



## Monthly Report on Violations of Human Rights and Freedoms In the Palestinian– Controlled Territory

September 2009

This report highlights major human rights violations as monitored and documented by the **Independent Commission for Human Rights (ICHR)** throughout the Palestinian-controlled Territory during the month of September 2009.

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

1. Several cases of death due to family disputes and manslaughter have occurred
2. One case of death in the West Bank on the grounds of the so-called honor killing
3. Torture of detainees persists in the Gaza Strip and the West Bank, as indicated by detainees' claims and complaints filed to **ICHR**.
4. The Internal Security of the Deposed Government continues to deny **ICHR** representatives the right to visit detention centers in the Gaza Strip
5. Cases of detention of individuals without due process stipulated in the provisions of the Basic Law and the Penal Procedural Code, have been on the rise in both the Gaza Strip and the West Bank.
6. The Ministry of Interior in Ramallah continues to deny the Deposed government of the supply of passport books.
7. The non-enforcement of Palestinian courts' judgments continues in the West Bank

Below is a detailed description of violations:

### 1. Violations to the Right to life and Physical Safety

**ICHR** documented (21) cases of death in the PNA controlled –Territories during September 2009, 16 of which took place in the Gaza Strip and 5 cases in the West Bank. In terms of cause of death, these cases are distributed as follows: (6 deaths) were linked to violent family disputes or rivalry (4 in the West Bank and 2 in Gaza Strip), while (8 deaths) were attributed to negligence and lack of general safety precautions which all took place in the Gaza Strip. In addition, one death occurred in the West Bank on the grounds of the so-called honor killing while 6 death cases were as a result of tunnels' accidents.

**The following depicts some clarification on the death toll during the month of September:**

أُنشئت الهيئة المستقلة لحقوق الإنسان بموجب مرسوم رئاسي رقم (59) عام 1993، والمادة (31) من القانون الأساسي المعدل الفلسطيني لعام 2003

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### ***Deaths Due to Fights, Family Disputes and Manslaughter***

In September, the following **six** cases of death occurred due to domestic disputes and revenge, **four** of which took place in the West Bank and **two** in the Gaza Strip:

- On 29/9/2009, the police found the body of **Mohamed Nayef Abu Sneineh**, a 23-year old resident of Hebron, who had been killed following a family dispute. He was found on the side of the road that connects Hablah village and the city of Qalqilya, with several stab wounds. According to information obtained by **ICHR**, the police caught the suspect and referred him to competent parties to take legal procedures against him.
- On 6/9/2009, **Musa Ahmed Barakeh**, a 48-year old citizen from Deir el-Balah, died after sustaining wounds to the head as a result of an axe stroke during a family dispute. According to information obtained by **ICHR**, the police arrested the suspect and opened an investigation into the accident.
- On 10/9/2009, **Mithat Khamis Shatat**, a 31-year old citizen from Gaza city, died after sustaining a gun shot to the head. According to information obtained by **ICHR**, the deceased was shot on the ground of revenge. The police arrested the suspect and opened an investigation into the accident.
- On 5/9/2009, two brothers, **Iyad Jum'ah Abu Ayyash**, 26 years, and **Imad Jum'ah Abu Ayyash**, 25 years, from al-Jalazoun Camp in Ramallah and al-Bireh Governorate, died after sustaining gun shots during a family dispute that took place in the camp. According to information obtained by **ICHR**, the police arrested the suspects and opened an investigation into the accident.
- On 3/9/2009, **Khaled Walid Mohamed Said Barabrah**, an 18-year old citizen from Jericho, died of several stabs, as a result of a criminal act involving a robbery of money. According to information obtained by **ICHR**, the police caught the suspects and launched an investigation into the accident.

### ***Honor killings***

During the reporting period, one case of honor killing was documented in the West Bank:

- On 30/9/2009, **(I. A. A. A)**, a 16-year old female child, was strangled with a scarf in Beit Oula, Hebron city. The public prosecution and the police referred the body to the Coroner's office for an autopsy to determine the cause of death. According to **ICHR's** documentation, the mother of the victim confessed killing her daughter on the grounds of so-called family honor.

### ***Death Due to Negligence and Lack of General Safety Precautions***

During this reporting period, the following 8 death cases occurred as a result of an explosion in the Gaza Strip:

On 17/9/2008, a cooking gas tank exploded at a popular kitchen, owned by Ra'ed Harb, in the center of Jabalya city. Consequently, the fire that followed the explosion resulted in the death of eight citizens.

### ***Death due to Misuse of Arms and Manslaughter***

During the month of September, the following injuries occurred as a result of the misuse of arms:

- On 18/9/2009, a locally-made rocket fell on the house of **Suad Rizq Klob** and exploded. According to **ICHR's** documentation, the blast caused the injury of two female residents as well as damage to the house. The police opened an investigation into the accident.

- On 13/9/2009, about 17 persons were injured following a fight between Qalqilia police members and the National Security force on one side and fans of Tulkarem youth sports center team on the other. The clash took place at the soccer field in Qalqilia. The incident started during the match when one player from the previously mentioned team attacked another from the opposing team - Tulkarem Cultural Center Team. Consequently, three police officers intervened, while one of them caught Ahmad Nasrallah – the attacker - and tried to get him out of the field. However the audience was agitated and started throwing empty cans into the field. Then the second police officer – M. E. – turned to the audience, aimed at them directly and shot and wounded around 17 persons, some of who are in critical condition. An investigation committee was formed and the police officer was held in custody.
- On 4/9/2009, **Mohammed Khalil Zawayteh, 48** years, shot his son, **Seif Mohammed Zawayeth, 28** years using his personal pistol, wounding him with several shots. The incident came as a result of a dispute over finances between them. The son was transferred to hospital for treatment; his condition was described as moderate. The police reached the scene the same day and arrested the father in order to investigate him regarding the reasons behind the accident.

### ***Deaths in Tunnels***

**ICHR** documented **6** cases of death resulting from accidents in tunnels on the Palestinian Egyptian borders. The tunnels either collapse, cave in or have fire incidents and deaths ensue from either suffocations, burns or falling into the tunnels.

### ***Torture During Detention – Cruel, Inhuman and Degrading Treatment***

**ICHR** expresses its deepest concern regarding the persistence of practices by which the infringement of detainees' rights and physical safety at the hands of the security agencies continues. **ICHR** considers all forms of ill-treatment and torture committed by the security agencies in the Gaza Strip and the West Bank as illegal acts that should be prohibited, criminalized and punishable by law.

In September, **ICHR** has continued to receive complaints on a monthly basis from citizens alleging that they had been subjected to ill-treatment and torture inflicted by security agencies in both the West Bank and the *De-facto* authority in Gaza Strip.

In the West Bank, **ICHR** received **(7)** complaints of torture in the month of September against various security agencies (the General Intelligence, Preventive Security, and the civil police)

In the same reporting period **(7)** similar complaints were lodged at **ICHR** against the two security agencies in the Gaza Strip run by the Ministry of Interior of the Deposed government (the Internal Security and the police).

## **2. Violations of the Right to Proper Legal Procedures** - which entails arbitrary detentions and arrests on political grounds.

**ICHR** is also deeply concerned by the continuation of incidents of arbitrary detentions and political arrests that do not comply with fair and proper legal procedures and those that deny citizens their personal freedoms without any respective legal justifications. One of the most fundamental rights has been violated when detained citizens are deprived of their right to be presented before a natural judge (i.e. regular judiciary) in stark violation to the Palestinian Basic Law and the Code of Criminal Procedure as the security agencies continue to withhold people in the custody of the military judiciary.

Arbitrary detention practices continued at different paces in both of the West Bank and the Gaza Strip while **ICHR** received many complaints from citizens who were arbitrarily arrested and detained.

In this regard, in the Gaza Strip, **ICHR** received **28** complaints out of **43** complaints received during the month of **September**.

The peculiarity of arbitrary detention in the Gaza Strip stems from the fact that such measures are often carried out in places that have never been designated as prisons and without granting permission for visitation by the detainees' families or **ICHR** representatives. For eight consecutive months, since the offensive on Gaza until the preparation of this report, arrests of tens of citizens by the internal security in Gaza are still taking place and they are being held in undeclared places.

In the West Bank, **ICHR** received **58 complaints out of 241** complaints received during the month of September.

### **3. Assaulting Public Figures**

According to **ICHR**'s documentation, the following assault attempts on public figures occurred during the month of September:

- On 5/9/2009, unidentified persons fired shotguns at the Green Valley Hall in Jenin during a reception for parliament members who were released from Israeli prisons. Furthermore, on 6/9/2009, only half an hour before the reception, a number of unidentified persons arrived to the and fired gun shots. Several bullets entered into the reception hall causing physical damages. According to information obtained by **ICHR**, the police reached to the scene and required that the hall be closed in order to protect the lives of people and an investigation was opened into the incident.
- On 20/9/200, 8 people attacked brigadier general Talal Dweikat nearby his residence. He was in the company of his brother and some relatives. One of the attackers stabbed the brigadier general's nephew and when reached his nephew, the attackers tried to attack him with knives and rocks. He subsequently started firing in the air and then aimed at the attackers legs, injuring one of them. Nevertheless, the attack continued until the security forces reached the scene and controlled the situation. According to information obtained by **ICHR**, the accident occurred on the grounds of a problem that occurred while the brigadier general was still holding his former position as a director of Nablus Intelligence agency.

### **4. Attacks on Media Freedoms and the Right to Association and Peaceful Assembly**

**ICHR** documented the following incidents of violation of media freedoms and the right to peaceful assembly which occurred in Gaza Strip during the month of September:

- On 8/9/2009, the Ministry of Interior dissolved the Board of Al Razy Charitable Society in Beit Hanoun. According to the statement of the chairman of the BOD to **ICHR**, the General Investigation Department of the Deposed Government confiscated the association's possessions and closed it down on 1/4/2009. The situation continued until the decision of dissolving the association was received on 8/9/2009.
- On 30/9/2009 the police prevented the National Work Commission from organizing a peaceful march in Khan Yunis to protest the practices of the Israeli occupation forces in Jerusalem. According to information obtained by **ICHR**, organizers who are representatives of factions of the National Work Commission notified the police about the march on 30/9/2009, yet they received phone calls the following day from the police and the Internal Security telling them that the march was banned without giving any justification.

## 5. Attacks on Public Institutions and Public and Private Property

During the reporting period, **ICHR** registered the following cases of attacks on public institutions, all of which took place in the West Bank:

- On 5/9/2009 unidentified persons broke into the headquarters of Al Doha Municipality and stole 7,000 NIS from the financial department after they broke a window in the back of the building. An investigation is underway by Bethlehem police department to identify the perpetrators and present them before the law.
- On 28/9/2009, the private car of the head of the municipality of Taybeh was burned by unidentified persons. The Palestinian security agencies rushed to the scene to launch an investigation and document the grounds of the attack. The investigation is underway to identify the perpetrator/s and the reasons behind the accident. It's worthy of noting that while the car was being burned Mr. Daoud Khoury- head of the municipality- and 8 members of the municipal council were in a meeting at the municipality.

## 6. Delayed Execution and Procrastination in the Enforcement of Palestinian Courts' Judgments

Any failure to enforce the decision of the Palestinian courts, regardless of their nature or level, is considered a forthright violation of the stipulations of the Palestinian Basic Law, and more notably Article (106) which states that: "Judicial decisions are enforceable and any form of defaulting on their implementation is a crime punishable by imprisonment or dismissal from office ...".

In this month, rulings and decisions, issued by the Court of First Instance in the city of Nablus, for the release of a number of citizens detained on the ground of "affiliation to militia" are still not being executed. Despite the actual payment of the specified bails, the security agencies insist on not releasing them as ordered by the court.

As for the enforcement of the Palestinian Supreme Court rulings, **ICHR** documented a number of complaints on the non-enforcement of decisions issued by the Supreme Court while the PNA has not implemented them and they remain unimplemented until the time of writing of this report.

The major cases of non enforced court decisions are:

- On 24/6/2009, the Palestinian Supreme Court of Justice issued a decision that annuled the decision of the Ministry of Interior regarding the appointment of a temporary preparatory committee for the administration of the Islamic Society for Orphan Care-Yatta instead of the formerly elected administrative body. This came as a result of not justifying the decision of the Minister of Interior and to its violation of Article 37 of the law on Charitable Societies and Associations of the year 2001.
- On 22/4/2009, the Palestinian Supreme Court of Justice issued a decision which stated the return of Nour Eddin Salh Hamad who was terminated from the police service on 1/11/2007. Until the time of reporting, the aforementioned decision has not been put into affect.
- On 23/2/2009, the Palestinian Supreme Court of Justice issued a decision for the revocation of a construction license for land #7 in the village of Taybeh for Najib Nabil Khoury. While the Abu Falah police station/ Bierzeit is to implement the decision, the police has not implemented it until now.
- On 26/11/2008, the Palestinian Supreme Court of Justice issued a decision to return Majdi Abdul Fatah Hassan to his work in the police service and to cancel his expulsion. However, the police has not implemented the decision until the writing of this report.
- On 8/7/2009, the Palestinian Supreme Court of Justice issued a decision that annuled the decision of the Ministry of Interior regarding the appointment of a temporary preparatory committee for the administration of the Islamic Society for Orphan Care-Yatta instead of the formerly elected administrative body. This came as a

result of not justifying the decision of the Minister of Interior and to its violation of Article 37 of the law on Charitable Societies and Associations for the year 2001.

- On 27/9/2009, the Palestinian Supreme Court of Justice issued a decision that annulled the decision of the Minister of Local Government regarding the appointment of a caretaker committee for the Beit Ummar municipality instead of the elected municipal council due to its violation of Article 61 of the law on Local Councils Elections of 2005 which stipulates that new elections shall take place within a maximum period of one month from the date the vacancies are announced.
- On 27/9/2009, the Palestinian Supreme Court of Justice issued a decision to release Anwar Taleb Mahmoud Musallam el-Najar who has been withheld at the General Intelligence agency detention center in Hebron since his arrest on 31/8/2009 in the custody of the Military Judiciary Commission due to the violation the arrest decisions of the Penal Procedural Code No. 3 of the year 2001 and more notably Article 34 of this Code which stipulated that the suspects shall be presented before the Public Prosecution during a maximum period of 24 hours. However, the police have not implemented the decision until the writing of this report.
- On 27/9/2009, the Palestinian Supreme Court of Justice issued a decision to release Khattab Jamal Sabri Jado from Bethlehem who has been detained since 20/6/2009 by the Preventive Security agency in Ramallah in the custody of the Military Judiciary Commission. Even though the decision has been issued it remains unimplemented until the preparation of this report.

## **7. Violations of the Right to Travel and Movement**

Gaza residents are still suffering from the unavailability of passport books since November 2008.

According to information which **ICHR** obtained from officials of the Ministry of Interior of the Deposed Government, the MOI in the West Bank does not send passport books for citizens in the Gaza Strip, which entails depriving them from the right to travel and movement. In addition, it affects most of those in urgent need for traveling abroad for seeking medical care, university education, students and thousands of expatriates whose passports have expired and require renewal.

## **8. Dismissal from Civil Service (dismissed teachers who were appointed when Hamas Government took office in 2006):**

The Palestinian Ministry of Education continues to issue decisions for the dismissal or suspension of appointment against a number of school teachers and staff. In September 2009, 22 more complaints were filed to **ICHR**, thus increasing the total number of teachers' dismissal or suspension complaints filed to **ICHR** over the past months to **271**. The aggrieved stated that their dismissals were made upon decisions by the Minister of Education and Higher Education under pretexts such as the non-obtainment of security clearance or approvals of their appointments from parties that are not the competent authorities to begin with or mandated by the law to assume such a responsibility. **ICHR** deems that such measures violate both the *Palestinian Basic Law* and *Law of Civil Service* not to mention their infringement on citizens' right to assume public office equally and without discrimination.