



Monthly Report on Violations of Human Rights and Public Freedoms in the Palestinian – Controlled Territory

December 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 December 2009.

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

1. Several cases of death occurred for various reasons such as the misuse of arms and deaths which occurred in suspicious circumstances.
2. Torture of detainees persists in the Gaza Strip and West Bank, as indicated by detainees' claims and complaints filed to **ICHR**
3. Detention of individuals prevails in both of the Gaza Strip and the West Bank without regard to the due process and stipulations of the Basic Law and the Code of Criminal Procedures.
4. The Ministry of Interior in Ramallah continues to deny the Deposed Government of the supply of passport books.
5. The non-enforcement of courts' decisions and rulings continue in the West Bank.
6. Death cases due to tunnel accidents continue to take place in the Gaza Strip

Below is a detailed description of the aforementioned violations:

I. Violations of the Right to Life and Physical Safety

ICHR documented (8) cases of death in the Palestinian-controlled Territory during December 2009 including (6) deaths in the Gaza Strip and (2) deaths in the West Bank. As for the cause of death, these cases are distributed as follows: one death case in a detention center in the Gaza Strip, and two cases of death in suspicious circumstances in the West Bank. **ICHR** also documented one death caused by misuse of arms in the Gaza Strip in addition to 4 other death cases as a result of tunnel accidents.

The following provides more details on the death toll during the month of December:

Deaths in Detention

During the reporting period, **ICHR** documented one death case in a Detention center affiliated to the Khan Younis Police Department as detailed below:

On 21/12/2009, Farid Ahmad Abu Shahmeh, a 32 year old male resident of Khan Younis, died in the Khan Younis detention center. According to **ICHR's** information, the deceased was arrested on 24/11/2009 on the grounds of a criminal conviction and had fallen to the ground while he was preparing himself for the Friday Prayer along with other inmates. He then was transferred to Naser Hospital where doctors announced his death as a result of a severe deterioration in his blood circulation.

Death due to Security Chaos and Misuse of Arms

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

On 23/12/2009, **Rasmi Mahmoud Wadi**, a 51 year old male resident of Khan Younis died from wounds sustained by a shot to the head while he was tampering with weapons. According to information obtained by **ICHR**, the deceased accidentally shot himself with one of his son's guns who works with the police service. The police opened an investigation into the accident.

Death in Suspicious Circumstances

During this reporting period, two death cases in suspicious circumstances were registered in the West Bank as follows:

- On 23/12/2009, the body of **Isa Mahmoud Hamed**, a resident of Silwad in the Ramallah and Bireh District, was found dumped nearby the Jifna junction. According to **ICHR's** information, the offender was arrested and referred to the Public Prosecution to undertake the necessary legal action against him.
- On 24/12/2009, Bassam Butrus, from the Ein Arik town in the Ramallah and Bireh District was found burned in his car nearby Rafaat village. According to **ICHR's** information, there is an ongoing investigation into the accident and no suspect has been arrested yet.

Tunnel-Related Deaths

ICHR documented **4** cases of tunnel-related deaths resulting from suffocations that took place in the tunnels at the Egyptian-Palestinian borders.

Death Sentences

During the reporting period, **ICHR** documented the issuance of a death sentence in the West Bank, as follows:

On 9/12/2009, the military court in Ramallah sentenced (A.D.), a 38 year old employee of the National Security agency, to death on charges of espionage and cooperation with the enemy. The sentence was issued in accordance with Article 131 paragraph (A) of the Revolutionary Penal Code of 1979.

Injury Due to Misuse of Arms and the Explosion of Suspicious Objects

In December 2009, **ICHR** documented the following injuries as a result of misuse of arms:

- On 21/12/2009, an explosion was caused by a bomb that was placed on the entrance of al-Albeit Association for Heritage & Religious Sciences in the Gaza Strip. **ICHR** received information that one of the staff members was wounded and the front entrance of the building was destroyed. The police arrived to the scene and opened an investigation into the incident.

Torture during Detention: Cruel, Inhuman and Degrading Treatment

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

In December, **ICHR** continued to receive complaints on a regular basis from citizens alleging that they had been subjected to maltreatment and torture inflicted by the security agencies in both the West Bank and the *De facto* Authority in the Gaza Strip.

In the West Bank; **ICHR** received **10** complaints by citizens claiming to have been tortured in the month of December. These complaints were against the following agencies:

- Five complaints against the police
- Five complaints against the Preventive Security

In the Gaza Strip, **9** similar complaints were lodged to **ICHR** against the two security agencies run by the Ministry of Interior of the Deposed Government (the Internal Security and the police).

2. Violations to the Right to Proper Legal Process and Just 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), which is considered a stark violation to the Palestinian Basic Law and the Penal Procedural Code 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 as **ICHR** received several complaints of citizens who claimed they were arrested arbitrarily and were confined to detention centers.

What is worthy of noting during the month of December is that many of the persons who were detained by the Preventive Security agency were referred to the Civil Prosecution and the regular judiciary with criminal convictions in accordance with the decree law No. 4 of the year 2007 issued by the PNA presidency. It states: "To ban the Executive Force and outlawed Militias of Hamas Movement", and according to the Public Prosecution, most of those detained have been charged with intervention in supporting the Executive Force and Militias of Hamas Movement which violates Article 3 of the aforementioned decree law.

In this regard **ICHR received (198)** complaints in the West Bank during the month of December, including **(140)** against security agencies, **66** of which focused on claims of the invalidity of the procedures following the detention as the arrest was either arbitrary or on political grounds.

As for the Gaza Strip, **ICHR** received **(54)** complaints during the month of December, including **(41)** against the security agencies of the Deposed Government, **19** of which claim the invalidity of the procedures followed their detention and arrest on political grounds.

3. Attacks on the Right to Association and Peaceful Assembly

ICHR documented the following incidents of violations during December:

On 31/12/2008, the Internal Security agency summoned tens of members of the Fatah movement from all districts of the Gaza Strip to come to their premises in those districts. According to **ICHR's** information and statements of a number of the aforementioned members to **ICHR**, during these interviews they were undergoing investigation regarding their preparations of the anniversary of the National Liberation Organization (Fatah) on 1/1/2010. They said they were humiliated during the investigation which lasted for several hours in the security agencies' premises. They were also brought in on the following days and were asked not to implement any activity to celebrate this event before they were released at a later time during the same day.

Attacks on Associations

During the reporting period, **ICHR** documented the following attacks on the establishment of associations.

On 15/12/2009 members of the Ministry of Interior in Khan Younis arrived to the premises of the Association of University and College graduates (Majd) located in Khan Younis. The office keys were confiscated from the Director and the association was closed down without any reason being given for this action.

On 22/12/2009, the Ministry of Interior formed an interim committee to direct the central association for medical technical professions operating in the Gaza Strip. According to the chairman's statement to **ICHR**, they were in the final stages of the election for the association; but they were surprised by a visit of the committee of relevance from the ministry who was accompanied by armed individuals. The door of the association was broken down and employees were kicked out without giving any notice as stipulated in the provisions of the law.

4. Attacks on Public Institutions and Public and Private Property

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

- On 14/12/2009, unidentified individuals stormed into the Union of Agricultural Work Committees in Bani Suheila, Khan Younis, without signs of forced entry, and took a computer. The police was informed and an investigation was opened into the incident.
- Similarly, the PNGO premises in Gaza city were broken into on 13/12/2009. **ICHR** obtained information that unidentified individuals tampered with the Network's files and stole some money, without there being any sign of forced entry. The police opened an investigation into the incident.
- On 13/12/2009, unidentified persons stormed into the office of CHF International in Gaza city and robbed and destroyed the safe but without destroying the office doors. When the police was informed, it opened an investigation into the incident.
- On 13/12/2009, unidentified persons burned the private vehicle of Tareq Hussein Al Kiswani, a resident of Beit Hanina, Jerusalem, as it was parked in Al Fursan car repair shop in Dura/ Hebron. **ICHR** information shows that the police opened an investigation into the incident and arrested three suspects and pressed charges against them.
- On 12/12/2009, after midnight unidentified persons set fire to the private vehicle of Ismail Mohammad Isa, a native of Al-Khader, in the Bethlehem area. **ICHR** obtained information that the police is investigating the incident until the writing of this report in order to identify the perpetrators.

5. 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) that 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 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 executive power, in both its civil and military arms, failed to enforce those decisions until the writing of this report. The cases are as follows:

1. On 20/12/2009, the Palestinian Supreme Court of Justice ordered the release of Adnan Yousef Omar Shoman, who is detained by the Palestinian General Intelligence in Hebron, in the custody of the Military Justice Commission. However, the decision has not been enforced until the writing of this report.
2. On 15/12/2009, the Palestinian Supreme Court of Justice ordered the release of **Atef Ali Hussein Rbaa**, who has been in the detention of the General Intelligence in Hebron in the custody of the Military Justice Commission since 18/11/2009 due to the violation of the provisions of the Procedural Penal Code No 3 for the year 2001. This decision has not been enforced yet.
3. On 20/12/2009, the Palestinian Supreme Court of Justice ordered the release of **Wa'el Mohammed Saeed al-Bitar** who has been in the detention of the General Intelligence in Hebron in the custody of the Military Justice Commission since 15/9/2008 due to the violation of the provisions of the Procedural Penal Code No 3 for the year 2001. This decision has not been enforced until the writing of this report.
4. On 21/12/2009, the Palestinian Supreme Court of Justice ordered the release of **Isa Ismail Isa Saleh**, who has been in the detention of the General Intelligence in Hebron in the custody of the Military Justice Commission since 6/11/2009 due to the violation of the provisions of the Procedural Penal Code No 3 for the year 2001. This decision has not been enforced yet.
5. On 24/6/2009, the Palestinian Supreme Court issued a decision to revoke a prior decision by the Ministry of Interior that ordered the appointment of an interim preparatory committee for the administration of **Yatta Charitable Society for the Care of Orphans** instead of the former elected administration. The court ruled that the Ministry's decision has not mentioned the case of such a measure and the fact that it violates the provisions of Article 37 of the Charitable Associations Law of 2001. The decision has not been enforced until the writing of this report.
6. 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 in 01/11/2007. Nevertheless, the court decision remain unimplemented until the time of writing 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.
8. On 14/10/2009, the Supreme Court of Justice ordered the release of **Joudeh Mohammad Daghra** who has been detained by the Military Intelligence Agency in Ramallah. The court's decision has not been enforced until the writing of this report.
9. On 22/11/2009, the Supreme Court of Justice ordered the release of **Bahjat Fathi Yousef Yamin** who has been detained by the Military Intelligence Agency in Qalqilya since 8/4/2009. The court's decision has not been enforced until the writing of this report.
10. 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 an interim preparatory committee. The court ruled that the Ministry's decision has not mentioned the case of such measure and the fact it violates the provisions of the Charitable Associations Law of 2001.
11. On 26/10/2009, the Palestinian Supreme Court of Justice ordered the release of **Na'el Ghalib Misbah Dweik**, who has been in the detention of the General Intelligence in Hebron in the custody of the Military Justice Commission since 11/10/2008 due to the violation of the provisions of the Procedural Penal Code No 3 for the year 2003 Article (34) which stipulates that suspects are to stand before the General Prosecution within 24 hours of arrest. This decision has not been enforced until the writing of this report.

12. On 6/7/2009, the Palestinian Supreme Court of Justice ordered the return of **Mohammad AbdulQader Ibrahim Karaja** to his place of work in the Police and to cancel his expulsion and all entailing issues of this decision which is claimed to violate the provisions of Article 19 paragraph 4 of the Security Agencies Service Law of 2005. However the police have not implemented the decision until the writing of this report.

6. Violations to 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 from 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.

- On 7/12/2009, elements of the police stationed in the vicinity of Beit Hanoun Crossing "Erez", prevented patients from traveling to the West Bank and into Israel to get treatment at the hospitals there. Patients were asked to obtain a clearance to travel as a prior procedure from the Internal Security's related office at the ministries' complex (Abu Khadra) in Gaza.
- On 21/12/2009, the Internal Security prevented Atef Abu Seif, a lecturing professor at Al-Azhar University, who is also a Fatah member, from traveling through the Beit Hanoun border crossing (Erez) to get a US visa after he received a fellowship to teach in one of the universities there.

7. 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 December 2009, (8) more complaints were filed to **ICHR**, thus increasing the total number of teachers' dismissal or suspension complaints filed to the **ICHR** over the past months to (353). 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.