf

7 Palestinian Information Technology Association of Companies (PITA) (2007) *Position Paper: Introducing New Intellectual Property Rights Laws and Robust Implementing Mechanisms Will Bolster Investment in Information and Communication Technology in Palestine*. www.picti.ps/defaultPortal/IPR%20Position%20Paper.pdf

8 Article 19: Global Campaign for Free Expression (2005) *Memorandum on a Proposal for a Draft Law of Palestine*. www.article19.org/pdfs/analysis/palestine-2005.pdf

Accessing the basics: ICTs in a conflict zone

Access to information and ICTs has a vital role in maintaining the daily lives of Palestinians in the West Bank and Gaza. Restrictions on movement, closures and curfews imposed by the Israeli authorities make it impossible for Palestinians to effectively travel between Palestinian cities, and to travel outside the OPT. The Gaza Strip is fenced, and entry and exit of its residents is prohibited without hard-to-get Israeli military approval. The West Bank is separated from Israel by the separation barrier, which, at several places along its route, isolates and cuts through Palestinian cities and villages and isolates farmers and their lands. Such circumstances have a direct impact on Palestinian commerce, education, politics, agriculture and maintenance of family and social contacts. Most importantly, ICTs are a key way – if not the only way – in which communication can take place between the physically separated West Bank, East Jerusalem and Gaza; and because of this they have the potential of aiding attempts towards national unity and reconciliation between the Palestinian fractions.

Despite a lack of policy coherence, and a freezing of international aid, ICTs have been rapidly adopted by Palestinians. The Palestinian Central Bureau of Statistics (PCBS) reports a significant increase in internet penetration rates, access to ICT infrastructure and mobile telephony between 2000 and 2006.

Yet access to online information is far from ideal. Internet penetration rates in the OPT remain relatively low. Although a third of all Palestinian households owned a computer in 2006, only 15.9% of the households had access to the internet.⁹ The low rates are explained by PCBS as being due to high internet costs, a lack of connectivity in rural areas, and a low level of reliance on the internet as a source of credible information.¹⁰

PaTel, the incumbent telecommunications operator, has an exclusive licence for providing internet and communication services in the OPT. However, the telecommunications network, albeit owned and operated by PaTel, is forced, in line with the Oslo Peace Accords, to interconnect with the outside world by way of Israeli telecommunication operators. PaTel owns and operates an asymmetric digital subscriber line (ADSL) network, but must buy its bandwidth from Israeli firms, and then resell this capacity to its Palestinian customers, which results in expensive connectivity costs.

Moreover, Israel controls and routinely delays the entrance of hardware and infrastructure to the OPT, which prevents further development of internet public access points.¹¹ The Palestinian market is also flooded with unlicensed Israeli operators illegally (as per the Oslo Peace

Accords)¹² providing communication services to Palestinian residents and businesses.¹³

Data obtained from surveys show that internet use is more prevalent amongst households with above-average education and income. The poor, especially residents of refugee camps and those in the rural areas, often do not have access to online information at all, both due to lack of connectivity and infrastructure, as well as their tendency to rely on other sources of information, such as friends and relatives, satellite television and local radio.¹⁴ This is partially explained by a public distrust of the PA, which is perceived by large parts of the population as corrupt and, more recently, politically polarised.¹⁵ As a result, Palestinians are not inclined to seek or rely on governmental information on the web.

Access to information in the densely populated Gaza Strip, whose residents, unable to leave the strip, have to cope with poverty and scarcity of jobs, food, water, gas and supplies necessary for maintaining normal daily lives, is an issue of growing concern.¹⁶ Although there are numerous internet cafés in the Gaza Strip, most Gazans, especially women, do not have access to the internet.¹⁷

In early 2009, the Israeli military operation Cast Lead intensified the humanitarian crisis in the Gaza Strip, and this had a devastating impact on access to information. During the operation, electricity, water, food and basic supplies were cut off, and a media ban was enforced on the area.¹⁸ Television and radio stations were bombed, and communication through telephone, mobile phone and internet were rarely possible. Under these conditions, Gazans did not have any means of obtaining essential information about the fate of their relatives, the current situation of the fighting, or where to obtain healthcare, water, food, shelter and humanitarian help.¹⁹ After operation Cast Lead, there was an urgent need to re-establish infrastructure for media and communication channels. Due to a scarcity of funds, Israeli prohibitions on the import of equipment, and a higher priority assigned to

9 Palestinian Central Bureau of Statistics (2009) *PCBS Issues a Press Release on the Occasion of the International Day of Information Society, May 17*. www.pcbs.gov.ps/Portals/_pcbs/PressRelease/presrelse09eng.pdf

10 Rabah, J. and Daneels, I. (2005) op. cit.

11 ESCWA (2007) op. cit., p. 6.

12 Article 36 of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995) recognises the Palestinian right to build and operate separate and independent ICT infrastructures, while imposing Israeli restrictions, such as control of radio frequencies and the routing of outgoing international calls from the OPT through Israeli carriers.

13 Bahour, S. (2008) *De-Development, Israeli Style*. www.miftah.org/Display.cfm?DocId=4477&CategoryId=5

14 Rabah, J. and Daneels, I. (2005) op. cit.

15 Palestinian Centre for Policy and Survey Research (PSR) (2008) *Palestinian Public Opinion Poll No (28)*. www.pcpsr.org/survey/polls/2008/p28e.html

16 Human Rights Watch (2009) *Deprived and Endangered: Humanitarian Crisis in the Gaza Strip*. www.hrw.org/sites/default/files/related_material/2009_OPT_MENA.PDF

17 Zureik, E. et al. (2006) *Information Society in Palestine: The Human Capital Dimension*, Queen's University, Kingston, ON, CA. idrc.ca/dspace/handle/123456789/31982

See also the Initiative for an Open Arab Internet: www.openarab.net/ar/node/358

18 Human Rights Watch (2009) *Israel: Allow Media and Rights Monitor to Access Gaza*, 5 January. www.hrw.org/en/news/2009/01/05/israel-allow-media-and-rights-monitors-access-gaza

19 BBC World Service Trust (2009) *Initial needs assessment Gaza Strip: Access to information and perceived accountability of aid services*. www.ochaopt.org/gazacrisis/infopool/opt_gov_BBC_WST_access_to_info_needs_assessment_feb_2009.pdf

rebuilding homes, schools, and healthcare institutions, this process is likely to take a long time.

Until 2008, no evidence of internet filtering was found in the OPT.²⁰ Although Article 27 of the 2003 amended Basic Law prohibits media censorship, in May 2008 the Hamas-led MTIT in Gaza reached an agreement with PalTel, according to which access to content unfit with the values of Islam will be filtered. Although PalTel is the same company that provides internet connectivity both in Gaza and the West Bank, as from May 2008, websites with content related to pornography, dating, sex education, gay and lesbian information and other religions remain accessible in the West Bank, but are inaccessible from Gaza, according to reports.²¹ There is some evidence that internet censorship is being practiced by the Fatah government as well.²² Open access to the internet in the OPT should be further monitored to ensure that the newly introduced filtering trends do not further expand.

New trends

In the absence of ICT regulation, and despite its exclusive licence expiring in 2006, PalTel benefits from a market monopoly on ICT services in the OPT. This has negative effects both on access to information as well as fair competition. The company's profits (over USD 100 million a year) stand in sharp contrast to the depressed, occupied and deprived people they provide services to.²³ In January 2005, a Subscription Free Internet model was launched, yet its implementation was accompanied by a policy that eventually closed ISPs and left PalTel as the sole, real ISP.²⁴ Nevertheless, in May 2009 PalTel merged with the Jordanian telecoms operator Zain, which reflects expected growth in the current value of the depressed OPT market.²⁵ The motivation for this merger seems to have been the PA's 2009 licensing of Wataneya Telecommunications Company (Kuwait) to be PalTel's first legal mobile competitor, and the licensing of over half a dozen broadband wireless operators.

The separate governmental administrations have interesting implications for policies dictated by the two MTITs in Gaza and the West Bank – and there is the danger of a “separate development” of the information society in the OPT. For example, both the Government Computer Centre

(GCC)²⁶ and the Palestinian National Internet Naming Authority (PNINA),²⁷ previously operating as PA governmental bodies, now operate from Gaza and are therefore subject to the Hamas-led MTIT. Domain name registry (especially of governmental websites) and governmental ICT services are, as a result, controlled by Hamas. For example, in 2009 the GCC launched the video platform Pal GovTube for improving access to Gaza-based ministries, but not to the Fatah-led government ministries.²⁸ Nevertheless, a number of independent governmental bodies continue to provide and improve access to official information in both areas. The PCBS²⁹ is a judicially independent authority, which provides access to independent and accurate statistical data through its website and the mass media; the independence of the Palestinian Elections Committee³⁰ is protected by the Palestinian Elections Law, and it provides information and statistics about the Palestinian electoral process unrelated to the political situation. Despite these initiatives, the majority of Palestinians remain indifferent and suspicious towards online governmental information.

Action steps

- Improve connectivity, especially in rural areas and refugee camps.
- Inform citizens about the importance of access to information through the use of ICTs.
- Improve the transparency of governmental information and policies, thereby regaining public trust.
- Promote the ratification of the draft law on access to information.
- Promote legislation of ICT laws for protecting privacy, intellectual property rights, and e-commerce.
- Promote the immediate creation of an independent telecom regulation authority.
- Invest in activities and raise funds for the rehabilitation and improvement of ICT infrastructures in Gaza.
- Closely monitor newly introduced internet filtering practices. ■

20 Open Net Initiative (2007) *Regional Overview: Middle East and North Africa*. opennet.net/research/regions/mena

21 AFP (2008) Hamas takes aim at Internet porn in Gaza, 9 June. afp.google.com/article/ALeqM5jAeMv4kCXs8A4xxLx2TfTeWttQ8A

22 The Electronic Intifada (2008) Ramallah Palestinian Authority blocks website reporting on corruption, 18 November. electronicintifada.net/v2/article9972.shtml

23 Palestinian Telecommunications Company P.L.C. (PalTel) (2008) *Audited Interim Condensed Consolidated Financial Statement, March 31*. www.paltel.ps/site_files/files/f1236162107.pdf

24 In 2005, PalTel launched the Subscription Free Internet model as an attempt to increase the number of subscribers and decrease the end-user's connectivity costs. Palestinian ISPs and the Palestinian Internet Society rejected the model, claiming that it promoted unfair competition. In 2006, PalTel's daughter company Hadara was established by uniting four major Palestinian ISPs, thereby driving other Palestinian ISPs out of the market. See: ESCWA (2007) op. cit.

25 Zain (2009) Zain Enters into Agreement to Merge Jordan Operation with Palestinian Operator PalTel, 18 May. www.zain.com/muse/obj/lang.default/portal.view/content/Investor%20Relations/Press%20releases

26 gcc.gov.ps

27 www.pnina.ps

28 www.govtube.ps

29 www.pcbs.gov.ps

30 www.elections.ps