



Violations of Human Rights and Public Freedoms in the Palestinian-controlled Territory

November 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 November 2009.

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

1. Several cases of death occurred for various reasons as a result of family disputes and manslaughter.
2. Honor killings were reported in the Gaza Strip
3. Death cases occurred due to negligence and failure to undertake public safety precautions.
4. Torture of detainees persists in the Gaza Strip and West Bank, as indicated by detainees' claims and complaints filed to **ICHR**
5. Cases of detention of individuals without regard to due process and provisions of the Basic Law have been on the rise to include individuals in both the West Bank and the Gaza Strip.
6. The Ministry of Interior in Ramallah continues to deny the Deposed government the supply of passport books.
7. The non-enforcement of court decisions and rulings continues in the West Bank.
8. Death cases as a result of tunnel accidents continue in the Gaza Strip.

Below is a detailed description of the aforementioned violations:

1. Violations of the Right to Life and Physical Safety

ICHR documented (12) cases of death in the Palestinian-controlled Territory during November 2009 including (8) **deaths** in the Gaza Strip and (4) **deaths** in the West Bank. As for the cause of death, these cases are distributed as follows: (2) deaths were linked to violent family disputes and rivalries (one in the West Bank and one in the Gaza Strip) in addition to (3) cases of death in suspicious circumstances, one in the West Bank and two in the Gaza Strip. **ICHR** also documented one case of honor killing in the Gaza Strip and (4) other death cases as a result of tunnel accidents in the Gaza Strip.

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

Deaths due to family disputes, domestic violence and manslaughter

In **November**, two deaths occurred due to family rivalries and revenge, one took place in the West Bank and the other was in the Gaza Strip, as detailed below:

- On 29/11/2009, **Nizar Salim abu Hmoud**, a 41 year-old male resident of Beit Sahour, died of stab wounds by a knife following a dispute at his place of work. He was transferred to Beit Jala hospital in a critical condition and later pronounced dead due to his severe wounds. According to information obtained by **ICHR**, the general prosecutor and the police interrogated the perpetrator who confessed and was interrogated as per the common procedure.
- On 21/11/2009, **Ashraf Nihad al-Sayfi**, a 27 year-old male resident of Gaza city, died of shot wounds to the back as he witnessed a family dispute among members of Daghmash family. According to information obtained by **ICHR**, the police opened an investigation into the incident.

Death in Suspicious Circumstances

During this month, three deaths in suspicious circumstances were registered, of which two were in the Gaza Strip and one in the West Bank, as detailed below:

- On 24/11/2009, **Ayda Wajih Mohammed al-Kilani**, a 33 year-old female resident of Al-Sawahreh was found dead in her house in suspicious circumstances. The body was transferred to the Beit Jala public hospital where an autopsy was performed. However, the final medical report has not been issued yet. According to information obtained by **ICHR**, the investigation is underway; official parties believe that the accident is likely to have criminal motives.
- On 16/11/2009, **Kristian Salameh Barbakh**, a 73 year old female resident of Bani Suheilah in Khan Younis was found dead in her house. It seemed the that she had been dead for a long time given the state of the corpse. According to information obtained by **ICHR**, the police arrived to the scene and opened an investigation into the accident.
- On 29/11/2009, **Ahmed Musa Farajallah**, an 11 year old male child resident of Al-Nseirat city was found dumped in a field nearby his house. The body showed signs of torture. According to information obtained by **ICHR**, the police arrived on the scene and opened an investigation into the accident.

Honor killings

During the reporting period, one death on the ground of so-called family honor was documented in the Gaza Strip as follows:

- On 17/11/2009, **(R.GH. S.)**, a 26 year old female, was strangled to death in Al-Shate' Camp, in the Gaza Strip. According to **ICHR's** documentation, the body was transferred to Al-Shifa' hospital in Gaza, and the police opened an investigation into the accident and arrested a number of suspects from her family on the grounds of committing an honor killing.

Death due to Negligence and Failure to Adopt Public Safety Precautions

During the reporting period, one death occurred in an accident which occurred as a result of negligence and failure to adopt public safety precautions in the West Bank, as described below:

- On 15/11/2009, according to **ICHR** information, **Amina Ibrahim Al-Sa'di**, a 21 year old female resident of Al-Khan al-Ahmar between Jerusalem and Jericho, passed away of burn wounds along with her infant daughter "Hanin" when a fire erupted in her house as a result of the use of an old kerosene heater.

Death Sentences

During the reporting period, **ICHR** documented the issuance of the following death sentence in the Gaza Strip:

- On 3/11/2009, the Supreme Military Court in Gaza city sentenced the civilian (M. A. S.), a 37 year old male resident of Rafah City, to death on charges of espionage and cooperation with hostile parties, and accessory to murder. It is important to note that in this case, the Military Court based its sentence on the Military Law No. (5) of the year 2008 which was issued during the period of division of the PLC in the Gaza Strip. The extent of 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 sustain injuries when tunnels collapse, burn down or witness electrical wiring accidents. In the reporting period, four tunnel-related deaths were reported.

Deaths due to Misuse of Arms and the Explosion of Suspicious Objects

In November 2009, **ICHR** documented the following cases of death as a result of misuse of arms in the Gaza Strip:

- On 20/11/2009, **Hana Ajmei'an abu Jamous**, 26, and **Mahmoud Yaser Abu Jamous**, 7, from Al-Breij city sustained wounds in several parts of their body due to shrapnel from an explosive. **ICHR** received information that they were wounded in a family dispute during which an explosive was used. They were transferred to Al-Shuhada hospital in Deir al Balah. The police arrived on the scene and launched an investigation into the accident and arrested suspect family members.
- On 15/11/2009, **Mahmoud Tajab al-Maghari**, 42, and Omayma Abdul Latif Al Maghri, 40, sustained several wounds in various parts of their bodies. **ICHR** received information that a homemade bomb hit their house. They were transferred to Al-Shuhada hospital in Deir al Balah. The police arrived on the scene and launched an investigation into the accident.

Torture during Detention: Cruel, Inhuman and Degrading Treatment

ICHR expresses its deepest concerns regarding 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.

Throughout November, **ICHR** has continued to receive complaints on a monthly 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 this regard, it is noticeable that the number of complaints have decreased in the West Bank. Indeed, according to **ICHR** documentation, clear instructions were issued regarding the use of torture and ill-treatment against detainees by the security agencies in the West Bank which was noted by **ICHR** field researchers while they visited various detention centers.

Despite this, citizens persist to file complaints claiming that they have been tortured. In the West Bank, **ICHR** received 6 complaints of torture in the month of November whereas the number of complaints filed in the month of October was 12. These complaints were against the following agencies:

- Two complaints against the civil police
- Two complaints against the Preventive Security
- One complaint against the General Intelligence
- One complaint against National Security

During the same reporting period, (22) 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 civil police). This number increased in comparison to the complaints received during the month of October which were 18 complaints.

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 natural judge (i.e. regular judiciary) in 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 the West Bank and the Gaza Strip, as **ICHR** received numerous complaints of citizens who claim they were arrested and arbitrarily confined to detention centers without legal justification or based on political grounds.

In this regard **ICHR** received **(196)** complaints in the West Bank during the month of November, including **(129)** against security agencies of the Caretaker government, **(84)** of which focused on claims of the invalidity of the procedures following the detention.

As for the Gaza Strip, **ICHR** received **(52)** complaints during the month of November, including **(39)** against the security agencies of the Deposed Government, in which complainants claim the invalidity of the procedures followed in their detention.

It is worthy to note that **ICHR** was able to visit detention centers of the security agencies after being denied these visits for almost 11 months.

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

ICHR documented the following incidents of violations of media freedoms and the right to peaceful assembly which occurred in the Gaza Strip during November:

1. On 9/11/2009, the public media office in Gaza prevented the holding of a conference organized by the International Federation of Journalists at the Routes restaurant in the city of Gaza claiming that organizers did not obtain a permit and there was no coordination with the public media office itself. This two-day event was due to be held through the video conference between Gaza and Ramallah.
2. On 10/11/2009, members of the internal security told some printing shops not to print any brochures for the Fatah movement's commemoration of the late President Yaser Arafat and that a permit needed to be obtained from the Ministry of Interior before doing so.
3. On 10/11/2009 members of the security agency and the police broke into the premises of Ramattan News Agency in Gaza Strip and prevented the National Work Commission from holding a press conference in the Gaza Strip claiming that they did not obtain a permit. Members of the security agency confiscated the recording tapes owned by the agency, and al-Quds Satellite TV Channel and ordered the members of the National Work Commission to leave the Agency. According to information received by **ICHR**, the purpose of the press conference was to announce the cancellation of a festival which was supposed to take place in Rashad al-Shawa Cultural Center in Gaza city to commemorate the late president Yaser Arafat.
4. On 10/11/2009, members of the internal security confiscated the ID and camera from journalist Hatem Sa'di Omar from Rafah who works as a cameraman with Ma'an Network in the Southern area. According to information obtained by **ICHR**, the above mentioned person was arrested while in the presence of other journalists in front of the gate of the Rafah border crossing to cover the news of the entrance of the fleet "miles of smiles" to the Strip. On the following day, he was asked to go for an interview at the security agency headquarters where they investigated his work in journalism and his relations in Ramallah before he was set free after a short while.

4. Attacks on Public institutions and Public and Private Property

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

1. On 1/11/2009, a bomb exploded in front of al-Andalib Café in downtown Gaza which is owned by Mohamed Salem Thafer and caused major damages to the café. According to **ICHR** information, the police opened an investigation into the accident.
2. On 14/11/2009, in the late hours of the night, a fight occurred between hundreds of residents of Abu Deis and al-Sawahreh al-Sharqyeh towns at the main campus of al-Quds

University. People in the dispute threw empty bottles, Molotov bombs and rocks, breaking the glass of Saeed Khoury for Information Technology building. They also destroyed the glass of the lights in the main street beside the university's premises; the gate of the mathematics museum and the wire fence around the west side of campus. According to information obtained by **ICHR**, Palestinian security agencies opened an investigation into the accident and pursued the perpetrators and presented them before the law.

3. On 15/11/2009, unidentified individuals broke into Al Damir Association for Human Rights in Gaza city and stole two computer cases. According to information obtained by **ICHR**, and a statement by Al Damir, the robbery was not an ordinary one, as the purpose of it was to steal saved information pertinent to the organization's work. The accident was reported to the police who, in turn, opened an investigation into the accident.
4. On 20/11/2009, unidentified individuals vandalized Multaqa al-Najd Development Society in al-Naser neighborhood in Gaza city. Four computers were stolen among other belongings. According to **ICHR** information, the association reported the accident and the police, in turn, opened an investigation into the accident in order to arrest 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) 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 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 ordered by the court.

The emergence of a new trend was also noticeable during the reporting period, especially by the Preventive Security in 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 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 PNA has not implemented them and they remain unimplemented until the writing of this report.

The major cases of un-enforced court decisions are:

1. On 24/6/2009, the Palestinian Supreme 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 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 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 cause of such measures and the fact that it violates the provisions of the Charitable Associations Law of 2001.
4. 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 has 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.
5. 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.
6. On 26/10/2009, the Palestinian Supreme Court of Justice ordered the release of **Na'el Ghalib Misbah Dweik** (25 years) who has been in the detention of the General Intelligence in Hebron on the custody of the Military Justice Commission since 11/10/2008. Due to the violations of the provisions of the Procedural Penal Code No 3 of 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.
7. 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.
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 **Mahmoud Hassan Mustafa As'ad** who has been detained by Military Intelligence Agency in Qalqilya since 28/5/2009 but the court's decision has not been enforced yet.
10. On 26/10/2009, the Supreme Court of Justice ordered the release of **Bashir Mahmoud Mohammad Daoud** who has been detained by the Military Intelligence Agency in Qalqilya since 6/7/2009 but the court's decision has not been enforced yet.
11. On 22/11/2009, the Supreme Court of Justice ordered the release of **Wa'el Jamal Abdul Nabi Shamasneh** who has been detained by the Military Intelligence Agency in Qalqilya since 20/6/2009. The court's decision has not been enforced until the writing of this report.
12. 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.
13. On 10/11/2009, the Supreme Court of Justice ordered the release of **Bassam Ibrahim Yasin Daoud** who has been detained by the Military Intelligence Agency in Qalqilya since 27/5/2009. The court's decision has not been enforced until the writing of this report.

6. Violations of the Right to Travel and Movement

Gaza residents are still suffering from the unavailability of passport books since November 2008. According to information that **ICHR** obtained from officials from the Ministry of Interior (MOI) 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 their 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 25/11/2009, the Ministry of Interior in the Gaza Strip issued a decision that abides former members of the security agencies to obtain a clearance to travel through the Rafah border crossing and Beit Hanon (Erez) crossing as a prior procedure from the related coordination office. **ICHR** considers this procedure a violation of the provisions of the Basic Law and the right to free travel on equal treatment without discrimination.

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 September 2009, **(22)** more complaints were filed to **ICHR**, thus increasing the total number of teachers' dismissal or suspension complaints filed to **ICHR** over the past months to **(271)**. 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 approval 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.