



الهيئة المستقلة لحقوق الإنسان

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The Independent Commission for Human Rights



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

August 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 August 2009.

Based on monitoring and documentation of encroachments of human rights during the month of August 2009, ICHR concludes the following:

1. 28 cases of death occurred in Rafah in the Gaza Strip due to armed clashes
2. Several cases of death occurred due to family disputes and manslaughter
3. Torture of detainees persists in the Gaza Strip and the West Bank, as indicated by claims of detainees and complaints filed to **ICHR**.
4. The Internal Security agencies of the Deposed government continue to deny **ICHR** representatives the right to visit detention centers in the Gaza Strip.
5. Cases of detention of individuals without due process, as stipulated in the provisions of the Basic Law and the Code of Criminal Procedures, have been on the rise to include individuals in both the Gaza Strip and the West Bank.
6. The Internal Security agency in the Gaza Strip increasingly denies citizens and officials the right to travel, while the Ministry of Interior in Ramallah continues to deny the Deposed Government of the supply of passport books.

Below is a detailed description of violations:

1. Violations of the Right to Life and Physical Safety

ICHR documented **48** cases of death in the Palestinian-controlled Territory during August 2009, **41** of which took place in the Gaza Strip. In terms of cause of death, these cases are distributed as follows: **28** deaths were attributed to armed clashes in Rafah city, while **3** deaths were linked to violent family disputes and rivalry. In addition, **3** lives were lost due to security chaos and manslaughter while **7** death cases resulted of tunnels accidents.

As for the West Bank, **7** death cases occurred, the causes of which are distributed as follows: **one** death case occurred in a detention center in Nablus; **5** deaths were linked to family disputes and **one** death case occurred as a result of negligence and the non-adoption of general safety precautions.

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

Death Due to Armed Clashes

On 14th August 2009, armed clashes erupted in Rafah city and continued until the following morning between the police and members of Ezel Deen al-Qassam Brigades, the armed wing of the Hamas movement, on one hand and members of an armed group called "Jund Ansar Allah" ("Soldiers of God") on the other. These clashes resulted in claiming the lives of **28 persons** while another **100 persons** were injured, some of whom have serious wounds. This came following the announcement of the group's leader, Sheik Abdullatif Musa, during Friday Prayer, of the establishment of an Islamic Ruling in the vicinity of Jerusalem. Additionally, during his speech, he attacked and threatened the Deposed Government in Gaza. According to information obtained by **ICHR**, among the deaths were **4** citizens, **3** police members, **2** members of al-Qassam Brigades and **19** members of the armed group¹

In this regard, **ICHR** is in the process of preparing a fact-finding report on the circumstances of this serious incident in order to issue necessary conclusions and recommendations.

Deaths in Detention Centers

The following death case was reported to have occurred in the detention center administered by the General Intelligence agency in Nablus during the month of August 2009:

Fadi Husni Abdul Rahman, a 27 year-old native of Asirah al-Shamalieh in Nablus, died on 10/8/2009 while he was in the custody of the Intelligence agency at its detention center in the city. He was detained since 15/6/2009 and was found dead at 8:00 am on 10/8/2009.

Deaths Due to Fights, Family Disputes and Manslaughter

In August, the following **eight** cases of death occurred due to domestic disputes and acts of revenge, five of which took place in the West Bank and three in the Gaza Strip:

- On 14/10/2009, **Ahmed Malik Salim Sabbah**, a 14-year old child resident of Far'oun village in the Tulkarem governorate, died of fatal wounds that he sustained to the head on 9/8/2009 as a result of an axe stroke by his neighbor during a family dispute. According to information obtained by **ICHR**, the police caught the killer and he was referred to the Public Prosecution and then the court.
- On 20/8/2009, **Husni Ziyad Abed Sawaftah**, a 22-year old citizen from Bardala, Tubas, died of a bullet to the head during a domestic dispute in the village. In response, the family of the deceased burned **5** houses owned by the family of the murderer. According to information obtained by **ICHR**, the police arrested **44** persons who took part in the fight and are currently being investigated.
- On 9/8/2009, **Suleiman Daoud Rabi' Bseileh**, a 45-year old citizen from Hebron, died due to several stabs in the chest, back and abdomen, as a result of a family dispute that occurred in the city. According to information obtained by **ICHR**, the Security agencies caught four suspects and referred them to court.
- On 4/8/2009, **Amer Salem Shawawreh**, a 36-year old male citizen from al-Shawawreh village, Bethlehem, died as result of a fire shot in the abdomen

¹ Enclosed is a list of the names of the deceased in this accident (Arabic)

during a family fight that took place in the town. According to information obtained by **ICHR**, the Security agencies caught the perpetrator and referred him to court.

- On 24/8/2009, **Hanan Fayez Abu Arja**, a 50-year old female from Shwekeh, Tulkarem, died due to a stroke to the head and suffocation committed by her 86-year old father, Fayez Mustafa abu Arja following a family dispute. According to information obtained by **ICHR**, the perpetrator was arrested in order to be referred to court.
- On 25/8/2009, **Shadi Nabil el-Jumleh**, 25 years old, and **Ghazi Munir el-Jumleh**, 21 years old, died due to bullets sustained to the head and the chest. According to information obtained by **ICHR**, the accident occurred in Gaza city on the ground of a fight between two families from al-Sheikh and Radwan neighborhoods while the police arrested the suspects
- On 14/8/2009, **Rashid Ashour Daghmash**, a 41-year old citizen from Gaza city, died following a shot sustained to the head. According to information obtained by **ICHR**, the accident occurred due to the intervention of the deceased to break a family fight. The police has arrested a number of suspects and has opened an investigation into the accident.

Deaths due to Misuse of Arms and Manslaughter

Three death cases occurred during August as a result of the misuse of arms in the Gaza Strip as detailed below:

- On 27/8/2009, **Tariq Farid Abu Jazar**, a 22-year old resident of Khan Younis, died of a bullet to the neck which was shot from his colleague's weapon by mistake. According to information obtained by **ICHR**, the above mentioned citizen was shot while he was at his work place in the Security & Protection Service run by the police in the west of Khan Younis. The police arrested the perpetrator and opened an investigation into the accident.
- On 31/8/2009, **As'ad Abdullah Ayyash**, a 23-year old resident of Rafah city, died as a result of a shot in the abdomen. **ICHR** received information that the victim was shot while he was nearby his house in al-Shokeh neighborhood in the east side of town following several gunshots fired from an unknown source. The police opened an investigation into the accident
- On 2/8/2009 the police found the body of **Akram Issa al-Amash**, a 32-year old resident of Gaza city. The body had traces of a gunshot to the head. **ICHR** received information that the police opened an investigation into the accident and arrested a suspect.

Deaths Due to Negligence and Lack of General Safety Precautions

During August, the following death case occurred as a result of lack of general safety precautions in the West Bank. On 18/8/2008, **Mohammed Sami Ibrahim Sha'baan**, a 17-year old citizen of Tulkarem drowned in a swimming pool in Tal el-Rabi' Park. He was transferred to Thabet Thabet Hospital and then to one of the Israeli hospitals due to his critical condition, yet he passed away on the same day. According to information obtained by **ICHR**, the police arrested the owner of the park after it turned out that there was no life guard on duty on a permanent basis. That said, when Sha'baan drowned, there was no life guard on duty.

Deaths in Tunnels

ICHR documented **7** 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, Degrading and Inhuman Treatment

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

In August, **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 both the West Bank and the *De-facto* Authority in the Gaza Strip.

In the West Bank, **ICHR** received **12** complaints of torture in the month of August against various security agencies (the General Intelligence, Preventive Security, civil police, and the military Intelligence)

For the same reporting period, **17** similar complaints were lodged to **ICHR** against the two security agencies in 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 neutral judge (i.e. regular judiciary), in stark violation of 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 many complaints from citizens in this regard.

In this regard, **ICHR** received **109** complaints during the month of August, including **75** against security agencies of the Ministry of Interior of the Deposed Government. In **54** of these grievances, the affected citizens cited the impropriety of the procedures followed during detention.

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 visits by 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 the Gaza Strip are still taking place and citizens are being held in undeclared places.

In the West Bank, **ICHR** received **426** complaints, **143** of which were against the security agencies. In **95** of these cases citizens claimed the impropriety of the arrest and detention procedures.

3. Attacks on Media Freedoms and Freedom of Association and the Right to Peaceful Assembly

ICHR documented the following incidents of violation of media freedoms and the right to peaceful assembly the occurred in August 2009:

- On 10/8/2009, the Ministry of Interior in Gaza confiscated **three** vehicles owned by the association of the National Center for Community Rehabilitation - NCCR. According to information obtained by **ICHR**, the Ministry informed the association's manager that the vehicles were confiscated because the association is in no need for them. While the latter told **ICHR** that the association is in urgent need of the vehicles as they had to suspend their work since they depend on them for offering their services to the disabled.
- On 12/8/2009, a police force stationed at the vicinity of Ansar building circle to the west of Gaza detained Mazen el-Bilbisi, a reporter to al-Itijah Satellite Channel, and his cameramen and prevented them from conducting their journalistic work. According to information obtained by **ICHR**, members of the police banned them from filming in the area for the preparation of a report for their work. After a short while, he and his colleagues were released after the tape recorder had been destroyed.

4. 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 August 2009, 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 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 un-enforced court decisions are:

- On 24/6/2009, the Palestinian Supreme Court of Justice issued a decision that annuls 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 MOI 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 effect.
- On 23/2/2009, the Palestinian Supreme Court of Justice issued a decision for the revocation of a construction license for land #7 at al-Taybeh for Najib Nabil Khouri. The Abu Falah police station/ Beir Zeit is supposed to implement the decision yet the police has not implemented until the this time.
- 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 have not implemented the decision until the writing of this report.

5. Violations to the Right to Travel and Movement

During the month of August 2009 the following violations of the right of travel and movement occurred:

- Gaza residents are still suffering from the unavailability of passport books since November 2008.
According to information which **ICHR** obtained from officials in the Ministry of Interior (MOI) of the Deposed government, the MOI in the West Bank does not send passport books for citizens in 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 to seek medical care, university education, students and thousands of expatriates whose passports have expired and require renewal.
- On 1-4/8/2009, the Internal Security in Gaza summoned tens of Fatah Movement leaders and detained them for several hours. According to information that **ICHR** obtained, they were investigated with regard to their work with the Fatah Movement and their personal identity documents were withheld and they were warned from leaving the Gaza Strip to the West Bank to participate in the Sixth Conference of the Fatah movement.
- On 16/8/2009, members of the police force stationed in the vicinity of the Beit Hanoun border crossing "Erez" banned Amal Hamad, member of the Fatah Revolutionary Council, and a member of the Secretariat-General of the General Union of the Palestinian Women, from travelling to Ramallah without indicating the reasons for such appropriation.

6. Dismissal from Civil Service (dismissed teachers who were appointed when the Hamas Government took office in 2006)

The Palestinian Ministry of Education continues to issue decisions for the dismissal or suspension of appointment of a number of school teachers and staff. In this regard, **20** complaints against the Ministry of Education were filed to **ICHR**, thus increasing the total number to **249** during this month and previous months. 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.

The list of names of the deceased during the armed clashes in Rafah is available in Arabic

مرفق قائمة بأسماء وفيات الاشتباك المسلح في رفح

الرقم	الاسم	العمر	العنوان	ملاحظات
1	محمد إبراهيم حسن كلاب	24	خان يونس	مدني
2	محمود مصطفى مقداد	19	رفح	مدني
3	محمد عبد الله عبد الرحمن غنيم	35	رفح	مدني
4	أحمد فؤاد السبع	30	رفح	مدني
5	أحمد محمد جودة	22	رفح	مدني
6	مصطفى حسين خليل اللوقة	23	رفح	شرطي
7	أحمد صلاح جرغون	22	رفح	شرطي
8	أيمن خالد إبراهيم أبو سبلة	21	رفح	شرطي
9	محمد جبريل الشمالي	38	رفح	كاتب القسم - قائد الكتيبة الشرقية في رفح
10	إيهاب ماهر القطروس (دويك)	19	رفح	كاتب القسم
11	زكريا نزار اللوقة	20	رفح	جماعة جند أنصار الله
12	رفيق حسن أبو شببكية	17	رفح	جماعة جند أنصار الله
13	عبد الرحمن خضر موسى	20	رفح	جماعة جند أنصار الله
14	محمود صلاح أبو ندى	20	رفح	جماعة جند أنصار الله
15	عبد الله مصطفى عوض الله	22	رفح	جماعة جند أنصار الله
16	الشيخ عبد اللطيف خالد موسى	49	رفح	جماعة جند أنصار الله - زعيم الجماعة
17	رفعت عصام فايد أبو سليمة	24	رفح	جماعة جند أنصار الله
18	محمد هشام الناطور	18	رفح	جماعة جند أنصار الله
19	رائد داود البلعاوي	24	رفح	جماعة جند أنصار الله
20	خالد حسن بنات (الملقب أبي عبد الله المهاجر)	45	رفح	جماعة جند أنصار الله - القائد العسكري للجماعة
21	عبد الله خالد حسن بنات	20	رفح	جماعة جند أنصار الله - ابن القائد العسكري للجماعة
22	حسين حافظ أبو طاعة	23	خان يونس	جماعة جند أنصار الله

جماعة جند أنصار الله	خان يونس	17	جهاد باسم دوحان	23
جماعة جند أنصار الله	البريج	16	أحمد يوسف حسان وشاح	24
جماعة جند أنصار الله	النصيرات	33	رائد علي سليمان أبو عريبان	25
جماعة جند أنصار الله	النصيرات	26	أمين محمد أبو خوصة	26
جماعة جند أنصار الله (عثر على جنته تحت الأنقاض مساء الاثنين 2009/8/17)	رفح	24	فهد فهمي موسى	27
مدنية (توفيت في مستشفى غزة الأوروبي مساء الأربعاء 2009/8/19)	رفح	52	يسرا حسين بكير	28