



# الهيئة المستقلة لحقوق الإنسان

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The Independent Commission for Human Rights



## Monthly Report on Violations of Human Rights and Freedoms In the Palestinian-controlled Territory

October 2009

This monthly 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 October 2009.

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

1. Several cases of death occurred for various reasons including family disputes and manslaughter.
2. Death cases occurred due to negligence and failure to undertake public safety precautions.
3. Torture of detainees persists in the Gaza Strip and the West Bank, as indicated by detainees' claims and complaints filed to **ICHR**.
4. **ICHR** representatives are still denied the right to visit detention centers administered by the Internal Security and police forces in the Gaza Strip.
5. Detention of individuals prevails in both the Gaza Strip and the West Bank without regard to due process and stipulations of the Basic Law and the Code of Criminal Procedures.
6. The Ministry of Interior in Ramallah continues to deny the De facto Authority in Gaza of the supply of passport books.
7. The non-enforcement of courts' decisions and rulings continue in the West Bank.

Below is a detailed description of violations:

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

**ICHR** documented (19) cases of death in the Palestinian-controlled Territory during October 2009 including (9) deaths in the Gaza Strip and (10) deaths in the West Bank. As for the cause of death, these cases are distributed as follows: (6) deaths were linked to violent family disputes and rivalries (4 in the West Bank and 2 in the Gaza Strip) in addition to (9) cases of death linked to negligence and failure to adopt public safety precautions (6 in the West Bank and 3 in the Gaza Strip). **ICHR** also documented one case of death in suspicious circumstances in the Gaza Strip, one death caused by misuse of arms, also in the Gaza Strip and two other death cases as a result of tunnel accidents in the Gaza Strip.

**Below are some clarifications on the death toll for the month of October:**

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

المقر الرئيسي - مكتب الوسط - رام الله : هاتف: 2986958 / 2960241 / 2987536 / 972 2 2987211 ، ص.ب. 2264 ، فاكس: 2987211 972 2

مكتب الشمال : هاتف: 972 9 2335668 فاكس: 972 9 292366408

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### ***Deaths due to family disputes, domestic violence and manslaughter***

In October, three deaths occurred due to family rivalries and revenge, of which four took place in the West Bank and two in the Gaza Strip, as detailed below:

- On 07/10/2009, **Akram Hashem Abu Qadous**, a 47 year-old male resident of Jabalia, died of stab wounds. According to information obtained by **ICHR**, the victim was injured during a family dispute and that the police arrested the suspect and opened an investigation into the incident.
- On 27/10/2009, **Tha'er Ismail Al-Faq'awi**, a 22 year-old male resident of Khan Younis, died of shot wounds to the chest which he suffered on 12/10/2009 during a family dispute. According to information obtained by **ICHR**, the police arrested the suspect and opened an investigation into the incident.
- On 01/10/2009, **Tamim Badir Da'na**, a 65 year-old male resident of Hebron, was shot in the head on the grounds of family revenge, which led to his death. According to information obtained by **ICHR**, the Public Prosecution and the police have opened an investigation into the incident in order to arrest and undertake the necessary legal action against the offender.
- On 27/10/2009, **Ayman Daghlas**, a 38 year-old male resident of Burqa, Nablus, died of injuries he sustained on 21/10/2009 after he fell from a steep stairway during a dispute. According to information obtained by **ICHR**, the police opened an investigation to determine the real cause of death.
- On 28/10/2009, the police found the bodies of two males in their thirties identified as **Abdul Baqi Hussein Mahmoud Abdul Baqi** and **Iyad Daoud Mahmoud Thahir**. The two bodies were discovered in a house owned by Abdul Baqi in the Um Alsharayit neighborhood in Al-Bireh. The initial investigations indicate that both men had a major fight, related to a family dispute, which ended in each one stabbing the other to death with a sharp object. The investigation is still ongoing in this incident.

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

In October 2009 one case of death was documented as a result of misuse of arms in the Gaza Strip which occurred in the following circumstances:

On 17/10/2009 **Tareq Zamel Abu Hassoun**, a 17 year-old male resident of Rafah, died from wounds sustained on 12/11/2009 by a shot to the chest during his participation in the Fateh-organized memorial festival that marked the fifth anniversary passing of the late president, Yasser Arafat.

### ***Death in Suspicious Circumstances***

In this month, one death in suspicious circumstances was registered in the Gaza Strip. On 02/10/2009, a medical emergency crew discovered the body of an unidentified person in his thirties. According to **ICHR's** information, both his arms and legs were tied up and the body had signs of torture on the upper part and two gun shots to the left thigh. The police opened an investigation into the incident.

### ***Death due to Negligence and Lack of Public Safety Precautions***

During the reporting period, 9 cases of death occurred as a result of negligence and failure to adopt public safety precautions. Three of these cases occurred in the Gaza Strip and the remaining six deaths were reported to have occurred in the West Bank, as described below.

- On 20/10/2009, **Afaf Mohammed Abu Muammar**, a 30-years old female resident of Khan Younis, succumbed to burn wounds which she had sustained when a fire erupted in her house following the explosion of an electric generator, according to **ICHR's** information.
- On 09/10/2009, two citizens passed away, namely **Mehdi Fadel Thahir**, a 54-year-old male, and **Subhiyah Abdul Rahman Al-Shinbari**; a 51-year old female. Both residents of Jabalia died of injuries sustained in the fire which erupted on 17/9/2009 at the street kitchen in the same neighborhood.
- On 15/10 / 2009, **6 members of Da'na family died of asphyxia following a fire in their home in Bethlehem. The deceased are: Fatema Da'na, a 30 year-old mother of five and all her five children Ayman (12 years), Manar(8 years), Ahmed (7 years), Mohamed (3 years) and a two month baby girl.** The deaths resulted from the inhalation of toxic smoke following the fire that engulfed the house which is comprised of two bedrooms, one living room, a kitchen and a bathroom. According to the Civil Defense which put out the fire, the family lived in an apartment located in the ground floor of a five-storey building. The house caught fire suddenly and the flames spread rapidly. According to information obtained by **ICHR**, the Public Prosecution opened an investigation into the incident that seems to have been caused by the electric wiring inside the house which did not comply with the proper public safety specifications. The investigation has not yet been completed due to the critical state of **Ayman Da'na**, the father of the deceased children, who was gravely injured in the same incident.

### ***Death Penalty***

During the reporting period, the military courts in the Gaza Strip issued two death sentences against the following persons:

- On 18/10/2009 the Permanent Military Court in Gaza city sentenced the civilian (S. M. N), a 27 year-old male resident of Bureij Refugee Camp, to death on charges of espionage and cooperation with hostile parties. The sentence was issued in accordance with the Palestinian Revolutionary Penal Code of 1979.
- On 29/10/2009 the Permanent Military Court in Gaza city sentenced the citizen (A. M. SH), a 35 year-old male resident of Gaza City, to death on charges of treason and accessory to murder. The sentence was issued in accordance with the Palestinian Revolutionary Penal Code of 1979.

### ***Tunnel-Related Deaths***

**ICHR** continues to document cases of tunnel-related deaths resulting from accidents that take place in the tunnels on the Egyptian-Palestinian borders. These often lead to death when people fall into tunnels accidentally or die of suffocation and/or injuries that they sustain when tunnels collapse, burn down or witness electrical wiring accidents. In the reporting period, two tunnel-related deaths were reported.

## **2. Torture during Detention: Cruel, Inhuman and Degrading Treatment**

**ICHR** expresses its deepest concerns about the persistence of practices by security agencies that constitute infringements on the rights and safety of detainees in both the West Bank and the Gaza Strip. In **ICHR's** opinion, these practices should be prohibited, criminalized and punishable by law.

In October, **ICHR** continued to receive complaints on a regular basis from citizens alleging that they had been subjected to ill-treatment and torture inflicted by the security agencies in the West Bank and the Gaza Strip.

In the West Bank, **ICHR** received (12) complaints of torture in the month of October against the following security agencies: the General Intelligence (6 complaints), the Preventive Security (1 complaint), and the civil police (5 complaints).

For the same reporting period (18) 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).

### **3. Violations of the Right to Proper Legal Process and Just Procedures-** which also covers arbitrary detention and arrest on political grounds.

**ICHR** is also deeply concerned by the continuation of incidents of arbitrary detentions and political arrests that do not comply with 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 Penal Procedural Code. Practices of arbitrary detention continued at different paces in both the West Bank and the Gaza Strip, as **ICHR** received numerous complaints from citizens who claimed they were arbitrarily arrested and confined to detention centers without legal justification.

**In this regard ICHR** received (17) complaints against the security agencies of the Deposed Government in the Gaza Strip during the month of October in which complainants claimed the invalidity of the procedures followed in their detention.

The peculiarity of arbitrary detention in the Gaza Strip stems from the fact that such measures are often carried out by the Internal Security agency in places that have never been designated as "prisons" and without granting permission for visits by detainees' families or **ICHR** representatives. Until the time of writing this report, i.e. for the tenth executive month since the Israeli aggression on the Gaza Strip, the Internal Security continues to arrest and detain tens of citizens in undisclosed locations.

As for the West Bank, **ICHR** received (58) complaints against the PNA security agencies filed by citizens who were either arbitrarily detained or arrested based on political grounds.

### **4. Attacks on Media, Academic and Personal Freedoms**

**ICHR** documented the following cases of infringements on media, academic and personal freedoms during the month of October 2009:

#### **A-Media freedoms:**

On 10/10/2009 members of the Khan Younis police physically assaulted **Ayman Mohammed Salameh**, a 35 year-old resident of Khan Younis, who is also a correspondent for Al-Quds Satellite TV channel. According to **ICHR's** information, the assault took place during Salameh's coverage of a domestic event in the city. A number of citizens transported him to Nasser Hospital for treatment. The victim also filed a complaint to the police to investigate the incident.

#### **B- Academic Freedom**

On 07/10/2009, the Minister of Education and Higher Education of the Deposed Government in the Gaza Strip issued a decision for the removal of Dr. Ali Abu Zuhri, from his position as President of the Al-Aqsa University in Gaza, and for the formation of a new administrative council. In response, the Minister of Education and Higher Education in Ramallah ordered the closure of the University for one month, which led to the disruption of academic life in the university. According to **ICHR's** information, a settlement was

reached that enabled the resumption of teaching at the university, whereas the dismissed university President is still in detention to date.

#### **c- Personal freedoms:**

- On 14/10/2009, a number of masked men in military uniforms, who were also armed with automatic rifles, kidnapped the popular singer **Salah Mohammed Al- Qishawi** (39 years old and a resident of Jabalia) along with his son **Nour Eddin** (8 years), and two members of his band namely **Mahmoud Al-Khawaja**, a 33 year-old male resident of Gaza, and **Muhammad Abu Leila**, a 35 year-old resident of Beit Lahiya. The armed men had severely beaten all four, confiscated some money that was in their possession and insulted them verbally with accusations of blasphemy. According to information obtained by **ICHR**, the police arrested a number of suspects and opened an investigation into the incident.

- Similarly On 21/10/2009, a number of masked gunmen kidnapped and physically assaulted the popular singer **Khaled Mahmoud Faraj**, a 28 year-old male resident of Gaza City. According to **ICHR's** information, the police arrested several suspects and opened an investigation into the incident.

### **5. Attacks on Public institutions and Public and Private Property**

In the month of October, **ICHR** documented the following cases of attacks on public institutions and private properties:

- On 25/10/2009, unknown individuals set fire to a cafeteria at Deir al-Balah Service Club which is subcontracted to Amin Jalal Moussa. According to **ICHR** information, all the Cafeteria's contents were burnt down or damaged before the flames were extinguished by the Civil Defense. The police opened an investigation into the incident.
- On 31/10/2009 unidentified individuals threw a homemade bomb in a cafeteria at Al-Itihad Gallery in Gaza City which resulted in the injury of one guard and some damages to the building. According to **ICHR's** information, the police arrived at the scene and opened an investigation into the circumstances of the incident.
- On 8/10/2009, an unidentified man stormed into Hebron Court of First Instance and attacked the lawyer Mohammed Makhamra with a dagger. The victim sustained stab wounds to the lung and neck. The attack was based on an act of revenge and an old vendetta between the families of the two men. The police officers guarding the courthouse arrested the offender and detained him for questioning.
- On 05/10/2009, unidentified individuals broke into the office of Al-Quds Satellite TV channel located in Al-Maha Building in Hebron. The perpetrators broke down the main door and seized one laptop used for broadcasting. According to information obtained by **ICHR**, the police directorate in Hebron has opened an investigation into the incident in order to arrest the perpetrators.
- On 26/10/2009, the Dean of Palestine Technical College in Al-Arroub, Mr. Basem Qumsiyeh, was physically assaulted by unidentified individuals. The attack occurred inside the college while he was walking down the hallway leading to his office. As a result, Mr. Qumsiyeh sustained several wounds, cuts and bruises in different parts of his body. The Palestinian security agencies opened an investigation into the incident to reveal the circumstances of the attack and arrest the perpetrators.

### **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 accordance with the provisions of the law"

During this month, this trend continued especially with regard to the decisions issued by Nablus Court of First Instance, which ordered the release of citizens charged, as stated in the aforementioned court rulings, with membership to armed militias. The security agencies refuse to release them despite the actual payment of the bails set by the court.

The emergence of a new trend was also noticeable during the reporting period, especially by the Preventive Security in the Nablus district. Although the security agencies do implement the release decisions of the Supreme Court, the security agencies re-arrest the same individuals on new charges before they are released.

As for the implementation of the Supreme Court decisions and resolutions, **ICHR** documented several complaints of this nature where the executive power, in both its civil and military arms, failed to enforce those decisions until the writing of this report, including the following cases:

1. On 24/6/2009, the Palestinian High Court issued a decision to revoke a prior decision by the Ministry of Interior that ordered the dissolution of the elected administrative body of Yatta Charitable Society for the Care of Orphans, and the appointment of interim preparatory committee. The court ruled that the Ministry's decision has not mentioned the case of such measure and the fact that it violates the provisions of Article 37 of the Charitable Associations Law of 2001.
2. On 22/4/2009, the Palestinian High Court issued a decision which ordered the police to reinstate **Nour Eddine Saleh Hammad**, into the police forces with all of his ranks. The aforementioned was dismissed from the police service since 01/11/2007. Nevertheless, the courts decisions remain unimplemented until the time of writing this report.
3. On 26/11/2008, the Court of Justice ruled in favor of **Majdi Abdel Fattah Hassan** and ordered the police forces to revoke the prior termination notice and reinstate him to his post. To date, the police have not implemented the court's decision.
4. On 8/7/2009, the Palestinian Supreme Court of Justice revoked a prior decision by the Ministry of Interior that ordered the dissolution of the elected administrative body of Beit Ummar Society for the Care of Orphans, and the appointment of interim preparatory committee. The court ruled that the Ministry's decision has not mentioned the case of such measures and the fact that it violates the provisions of the Charitable Associations Law of 2001.
5. On 27/9/2009, the Palestinian Supreme Court of Justice revoked a prior decision by the Ministry of Local Government, for the dissolution of the elected Municipal Council in Beit Ummar and the appointment of a caretaker committee. The Court decision stated that the Minister's decisions have violated the provisions of Article (61) of the Local Elections Law No (10) of 2005 which stipulates that new elections should be organized within a maximum period of one month of the date the council became vacant.
6. On 26/10/2009, the Palestinian Supreme Court of Justice ordered the release of **Na'el Ghalib Misbah Dweik** (25 years old) who has been in the detention of the General Intelligence in Hebron in the custody of the Military Justice Commission since 11/10/2008. The court decision has not been enforced until the writing of this report.
7. On 18/10/2009, the Supreme Court of Justice ordered the release of **Walid Musa Hamid Hussein** who has been detained by the Preventive Security in Ramallah since 11/7/2009 but the court's decision has not been enforced yet.

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

As of November 2008, the Ministry of Interior in Ramallah has enforced a ban on providing the Deposed Government with necessary passport books. This ban continues until today. According to information that **ICHR** obtained from officials of the Ministry of Interior in the Deposed government, the Ministry of Interior in the West Bank does not issue the necessary passports books to the Gaza Strip, a ban that entails depriving thousands of citizens from the right to travel and movement in general which affects most those in urgent need for traveling abroad to seek medical care, university education, students and other expatriates whose passports have expired and require renewal.

On 25/10/2009, elements of the Internal Security stationed in the vicinity of Beit Hanoun Crossing "Erez", prevented Ibrahim Ghnaim Al-kkad from travelling. The aforementioned resident of Khan Yunis is a member of the Palestinian Football Federation and intended to participate in the Asian championship for the youth teams scheduled to be held in Nepal. The Internal Security also seized his personal identity card without explaining the reasons for such measures.

#### **8. Dismissal from Civil Service (dismissed male and female teachers who were appointed in the era of the Hamas Government in 2006):**

The Palestinian Ministry of Education and Higher Education continues to issue decisions for the dismissal or suspension of appointment against a number of school teachers and staff. In October 2009, **ICHR** received **(54)** more complaints against the ministry thus increasing the total number of teachers' dismissal or suspension complaints filed to the **ICHR** over the past months to **(325)**. The complainants 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 of 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.