



# الهيئة المستقلة لحقوق الإنسان

ديوان المظالم

The Independent Commission for Human Rights



## Monthly Report on Violations of Human Rights and Freedoms

in the PNA-Controlled Territory

November 2008

This report highlights major human rights violations as monitored and documented by the **Independent Commission for Human Rights (ICHR)** throughout the controlled territory of the Palestinian National Authority (PNA) over the month of November 2008.

Based on monitoring and documentation of infringements on human rights and freedoms over November 2008, **ICHR** concludes the following:

1. In disregard of relevant provisions of the Palestinian Basic Law and Law of Penal Procedures, incidents of arbitrary detention steadily rose throughout PNA-controlled territory. Security forces have continued to detain citizens in both the West Bank and Gaza Strip.
2. A sentence to death was enabled against an accused criminal in the West Bank.
3. Persons detained by the Ministry of Interior at the Gaza deposed government as well as by PNA security forces in the West Bank have continued to be subjected to abuse and torture.
4. In comparison to previous months, the death toll dropped during the month of November 2008.

Below is a detailed description of violations of human rights and freedoms reported in November 2008:

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

In the month of November 2008, **ICHR** reported that **2** citizens lost their lives.

As a result of arms misuse, **Kamel Mohammed Nofal**, a 38-year-old resident of the Al Maghazi refugee camp in the Gaza Strip, died on 30 November. Nofal sustained a bullet wound in the chest while a Police officer was attempting to arrest him at his poultry shop in the Al Maghazi market. According to information report to **ICHR**, the Police launched an investigation on the death incident.

On 5 November, **Hasan 'Arayshi**, 25 years old and resident of the Balata refugee camp in the governorate of Nablus, set fire to himself while he was present at the Palestinian Military Intelligence headquarters. 'Arayshi was a member of the Al Quds Battalions, the armed wing of the Islamic Jihad Movement. He was waiting for a pardon to be issued by the Israeli authorities. Having closed the cell door, 'Arayshi burned his mattress and blankets. As a result, he sustained minor burns as well as a lung disorder due to the smoke he inhaled.

Incidents of deaths in family fights, acts of revenge and manslaughter, as well as fatalities generated under obscure circumstances were not reported over the month of November 2008. Unlike previous months, casualties caused by collapsed tunnels in the Gaza Strip were also not documented.

In regard to physical assaults and excessive use of force, Palestinian Preventive Security officers beat Nitham 'Asfour, 44 years old, in the city of Nablus. In the evening of November 15<sup>th</sup>, 'Asfour's family gathered to meet with Sheikh 'Adnan 'Asfour, Nitham's brother and a leading Hamas activist, who was released after having served 3 years in Israeli prisons. Several hours after Sheikh 'Asfour arrived home, armed Preventive Security officers raided the house to arrest him. Nitham 'Asfour intervened; he shouted at the officers and prevented them from detaining his brother. An armed officer hit Nitham on the chest with his rifle, after which he immediately fell unconscious. Armed officers arrested Sheikh 'Adnan, took him to the Juneid Prison, and subjected him to a brief interrogation about certain information. He was also beaten and placed in a cell. As he was a well-known leader of Hamas, prominent figures in the city of Nablus requested that Sheikh 'Adnan be released. Several hours later, he was released and returned home the same night. Meanwhile, Nitham was transported to hospital and admitted to the intensive care unit. Having stayed there for three hours and received due medical treatment, Nitham came back home.

## **2. Death penalty:**

On 12 November 2008, the Standing Military Court of the Northern Governorates in the city of Bethlehem enabled a death sentence against Ayman Ahmed 'Awwad Daghaghmeh, 28 years old. In accordance with Article (131) under the Revolutionary Penal Law of the Palestine Liberation Organisation of 1979, Daghaghmeh was convicted of treason. The indicted citizen was a security officer. On 24 September 2008, he was detained by the Military Police in the city of Bethlehem. During November 11<sup>th</sup> and 12<sup>th</sup> 2008, the Military Court panel convened in presence of a defence attorney, who was retained by the convict's family.

## **3. Incidents of forcible disappearance and abduction:**

1. Abdul Samad Mohammed Shahin, a 14-year-old child from the village of Artas in the governorate of Bethlehem, has been missing since November 20<sup>th</sup> 2008.
2. **ICHR** learnt from the Palestinian Ministry of Social Affairs that Shahin was staying with a family in the city of Jerusalem and that he was in touch with his own family. The Jerusalem office of the Ministry of Social Affairs was about to return the child to his family. On 23 November, however, the Ministry of Social Affairs reported to the **ICHR** that Shahin ran away from the Jerusalemite family.

Until the time of reporting, no one knows the child's whereabouts. It should be noted that Shahin was enlisted at the Childhood Protection Centre in the town of Beituniya in the governorate of Ramallah.

3. On 8 November, armed individuals abducted Bakr Abu Hijleh, a 48-year-old merchant from the city of Nablus, on grounds of a case of expired medicine on which he had been charged and detained. Three days later, Abu Hijleh was released. Five persons were detained and investigation is still underway.

#### **4. Casualties caused by arms misuse:**

According to **ICHR**'s monitoring and documentation, several casualties resulting from arms misuse were reported over the month of November 2008:

1. On November 7<sup>th</sup>, five civilian bystanders sustained injuries of scattered shrapnel of an explosive device, which was detonated in the vicinity of the Deir al Balah Police station. Injured civilians were transported to the Al Aqsa Martyrs Hospital in the city of Deir al Balah. According to information reported to the **ICHR**, the Internal Security agency started an investigation on the incident.
2. On November 9<sup>th</sup>, a number of students of Al Azhar University sustained light wounds after a sound grenade was thrown onto the campus. While organising a small commemoration on the anniversary of the late President Yasser 'Arafat's death, clashes took place between students affiliated with the Hamas' Islamic Bloc and Fatah's Youth Movement. According to **ICHR**'s information, the University Administration suspended classes in the aftermath of the incident.
3. On November 24<sup>th</sup>, a number of students affiliated with the Islamic Bloc opened fire using pistols towards a student from the Youth Movement and chased him on the campus of the Al Azhar University. Beforehand, quarrels had taken place between students of the Islamic Bloc and Youth Movement. According to information that **ICHR** received, students who had opened fire were enlisted at the General Investigations Department in Gaza. Having arrived, the Police arrested ten students affiliated with the Youth Movement and released them at a later time.
4. On November 30<sup>th</sup>, a number of citizens sustained injuries after an explosion took place in a house in the town of 'Abasan in the governorate of Khan Yunis. Based on **ICHR**'s documentation, the explosion resulted from tampering with a mortar inside the house. All wounded citizens were transported to the Nasser Hospital in the city of Khan Yunis for medical treatment.
5. In the West bank, nine casualties from the Al Ja'bari family in the city of Hebron were reported. On November 9<sup>th</sup>, Police officers ordered a driver to stop in order to check the licence of his car. The driver, however, pointed a pistol at Police officers and fled. Police patrols pursued the driver. Meanwhile, an armed confrontation took place between the driver's relatives and Police officers, during which nine persons sustained bullet wounds and trauma.

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

In the Gaza Strip, **ICHR** received 18 complaints on the breach of the right to physical safety. Affected citizens alleged that they were subjected to torture as well as physical and mental abuse while they were being detained or interrogated. All these complaints were filed against the Ministry of Interior of the Gaza deposed government.

In the West Bank, **ICHR** also received 36 grievances on the violation of the right to physical safety from citizens, claiming that they were subjected to torture. These complaints were lodged against various security agencies, including the Preventive Security, General Intelligence, Police, and Military Intelligence.

## **6. Violation of the freedom of opinion and expression as well as the right to peaceful assembly:**

- A. On November 13<sup>th</sup>, Palestinian General Intelligence officers arrested Younis Ibrahim al Hasasneh, journalist and coordinator at the *Iqra'* [Religious] Satellite Television Channel, in the city of Hebron. Reasons why he was detained are still unknown, however. No charge was ascribed to him except that he works at the above mentioned Satellite Channel. Having been detained for one week, Al Hasasneh was released on November 19<sup>th</sup>.
- B. In the West Bank, Palestinian security agencies have also continued to detain a number of journalists, including Farid Hammad by the Preventive Security in Ramallah; Khaldoun al Mathloun at the General Intelligence in Ramallah; Yazid Khadher at the General Intelligence in Tulkarem; Bassam as Sa'eh by the General Intelligence in Nablus; Iyad Srour by the General Intelligence in Hebron; Tareq Shihab by the General Intelligence in Tulkarem; and Mohammed Ishteivi by the Preventive Security in Tulkarem. On November 27<sup>th</sup> 2008, Palestinian General Intelligence officers also arrested Nael Mahmoud Nakhleh, reporter of the *Al Quds* daily newspaper, and released him at a later time. Furthermore, distribution of the *Minbar al Islah*, *Al Risalah* and *Falastin* newspapers is still prohibited in the West Bank. In addition, PNA security agencies have continued to prevent staff of the *Al Aqsa* Satellite Television Channel from covering news in the West Bank. On the other end, security forces of the deposed government have prevented staff of the Palestine Satellite Television Channel from operating in the Gaza Strip.
- C. On November 1<sup>st</sup>, PNA security agencies prevented the *At Tahreer* (Liberation) Islamic Party from holding a symposium on “World Economy between Capitalism and Islam” at the Arab Women's Union hall in the city of Bethlehem. Having taken photographs of all participants, security officers demanded that the audience leave the hall. According to a member of the *At Tahreer* Islamic Party, security agencies intended to prohibit any activities carried out by the Party.
- D. On November 23<sup>rd</sup>, Palestinian security forces also prevented the *At Tahreer* Islamic Party from organising a special seminar at a cultural centre in the town of Dura in the governorate of Hebron. Security officers claimed that the Party had not obtained a licence from competent authorities as to hold the said activity.

Since July 28<sup>th</sup> 2008, the Ministry of Interior of the Gaza deposed government has continued to block distribution of the *Al Ayyam* and *Al Hayat al Jadida* local newspapers throughout the Gaza Strip. According

to the Ministry, both newspapers did not cover the Gaza beach blast reported to have occurred on 25 July 2008 in an objective, unbiased manner.

1. Since October 12<sup>th</sup> 2008, the Gaza Internal Security agency has continued to detain journalists Akram Khaled al Loh, Yousef Ali Fayyadh, Hani Ahmed Isma'il, and Mohammed 'Adel Shahin, all residents of the governorate of Central Gaza, at the detention centre in the As Saraya headquarters in Gaza city. According to information reported to the **ICHR**, Internal Security officers had searched houses belonging to these journalists and seized their personal possessions on grounds of their profession as journalists.
2. On November 1<sup>st</sup>, Police forces prevented Fatah members from organising a festival on the anniversary of the death of Hasan al Madhoun, a Fatah leading activist. According **ICHR's** information, moderators had informed the Police of the time and place of the festival as well as obtained necessary approval. Prior to the allotted time, however, Police forces were dispatched in the surrounding area and denied access to participants.
3. On November 8<sup>th</sup>, police forces prevented the National Activity Commission from holding a sit-in demonstration in support of the Palestinian national dialogue in the city of Khan Yunis. Two hours before the scheduled time, a large number of Police officers were dispatched. Under the pretext of directives preventing the sit-in vigil, Police officers prevented citizens from accessing the area. To avoid clashes with the Police, participants dispersed.
4. Also on 8 November, security agencies of the Gaza Strip deposed government's Ministry of Interior summoned dozens of Fatah members and supporters around Gaza governorates. Of these, some were detained for hours and others for a number of days. Based on information reported to the **ICHR**, the Ministry of Interior intended to prevent public assemblies on the anniversary of the death of the late President Yasser Arafat on November 11<sup>th</sup>. Many members and supporters of Fatah were forced to sign pledges stating that they would not take part in any activities organised by the Fatah Movement as well as comply with decisions made by the Gaza government.

In this context, Police forces set up checkpoints along roads throughout the governorates of Gaza and Central Gaza. Police officers searched civilian vehicles for any propaganda materials or banners belonging to Fatah. Notably at schools and universities, Police forces prevented many students from wearing the Palestinian “Kiffiyeha” and confiscated them.

Moreover, Police forces raided a number of houses, on the balconies of which banners were posted or candles lit, and forced residents to remove them.

5. Over November 4<sup>th</sup> and 5<sup>th</sup>, Internal Security officers notified owners of a number of print shops not to print any materials related to the Fatah Movement without permission from the Gaza Ministry of Interior, or else they will be penalized.
6. On November 6<sup>th</sup>, Internal Security forces raided a house belonging to Ashraf Jum'ah, a member of the Palestinian Legislative Council, in the city of Rafah. Internal Security officers arrested over 30 members of the Fatah Movement. These were invited to a lunch to celebrate the release of Fatah activists, who had been detained by the Internal Security agency. Detained activists were transported to the Internal Security headquarters in the city of Rafah and interrogated about their activities in the Fatah Movement. Having been forced to sign pledges so as to comply with law and Gaza

government's decisions, they were released later on the same day. However, two activists are still detained at the Internal Security's detention centre in the Gaza city.

7. On November 11<sup>th</sup>, Police forces used force to disperse a candle vigil, including women affiliated with the Fatah Movement, in the Unknown Soldier yard in the Gaza city. The vigil was held in commemoration of the anniversary of the death of late President Yasser Arafat. At the same time, Police officers dispersed a gathering of children, who carried candles for the same occasion, in the town of Beit Hanun in the governorate of Northern Gaza.
8. On November 28<sup>th</sup>, officers onboard a Police patrol arrested Ala' Abdul 'Aziz Salameh, a 25-year-old journalist, in the city of Rafah, while he was returning from the Rafah Border Crossing after covering news on preventing pilgrims from leaving the Gaza Strip for Saudi Arabia. Salameh was blindfolded and transported to an unknown area. Additionally, he was interrogated about his work as a reporter and severely beaten. As he told them he was fasting, Police officers forced Salameh to break his fasting with a piece of a cheese stuffed with soil. About two hours later, Salameh was released. Police officers dropped him in the same area where they had arrested him.
9. On November 5<sup>th</sup>, security forces of the Ministry of Interior at the Gaza deposed government arrested Sakhr Midhat Abu 'Oun, Director of the French News Agency offices in Gaza.

## **7. Violations of the right to free movement and travel:**

1. On November 17<sup>th</sup>, the Internal Security agency prevented Yousef Atallah Abu Safiyeh, a 59-year-old citizen, from travelling to the State of Qatar through Beit Hanun Crossing Point to attend a scientific conference on the environment. According to the **ICHR's** information, Internal Security officers positioned at a checkpoint near the Crossing seized Abu Safiyeh's passport as well as all his personal documents and demanded that he report to the Internal Security headquarters (Al Mashtal) in Gaza city. It should be noted that Abu Safiyeh is the Head of the PNA Environment Quality Authority.
2. On November 19<sup>th</sup>, the Internal Security forces prevented Walid Hasan al 'Awadh, a 46-year-old resident of the Gaza city, from travelling to the city of Ramallah through Beit Hanun Crossing. According to information reported to **ICHR**, Internal Security officers positioned at a checkpoint near the Crossing seized all personal documents belonging to Al 'Awadh and demanded that he report to the Internal Security headquarters (Al Mashtal) in Gaza city. It should be mentioned that Al 'Awadh is a member of the Political Office of the Palestinian People's Party.
3. On November 21<sup>st</sup>, Internal Security officers positioned at a checkpoint near Beit Hanun Crossing confiscated the passport as well as all personal documents belonging to Ibrahim Abu al Naja, a 65-year-old resident of the Gaza city and member of the Higher Command of the Fatah Movement in the Gaza Strip. Abu al Naja was back from Cairo, where he had taken part in sessions of the Palestinian National Dialogue. The Internal Security, however, did not state any reasons for confiscating Abu al Naja' papers.

## **8. Violation of the freedom of worship and religious faith:**

On 29 November 2008, Police forces of the Gaza deposed government prevented a number of citizens, who had applied for pilgrimage to the holy city of Mecca in Saudi Arabia, from accessing Rafah Border Crossing. Various media agencies reported that Rafah Crossing would be open to pilgrims. Earlier, however, the Gaza deposed government had announced that it would deny citizens' access unless all registered pilgrims in both the Gaza Strip and the West Bank are allowed to travel to Saudi Arabia. Consequently, Police forces set up checkpoints along the main road leading to Rafah Crossing and denied access to pilgrims. Additionally, Police forces demanded that those who managed to access the Crossing leave the area. As a result, clashes took place between pilgrims and Police officers. Police forces used clubs and tear gas to disperse the pilgrims, leaving many citizens unconscious. A number of injured citizens were transported to the Abu Yousef al Najjar Hospital in the city of Rafah for medical treatment. Until the time of reporting, no pilgrims could leave the Gaza Strip for Saudi Arabia.

## **9. Attacks on the academic freedom:**

On 25 November, female students of the Hamas-affiliated Islamic Bloc organised a celebration at the Al Aqsa University west of the city of Khan Yunis to honour outstanding female students at the University. A large number of female students as well as members of their families attended the celebration. Meanwhile, a quarrel took place between female students of the Fatah-affiliated Youth Movement and others from the Islamic Bloc. Stones were thrown at the audience and clashes erupted between students and participants in the celebration. Having intervened, Police forces used clubs to disperse students, leaving dozens of students, university and participants with injuries and contusions. In addition, four Police officers were injured.

## **10. Attacks on charitable associations:**

1. Since July 2008, dozens of charitable associations and civil society organisations have remained closed in the Gaza Strip following a decision made by the Minister of Interior of the deposed government. Although the Ministry of Interior announced that several associations and organisations were reopened, **ICHR** documented that the Ministry did not redeem any seized assets to respective directors. Therefore, these charitable associations and civil society organisations continue to be closed for the fifth month consecutively.
2. On November 20<sup>th</sup>, armed individuals raided offices of the Central Association of Technical Medical Professions in Gaza city. Without producing any official documents, armed individuals told staff that they were members of the Internal Security agency. These individuals searched offices and seized computers as well as paperwork.

## **11. Attacks on public and private institutions and property:**

Throughout the month of November 2008, **ICHR** documented the following attacks on public and private institutions and property:

1. In the night of November 2<sup>nd</sup>, unidentified individuals set fire to a car belonging to Advocate Sami Shihadeh, while it was parked in front of his house in the city of Beit Jala. Reasons behind the attack were unknown. Security agencies opened an investigation on the incident in order to detect offenders.
2. At 1:00 am on November 1<sup>st</sup>, an explosive device, planted by unidentified individuals, was detonated at the entrance to a store of house appliances belonging to Muneer Abdul Jawwad Saleh in the Gaza city, causing damage to the store and merchandise. Offenders are still unknown. According to information reported to the **ICHR**, the Police launched an investigation on the attack.
3. At 3:50 am on November 11<sup>th</sup>, an explosive device installed underneath a car belonging to Mohammed Kamel al Srisek, a resident of the city of Rafah, was detonated while it was parked in front of his house. The explosion resulted in severe damage to the car as well as to doors and windows of neighbouring houses. According to **ICHR's** information, Police forces arrived in the area and launched an investigation on the incident.
4. At about 7:30 am on 13 November, two students at the Abdul Hameed as Sayeh Boys School in Rafidia in the city of Nablus set fire to the school. Of these, one student has been truant for a year. Investigations carried out the Nablus Ministry of Education District Office did not show any motives or disputes between the students and school administration so as to drive them to burn it down. Currently, both students are held in prison for further investigation.

## **12. Impingements on the right to fair legal proceedings:**

Relevant reported encroachments entail arbitrary detentions and arrests on political grounds.

**ICHR** expresses deep concern at continuous incidents of abusive detentions and political arrests that do not comply with respective legal procedures and deny citizens' personal freedom without any legal justifications. In a grave breach of the Palestinian Basic Law and Law of Penal Procedure, a most fundamental right of detained citizens so as to be presented to a natural judge (i.e. regular judiciary) has been derogated. Security agencies also continue to detain affected citizens under arrest warrants issued by the Military Justice Authority.

Over the month of November 2008, **ICHR** received **67** complaints from citizens in the West Bank. All complainants stated that they were held under arrest warrants issued forth by the Military Justice Authority and that they were not brought before competent judicial authorities. As such, these persons were detained on arbitrary grounds, thereby flagrantly violating provisions of the Palestinian Law of Penal Procedure and Basic Law. An intrinsic right to litigation and presentation before the Public Prosecution and civil judiciary has also been infringed. Without any legal basis, detained citizens are thus deprived of their personal freedom. Based on orders made by the Military Justice Authority, more than 300 citizens are now being detained by PNA security agencies in the West Bank.

In the Gaza Strip, **ICHR** received **85** grievances against the deposed government's Ministry of Interior. In these, citizens claimed that security agencies (particularly the Internal Security and the Police) detained them without applying fair, legally prescribed procedures. In particular, arrest warrants issued by competent authorities were not presented to detainees. Moreover, security agencies searched civilian houses without having obtained relevant search warrants. Especially in the *As Saraya* detention and interrogation centre of the Internal Security agency, family visits to detainees were not easily accessible. In addition, detained persons were not brought before judicial authorities within the legally prescribed period.



### **13. Right to strike:**

While safeguarding smooth operation of public institutions, **ICHR** confirms that the right to strike is safeguarded by law. In this context, the following activities have been reported:

- In protest against measures taken by the Gaza deposed government's Ministry of Education regarding the transference of teachers, the work strike declared by the Palestinian Teachers General Union on August 24<sup>th</sup> 2008 is still in place. In compliance with the decision of the Teachers' Union, a large number of teachers refrained from attending schools throughout Gaza governorates. In response, the Ministry of Education announced that it would punish those who go on strike. The Ministry also appointed substitute teachers to take the place of those who are on strike. Still, the education process in the Gaza Strip suffers from a short number of teachers. According to information reported to **ICHR**, an agreement has not yet been reached to end the strike. The Secretary General of the Teachers' Union in Ramallah also announced that the strike would not be terminated unless an agreement on teachers' rights is reached and penalties imposed on them by the Gaza Ministry of Education suspended.
- Also, the strike declared on August 27<sup>th</sup> 2008 by the Union of Medical and Health Care Professions as well as by the Public Employees Union remains operative. According to information received by the **ICHR**, security agencies of the deposed government prevented physicians who were on strike and affiliated with the Fatah Movement from working at their own clinics. Furthermore, the Police Medical Investigations Department summoned functionaries at the Ministry of Health, including nurses, technicians, workers and clerks, and forced them sign pledges as to resume their work.

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

Notwithstanding decisions entered by the Palestinian High Court of Justice, security agencies have persisted to postpone or delay the release of detained citizens. According to the High Court of Justice, detention measures were illegal since affected persons were civilians, who had been brought before the Military Justice – a non-cognisable judicial authority. The table below shows court decisions that have not yet been executed. Accordingly, **ICHR** sent a letter to the PNA President in this regard.

#### **Unimplemented decisions of the High Court of Justice**

<b>Plaintiff</b>	<b>Defendant</b>	<b>Decision Date</b>	<b>Decision No.</b>
Abdul Baset Mohammed Taha Mu'tan	<ul style="list-style-type: none"><li>• Head of the Military Justice Authority</li><li>• Attorney General</li><li>• Preventive Security</li></ul>	28/8/2008	227/2008
Sami Ramadhan Maghari	<ul style="list-style-type: none"><li>• General Intelligence</li><li>• Attorney General</li></ul>	10/9/2008	231/2008
Hatem Ahmed Mahmoud al 'Awawdeh	<ul style="list-style-type: none"><li>• General Intelligence</li></ul>	8/10/2008	277/2008
Zeid Abdul Haleem Mohammed Hamad	<ul style="list-style-type: none"><li>• Preventive Security</li></ul>	8/10/2008	248/2008
Amjad Mohammed Amin al	<ul style="list-style-type: none"><li>• General Intelligence</li></ul>	2/11/2008	315/2008

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Bilal Sa'di Abdul 'Afu Qawasmi	<ul style="list-style-type: none"> <li>• General Intelligence</li> </ul>	17/11/2008	329/2008
Jalal Dawoud Younis Younis	<ul style="list-style-type: none"> <li>• Head of the Military Justice Authority</li> <li>• Attorney General</li> </ul>	18/11/2008	250/2008
Qassem Mohammed Abdul Qader Mara'beh	<ul style="list-style-type: none"> <li>• Preventive Security</li> <li>• Head of the Military Justice Authority</li> <li>• Attorney General</li> </ul>	24/11/2008	334/2008
Mohammed Ali Hussein Hureinat	<ul style="list-style-type: none"> <li>• Preventive Security</li> </ul>	24/11/2008	348/2008