



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 PNA-Controlled Territory December 2008

This 12th Monthly Summary Report of December 2008 on violations of Palestinian human rights and public freedoms is released in the context of Israeli aggressions on the Palestinian civilian population in the Gaza Strip. Since 27 December 2008, the Israeli occupying forces have been launching a brutal attack on the Gaza Strip, targeting Palestinian civilians and civilian property as well as destroying civilian infrastructure and public properties. Until the time of reporting, the Israeli offensive is still ongoing, having killed more than 500 civilians, 30 percent of whom are women and children. Over 3,000 civilians have been injured, including many in critical condition. The continuous Israeli attacks are leading to increased casualties.

As usual, the Israeli government is derogating from International Law and the Fourth Geneva Convention relative to the Protection of Civilians in Time of War. The Israeli occupying forces have deliberately shelled and destroyed mosques, hospitals, prisons, civilian houses, and other civilian infrastructure, resulting in an extremely high number of fatalities amongst the civilian population.

In its attack on the Gaza Strip, the Israeli occupying forces are using excessive force against civilians: combat aircrafts, navy boats and artillery have been targeting and ravaging both security and civilian headquarters and offices belonging to the Palestinian National Authority. As these are mostly located within residential areas, the Israeli forces have perpetrated innumerable war crimes and crimes against humanity.

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

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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 December 2008.

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

1. In disregard of relevant provisions of the Palestinian *Basic Law* and *Law of Penal Procedure*, incidents of arbitrary detention have steadily risen throughout PNA-controlled territory. Security forces have continued to detain citizens in both the West Bank and the Gaza Strip.
2. The Military Justice Authority has entered 2 death sentences against criminally convicted persons in the West Bank and Gaza Strip.
3. According to complaints filed to **ICHR**, persons detained by the Ministry of Interior of the Gaza deposed government as well as by PNA security forces in the West Bank have continued being subjected to abuse and torture.
4. In the Gaza Strip, a number of individuals were reported to have died under the rubble of collapsed tunnels connecting the Palestinian and Egyptian territories.

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

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

In the month of December 2008, **ICHR** reported that **15** citizens lost their lives throughout the PNA-controlled territory. Of these, 1 civilian died as a result of insufficient measures of public safety; 6 suffocated in tunnels on the Egyptian border; 2 under unknown circumstances; 3 in family fights and acts of revenge; and 3 as a result of arms misuse. Below is a detailed statement on these fatalities:

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

According to **ICHR's** monitoring and documentation, 3 citizens were reported to have been killed in family disputes during the month of December 2008:

- On 11 December, medics and Police forces of Gaza's deposed government discovered the corpse of **Mahmoud 'Atallah Bakr al Kafarneh**, 57 years old, inside his house located next do the Beit Hanun cemetery in the Northern Gaza governorate.

Medial sources at the Beit Hanun Public Hospital reported that Al Kafarneh had been beaten with a club on his head and on various parts of his body, resulting in his death. According to the Police, a dispute had taken place between the killed citizen and his children. The Police arrested the suspected children for investigation.

- On 28 December, '**Atef Mahmoud Abu Jazar**, 45 years old, and his son **Ramzi 'Atef Abu Jazar**, 23 years old, died after they sustained bullet wounds in various parts of their bodies during a fight with members of the family of Abu 'Athirah in the Rafah governorate. Within a short time, the Police arrested the killer.

Deaths under unknown conditions:

ICHR documented 2 death incidents under unidentified circumstances:

- On 27 December, the dead body of **Wisam Fawzi Abdul Hafeeth Kubbariyyeh**, a 13-year-old child from Dahiyat Shuweika in the city of Tulkarem, was located on agricultural land near the village of Iktaba in the Tulkarem governorate. It should be noted that the child had disappeared on 16 December 2008. The Police and Preventive Security agencies are still investigating the incident.
- On 3 December, a citizen from the Jenin refugee camp invited his sister, who resided in the city of Ramallah, to the city of Jenin, where he opened fire on her and killed her. Thereafter, he surrendered himself to the Police. Currently, the killer is detained at the Jenin Correction Centre.

Fatalities caused by arms misuse:

According to **ICHR**'s monitoring and documentation, 3 deaths resulting from arms misuse were reported during the month of December 2008:

- On 10 December, **Tayseer Dawoud Ahmed Dawoud**, a 19-year-old resident of the city of Qalqiliya, died after a friend of his shot him in the chest. The killer was tampering his father's gun.
- On 28 December, **Saher Saleh as Silawi**, a 23-year-old resident of the Al Barazil neighbourhood in the city of Rafah, died after he sustained a bullet wound in the head during a funeral procession of a Fatah activist, who had been killed during an Israeli air attack on Palestinian Police stations on 27 December 2008.
- On 29 December, **Lieutenant Usamah Dweikat**, a resident of the village of Jaba' in the Jenin governorate, was killed while a colleague officer was opening fire in an attempt to disperse citizens, who gathered near the joint security force.

Suffocations under collapsed tunnels on the Egyptian border:

Over the month of December 2008, **ICHR** documented 6 death incidents under the rubble of collapsed tunnels in the Gaza Strip, as follows:

- On 6 December, ***Nidhal As'ad Ahmed Abu Jame'***, a 20-year-old resident of the city of Khan Yunis, died of an electric shock while he was inside a tunnel on the Egyptian border.
- On 10 December, ***Ghassan Mahmoud Salman Abu Mor***, a 22-year-old resident of Eastern Rafah, died of sustained burns: On 30 November 2008, the explosion of a gas barrel in a tunnel connecting the Palestinian and Egyptian territories in the area of Yubna in the southern Rafah governorate left Abu Mor with serious burns in several parts of his body. Abu Mor died of sustained injuries After he was transferred to the Burns Section at the Al-Shifa' Hospital in Gaza city.
- On 13 December, ***Yasser Hameed 'Amireh al 'Arajani***, a 31-year-old resident of the city of Khan Yunis, also died of serious burns sustained on 30 November 2008, as was reported above.
- On 15 December, ***Mahmoud Abdul Ghani al Akhras***, a 22-year-old resident of the city of Rafah, died of suffocation under the rubble of a collapsed tunnel on the Egyptian border.
- On 19 December, ***Yousef Mohammed Shatha***, a 26-year-old resident of the city of Rafah, was killed after a tunnel collapsed in the As Salam neighbourhood on the Egyptian border.
- On 22 December, ***Mousa 'Issa 'Abbas***, a 30-year-old citizen from the At Tuffah neighbourhood in Gaza city, suffocated inside a tunnel on the Egyptian border.

Deaths resulting from insufficient measures of public safety:

On 17 December 2008, ***Mustafa Yihya az Zein***, a child, died in the city of Nablus after he fell from his kindergarten bus. After closing the kindergarten, the Police launched an investigation into the incident.

Sentences to Death:

Over December 2008, 2 death sentences were issued in the West Bank and Gaza Strip:

- On 22 December, the Military Court of Hebron entered a verdict of the execution by shooting against ***Ashraf Shafeeq Hussein Imreziq***, 31 years old, after he had been convicted of murdering a citizen in the town of Idhna in the Hebron governorate. It should be noted that Imreziq is a security officer. The death sentence was issued *in absentia* as he was a fugitive.

- On 16 December, the Gaza Military Court issued a death sentence a sentence against *Mohammed Ali Hussein Seidam*, a 36-year-old resident of the Al Maghazi refugee camp in the Central Gaza governorate, on charge of capital treason.

Casualties caused by arms misuse and/or detonation of homemade rockets:

According to **ICHR**'s monitoring and documentation, several casualties resulting from arms misuse or explosions generated by homemade rockets were reported during the month of December 2008:

- On 7 December, 24-year-old *Mu'ayyad 'Ata Sharay'ah* from the city of Nablus sustained a bullet wound in the waist while a Palestinian General Intelligence officer attempted to arrest him, allegedly because he was wanted on charge of possessing an unlicensed firearm. According to information documented by **ICHR**, Sharay'ah did not resist the Palestinian General Security officer.
- On 21 December, *Hanan Suhweil*, a 23-year-old female citizen, sustained light injuries after a homemade rocket landed and exploded near her house in the town of Beit Hanun in the Northern Gaza governorate.
- On 20 December, *Sari Manna' Sweilem as Sama'neh* (9 years) and *Safi 'Eid Mohammed as Sama'neh* (8 years) sustained serious wounds after a homemade rocket landed and exploded east of the Palestinian Industrial Zone in the Gaza Strip. Both children were transferred to the intensive care unit at the Al-Shifa' Hospital in Gaza city.

Torture under detention – Inhuman, cruel and degrading treatment:

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

As in previous months, **ICHR** continued to receive complaints over the month of December 2008. Complainants claimed that they were subjected to torture and abuse by security agencies of both the PNA in the West Bank and the *de facto* government in the Gaza Strip.

In the Gaza Strip, **ICHR** received **12** complaints from citizens, alleging that they were subjected to torture while they were being detained or interrogated. All these complaints were lodged against the Ministry of Interior of the Gaza deposed government. In the

West Bank, **ICHR** also received **29** grievances from citizens, claiming that they were also subjected to torture. These complaints were filed against various security agencies, including the Police, Preventive Security, Military Intelligence and General Intelligence.

2. Violation of the freedom of opinion and expression as well as right to peaceful assembly:

Throughout the PNA-controlled territory, various forms of infringements continued to be committed against freedoms of opinion, expression and peaceful assembly. Palestinian security agencies prohibited public sit-ins and peaceful gatherings. They also prevented media agencies from covering civil demonstrations and arrested a number of journalists. In this context, **ICHR** reported a number of attacks on peaceful gatherings and the press over the month of December 2008:

- On 28 December, PNA security forces assaulted a demonstration that took place in the city of Hebron in solidarity with Palestinians in the Gaza Strip. Protestors from national and Islamic factions gathered in front of offices of the International Committee of the Red Cross (ICRC). As protestors hoisted flags of the Hamas movement, Palestinian security forces intervened. After a number of protestors threw stones, security officers opened fire in the air, leaving several citizens with various injuries: 'Issa Khieir al Ja'bari, former minister in the National Unity Government, and Nabil 'Issa al Ja'bari.
- On 28 December, Palestinian security forces arrested 10 protestors during a peaceful demonstration organised in the city of Ramallah by all Palestinian factions in solidarity with the Gaza Strip. Of these, security officers arrested Ahmed Yousef Mash'al, Ihab Muneer Saqr al Barghouthi, and 'Inad Mohammed 'Asfour al Barghouthi (all members of Hamas) because they attempted to hoist Hamas flags during the demonstration. In addition, security forces arrested Abu Ali Miqbel, who tried to lift both flags of Hamas and Fatah. Furthermore, security agencies arrested 2 members of the Popular Front for the Liberation of Palestine (PFLP), who attempted to settle the conflict between security officers and protestors. Several detainees were released the same day.
- On 19 December, Police forces of Gaza's deposed government surrounded a funeral procession of Salah 'Okal, a citizen killed by the Israeli army in the evening of 18 December 2008, in the town of Beit Lahiya in the Northern Gaza governorate. Attempting to disperse the funeral procession, Police officers detained a number of masked individuals and beat several citizens. Additionally, a number of citizens sustained bullet wounds after Police officers opened fire.

3. Infringements on the right to fair legal proceedings:

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

In this regard, **ICHR** received **115** complaints, including **84** against the deposed government's Ministry of Interior in the Gaza Strip and another **31** against PNA security agencies in the West Bank. In these, citizens claimed that security agencies 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. Family visits to detainees were also impeded.

4. Delayed execution of court judgements:

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

In the month of December 2008, the following court judgements were *not* executed:

- On 15 December, the Palestinian High Court of Justice ruled in favour of the release of Mahmoud Hussein Mohammed Shanaran, who has been detained by the Preventive Security agency at the Hebron Detention Centre since 4 November 2008. Incarcerated on the basis of an arrest warrant issued by the Head of the Military Justice Authority, Shanaran is still held in custody.
- Also on 15 December, the Palestinian High Court of Justice issued forth a decision ruling for the release of Mahmoud Hasan 'Alaya al Harini, who has been detained by the Preventive Security at the Hebron Detention Centre since 4 November 2008 according to an arrest warrant made by the Head of the Military Justice Authority. So far, the High Court's decision has not been implemented.

Claiming that it was not officially notified of the decision, the Preventive Security agency has continued to detain Al Harini.

Additionally, Palestinian security forces have not executed court judgements passed over past months. Until the time of reporting, **ICHR** has documented the following violations:

1. On 2 November 2008, the Palestinian High Court of Justice entered a decision ruling for the release of Amjad Mohammed Amin 'Uthman al Hammouri, who has been detained by the General Intelligence agency at the Hebron Detention Centre since 13 October 2008.
2. Also on 2 November 2008, the Palestinian High Court of Justice entered a decision on the release of Kamal 'Amer Abdullah Abu Tu'eimeh, who has been detained by the Preventive Security agency at the Hebron Detention Centre since 15 September 2008. Held according to an arrest warrant issued by the Head of the Military Justice Authority, the High Court's decision has so far not been executed. Claiming that it was not officially informed of the decision, the Preventive Security agency has continued to detain Abu Tu'eimeh.
3. On 24 September 2008, a decision was entered by the Palestinian High Court of Justice to release Jalal Dawoud Younis, a citizen detained by the Preventive Security at the Beituniya Detention Centre. On 18 November 2008, the Ramallah Court of First Instance also issued forth a decision to release Younis on bail. Nevertheless, these decisions have never been implemented.
4. The High Court of Justice also issued on 8 October 2008 a judgement ruling for the release of Farid Abdul Haleem Hammad from the detention centre of the Preventive Security agency. Until the time of reporting, however, Hammad is still in jail.
5. On 28 August 2008, the High Court of Justice issued a decision for the release of Abdul Baset Mohammed Mu'tan, who is detained by the Preventive Security. So far, however, Mu'tan is being detained and the said decision remains unexecuted.

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

For the third consecutive month, the Palestinian Ministry of Education has continued to issue decisions of dismissal or suspension of the appointment of a number of teachers. Over the past two months, **ICHR** has received more than 180 complaints, in which aggrieved persons claimed that they had been sacked following a decision made by the Minister of Education on the pretext that illegally competent authorities did not approve or recommend their being appointed. To this avail, **ICHR** asserts that such a measure

violates the Palestinian *Basic Law* and *Law of Civil Service* and infringes on citizens' right to occupy public office.