



# الهيئة المستقلة لحقوق الإنسان

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The Independent Commission for Human Rights



## Monthly Report on Violations of Human Rights and Freedoms

### Throughout the PNA-Controlled Territory

March 2009

This Monthly Summary Report of March 2009 highlights major human rights violations as monitored and documented by the **Independent Commission for Human Rights (ICHR)** throughout the PNA-controlled territory in the West Bank and Gaza Strip during the month of March 2009.

Based on monitoring and documentation of encroachments on human rights and public freedoms during the month of March 2009, **ICHR** concludes the following:

1. Death incidents generated by torture have continued to rise in the Gaza Strip.
2. So-called "'honour" crimes have persisted.
3. In disregard of relevant provisions under the *Palestinian Basic Law* and *Law of Penal Procedure*, incidents of arbitrary detention have also steadily risen throughout the PNA-controlled territory. Security agencies have continued to detain citizens in both the West Bank and the Gaza Strip.
4. The Military Justice Authority issued 3 death sentences against 3 criminal convicts in the Gaza Strip.
5. According to claims and grievances filed to **ICHR**, persons detained by security agencies in the West Bank and the Gaza Strip have continued to be subjected to torture and ill-treatment.
6. Reported infringements on the freedom of expression have continued to take place.

Below is a detailed description of violations of human rights and public freedoms reported over March 2009:

**ICHR** has been constituted according to *Presidential Decree No. (59) of 1993* and Article (31) under the *Amended Basic Law of 2003*.

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## **1. Violation of the right to life and physical safety:**

In the month of March 2009, **ICHR** documented 9 death incidents throughout the PNA-controlled territory, including 6 in the Gaza Strip and 3 in the West Bank. Of these, 2 citizens died as a result of torture in the Gaza Strip; 3 in the course of family fights and acts of revenge; 2 as a result of local explosions in the Gaza Strip; and 2 female citizens on grounds of honour killings. **ICHR** also monitored 7 other deaths in events associated with tunnels along the Egyptian border in the Gaza Strip.

### *Deaths generated by torture during detention:*

Over the month of March 2009, the following citizens were reported to have been killed as a result of torture while they were detained by the Internal Security agencies and Police forces of the Deposed Government in the Gaza Strip:

- On 16 March, **Zayed ‘Ayesha Jarad**, a 40-year-old resident of the city of Rafah, died at a detention centre belonging to the police agency of the Deposed Government in the Gaza Strip. According to information reported to **ICHR**, police officers arrested Jarad on the day before he died and interrogated him on account of a criminal case. Later, however, his family was informed that Jarad’s corpse had been transported to the Abu Yousef al Najjar Hospital in the city of Rafah. According to the Forensic Medicine Section at the Al Shifa’ Hospital in Gaza city, Jarad died as a result of torture.
- On 24 March, **Jamil Nassr ‘Assaf**, a 19-year-old resident of Gaza city, died in the Al Shifa’ Hospital in Gaza city. Pursuant to information documented by **ICHR**, police forces held ‘Assaf at the Al Tuffah police station in Gaza city as well as interrogated him about a criminal offence. Three days later, ‘Assaf fell into a coma and was transported to hospital. Most likely traced back to the interrogation process that he endured, marks of torture were visible on ‘Assaf’s body. ‘Assaf stayed in the hospital until he passed away on the reported date. It should be noted that **ICHR** published a statement appealing to the Gaza Deposed Government to prosecute and hold accountable persons implicated in this death incident. Accordingly, the Deposed Government made a decision ruling for the dismissal of 11 police officers.

### *Citizens killed in family fights and acts of revenge as well as in incidents of manslaughter:*

According to **ICHR**'s monitoring and documentation, 3 citizens were reported to have been slain in the course of family fights and acts of revenge during the month of March 2009:

- On 11 March, **Mohammed Hussein Ja'afreh**, a 22-year-old resident of the town of Al Sawahira al Sharqiya in the Governorate of Jerusalem, was stabbed to death with a knife, while he was present on campus at the Al Quds University in the town of Abu Dis. Ja'afreh was killed as a result of an act of family revenge. The Palestinian Police arrested and charged the killer with murder.
- On 30 March, **Saher Mahmoud Sawalmeh**, a 25-year-old resident of the Balata refugee camp in the city of Nablus, died during a family fight in the refugee camp. Sawalmeh was stabbed with a knife and hit with a metal pipe on the head. According to **ICHR's** documentation, the offenders were arrested and the police launched an investigation into the incident.
- On 8 March, several persons stabbed **N. A. F.**, a 40-year-old citizen from the city of Khan Yunis, to death in the vicinity of his house. According to information received by **ICHR**, the murder was committed on grounds of a family fight. Having detained suspects, the police opened an investigation into the incident.

*Fatalities caused by local explosions:*

According to **ICHR's** monitoring and documentation, 2 children were killed as a result of local explosions in the Gaza Strip.

On 21 March, **Mohammed 'Imad Hajji** and **Ahmed 'Ahed Shanyourah**, both 14 years old, died after they sustained shrapnel wounds in all parts of their bodies, while they were playing with a suspicious object in the Az Zaytun neighbourhood in the Gaza city.

*Honour killings:*

- On 24 March, several persons stabbed **A. H. S.**, a 31-year-old female resident of the Al Maghazi refugee camp in the Governorate of Central Gaza, while she was in her home. According to information reported to the **ICHR**, the police detained suspects and launched an investigation into the murder.
- On 12 March, **T. A. M. A.**, a 17-year-old girl from the city of Qalqiliya, died after her brother strangled her with an electric cable. Pursuant to information dispatched to **ICHR**, the Police arrested the offender and opened an investigation into the killing incident.

*Sentences to death:*

On 10 March, the Special Military Court convening in Gaza city issued death sentences against 3 citizens from Gaza city. According to the court judgement, **A. S. J.**, 45 years old, would be executed by shooting. The other two convicts, 40-year-old **S. F. J.** and 37-year-old **M. H. J.**, were ruled to be hanged to death. In accordance with provisions of the *Revolutionary Penal Law of the Palestine Liberation Organisation (PLO) of 1979* as well as the *Penal Law of 1936* in force in the Gaza Strip, the reported persons were convicted of murder. It should be noted that the court judgement has not yet attained a definitive status.

In addition, **ICHR** documented **9 death incidents in events associated with tunnels** along the Egyptian border in the Governorate of Rafah. Of these, citizens died under the rubble of collapsed tunnels; due to suffocation; or falling into these tunnels. Other citizens died of burns sustained of fire set inside these tunnels.

*Torture under detention – Inhuman, cruel and degrading treatment:*

**ICHR** views with deep concern the continuing violation of detainees' right to physical safety. Furthermore, **ICHR** deems that all forms of abuse and torture exercised by Palestinian security forces in the Gaza Strip and the West Bank are prohibited. Culpable as these are, these acts should be banned and respective perpetrators punished.

As in previous months, **ICHR** continued to receive grievances over the month of March 2009. Complainants claimed that they were subjected to torture and abuse by security agencies of both the PNA in the West Bank and the *De facto* Government in the Gaza Strip.

In the West Bank, **ICHR** received **12** complaints from citizens, alleging that they were subjected to torture. These grievances were filed against various security agencies, including the General Intelligence, Preventive Security, and Military Intelligence. In **9** complaints filed to **ICHR** in the Gaza Strip, affected citizens claimed that they were tortured while they were being detained by the Internal Security and police agencies of the Deposed Ministry of Interior.

## **2. Violation of the freedom of opinion, expression and peaceful assembly:**

Throughout the West Bank and Gaza Strip, various forms of encroachments continued to be committed against the freedoms of opinion and expression. In this context, Palestinian security agencies arrested a number of journalists and unidentified individuals opened fire on buildings housing media outlets. Over the month of March 2009, **ICHR** reported a number of attacks on the freedom of press:

- On 7 March, an explosive device was found at the entrance to offices of the Al Jazeera Satellite Channel on Al Jala' Tower in Gaza city. Having been called by the Al Jazeera office staff, police forces dismantled the explosive device. According to information reported to **ICHR**, an unidentified individual made a telephone call to the Al Jazeera office and uttered threats due to the agency's media activity. The same individual also stated where the explosive device had been placed. The police has opened an investigation into the incident.
- On 18 March, 44-year-old Sakhr Midhat Abu 'Oun, Secretary General of the Palestinian Journalists Union and correspondent for the French News Agency Agence France-Presse (AFP), was summoned to report to the Internal Security offices at the Abu Khadra Governmental Complex in the Gaza city centre. According to **ICHR**'s information, Abu 'Oun was interrogated about issues pertaining to the Palestinian Journalists Union. Internal Security officers also seized Abu 'Oun's identity card and passport.
- On 25 March, Police forces of the Deposed Ministry of Interior in Gaza prevented the National Activity Commission from organising a ceremony in commemoration of a PLO representative assassinated in Lebanon. Despite the fact that the National Activity Commission had notified the Police of the ceremony one day earlier, the police's decision did not state why the ceremony was to be halted.
- On 19 March, the Deposed Government prevented a celebration of 'Jerusalem as the Capital of Arab Culture'. According to **ICHR**'s monitoring and documentation, the committee in charge of the event were demanded not to organise the celebration, which was planned to take place at the Holy Family School on 21 March 2009 in line with the main festivity in the West Bank city of Bethlehem.
- On 30 March, unidentified individuals opened fire for the third consecutive time on the building housing the *Al Hayat al Jadida* Newspaper. The building sustained no damage and no injuries were reported.
- Until the time of reporting, the Palestinian Preventive Security agency has continued to detain Farid Hammad, a press editor at the *Al Ayyam* Newspaper, despite the fact that a decision was issued by the High Court of Justice ruling for his release. It should be noted that Hammad was arrested on 29 July 2008. In October 2008, he was

released following a decision issued forth by the High Court of Justice and Magistrate Court. However, he was arrested again immediately after he had been released. So far, Hammad has been detained by the Preventive Security agency in the town of Beituniya in the Governorate of Ramallah.

### **3. Violation of the right to form associations:**

On 16 March, the Scientific Medical Association operating in the village of Qabalan in the Governorate of Nablus was closed. According to **ICHR**'s documentation, members of the Palestinian Preventive Security agency arrived and searched offices of the Qabalan Health Care Centre. Having signed a relevant paper, Preventive Security officers confiscated a sum of ILS 10,000 from the Centre's fund. Preventive Security officers also verbally notified the Director that the Centre would be closed in line with PNA orders. It should be stated that the Qabalan Health Care Centre has been operating for 17 years. Along with serving villages in the vicinity of Qabalan, the Centre offers a 24-hour medical care service. Housing a pharmacy, laboratory, dental clinic, and x-ray section, the Qabalan Centre also employs osteopaths, gynaecologists, and paediatricians. It should be noted that the Scientific Medical Association, with which the Qabalan Health Care Centre is associated, has been closed by a PNA decision for over a year and a half. Given the fact that it serves neighbouring villages, the Health Care Centre continued to operate. Supervised by the PNA Ministry of Interior, an election was also in place to establish a new management board for the Centre.

### **4. Violations of the right to fair legal proceedings:**

Relevant reported impingements entail arbitrary detentions and arrests on political grounds. **ICHR** continues to express deep concern about the continuation of incidents of arbitrary detentions and political arrests that do not comply with fair legal procedures as well as deny citizens' personal freedoms without any respective legal justifications. In violation of the *Palestinian Basic Law* and *Law of Penal Procedure*, a most fundamental right of detained citizens as to be presented to a natural judge (i.e. regular judiciary) has been derogated. Security agencies have also continued to detain affected citizens under arrest warrants issued by the Military Justice Authority.

During the month of March 2009, **ICHR** received **56** complaints, including 37 against security forces of the Deposed Government in the Gaza Strip and armed individuals affiliated with Hamas. In 13 grievances, affected citizens claimed that detention procedures were invalid.

In the West Bank, **ICHR** received **177** complaints against the PNA security apparatuses. Of these, 43 citizens claimed that faulty procedures were implemented to detain them.

##### **5. Attacks on public and private institutions and properties:**

In March 2009, **ICHR** documented the following attacks on public and private institutions and properties:

- Overnight on 24 March, unidentified individuals raided offices of the Public Prosecution and the District Court in the city of Bethlehem. After destroying the iron window frames, the offenders broke a safe lock and robbed a sum of money. It was also reported that certain documents and files concerning cases, which had still been examined by the Bethlehem Public Prosecution and District Court, were stolen as well. According to **ICHR**'s documentation, the police is still investigating the burglary in order to capture offenders.
- On 23 March, approximately 15 individuals blocked the way for a vehicle belonging to the *Mihwar* Centre for Protection and Empowerment of Women and Family (The Safe House) near Qalandiya refugee camp in the city of Jerusalem. As it was on its way back from a visit to the Ramallah Public Prosecution office, the offenders stopped the vehicle, assaulted Scarlet Bishara, legal advisor to the *Mihwar* Centre, and abducted a battered girl. Having been raped, the girl was transferred by the Public Prosecution to the Al *Mihwar* Centre to protect her against murder. According to information reported to **ICHR**, security agencies prosecuted the offenders, released the girl, and brought her back to the *Mihwar* Centre in the city of Beit Sahur.
- On 10 March, unidentified individuals set fire to a car belonging to Fat'hi Khadher in the village of Beita in the Governorate of Nablus. According to **ICHR**'s documentation, the police launched an investigation into the incident. Khadher is the Director General of the Ministry of Youth and Sports in the city of Ramallah.
- On 25 March, unidentified individuals set fire to a house belonging to Abdul Karim 'Ashour, 62 years old, in the city of Nablus. According to information reported to the **ICHR**, four individuals raided 'Ashour's 4-storey house, beat the guard, released a gas barrel, and poured gasoline on various places in the house. As a result, two storeys were burnt to the ground.

## **6. Delayed execution of court judgements:**

PNA security agencies in the West Bank, particularly the General Intelligence and Preventive Security, have continued to refrain from executing several decisions issued by the Palestinian High Court of Justice with regard to citizens detained on political grounds. These have been detained according to arrest warrants issued by the Head of the Military Justice Authority. However, it should be noted that the continued detention of these persons and non-implementation of the High Court's decisions are an encroachment on the Court's relevant jurisdiction. It is also a deprivation of personal freedom, which is intrinsically safeguarded by Articles (11) and (12) under the *Palestinian Basic Law*. Unless they are detained on other charges, detained persons should immediately be released.

Major examples on non-executed court judgements are as follows:

1. During the month of March 2009, the Palestinian High Court of Justice issued a decision ruling for the release of *Asad Nimer Mafarjeh*, who has been detained by the Palestinian Preventive Security in the city of Ramallah on grounds of his political affiliation. Until 25 March 2009, the court judgement had not yet been executed.
2. On 23 March, the Palestinian High Court of Justice ruled for the release of *Abdul Karim Hussein Abdul Karim al Halayqah*. Based on an arrest warrant issued by the Head of the Palestinian Military Justice Authority, Al Halayqah has been detained by the Palestinian Preventive Security agency in the city of Hebron since 17 January 2009. So far, the court decision has not been put to effect.
3. Also on 23 March, the Palestinian High Court of Justice ruled for the release of *Yousef Amin Mahmoud Warasneh*. According to an arrest warrant issued by the Head of the Palestinian Military Justice Authority, Warasneh has been detained by the Palestinian Preventive Security agency in the city of Hebron since 6 November 2008. The court decision has not been executed.

Also until the time of reporting, court decisions ruling for the release of the following detained citizens have not been implemented:

1. On 15 December 2008, the Palestinian High Court of Justice entered a decision for the release of *Mahmoud Hussein Mohammed Shanaran*, who has been detained by the Preventive Security agency in the Hebron Detention Centre since 4 November 2008. Apprehended on the basis of an arrest warrant issued by the Head of the Military Justice Authority, Shanaran is still held in custody.
2. On 24 December 2008, the Palestinian High Court of Justice issued forth a decision ruling for the release of *Mohammed 'Umran Abdul Hameed Abu Omar*,

who has been detained by the General Intelligence agency in the city of Hebron since 29 October 2008.

3. On 15 December 2008, the Palestinian High Court of Justice issued forth a decision for the release of *Mahmoud Hasan 'Alaya al Harini*, who has been detained by the Preventive Security at the Hebron Detention Centre since 4 November 2008 according to an arrest warrant made by the Head of the Military Justice Authority. So far, the High Court's decision has not been implemented. Claiming that it was not officially notified of the decision, the Preventive Security agency has continued to detain Al Harini.
4. On 2 November 2008, the Palestinian High Court of Justice entered a decision for the release of *Kamal 'Amer Abdullah Abu Tu'eimeh*, who has been detained by the Preventive Security agency at the Hebron Detention Centre since 15 September 2008. Apprehended according to an arrest warrant issued by the Head of the Military Justice Authority, the High Court's decision has not so far been executed. Claiming that it was not officially informed of the decision, the Preventive Security agency has continued to detain Abu Tu'eimeh.

#### **6. Violation of the right to health care:**

On 22 March 2009, Overseas Medical Treatment Transfers Department in the Gaza Strip suspended the delivery of public services, encroaching on citizens' right to medical care. The Ministry of Health of the Gaza Deposed Government took control of the Department as well as its respective offices. The Ministry of Health staff demanded that the Director and all 30 employees leave the Department. According to information reported to the **ICHR**, the Director General of the Health Insurance Department at the Deposed Ministry of Health, who was accompanied by ten other persons, notified the Director of the Overseas Medical Treatment Transfers Department that he had been assigned by the Minister of Health to take control of the Department and all its contents.

#### **7. Dismissal from civil service (teachers who were appointed under the Hamas Government in 2006):**

For the fifth consecutive month, the Palestinian Ministry of Education has continued to issue decisions on dismissal or suspension of the appointment of a number of school teachers and staff. With another **16** complaints filed to the **ICHR** over March 2009, the total number of grievances made over the past four months has risen to **200**. The aggrieved stated that they had been dismissed from their jobs following a decision of the Ministry of Higher Education who justified its decision by the fact that there was a lack

of recommendation or a lack of approval of their appointment by authorities who are not competent by law, regardless of whether or not they were approved or recommended.

To this avail, **ICHR** deems that such a measure violates the *Palestinian Basic Law* and *Law of Civil Service* as well as infringes on citizens' right to occupy public functions on a non-discriminatory, equal base.