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**From:** "Palestinian Centre for Human Rights" <postmaster@pchrghaza.net>  
**To:** "list\_e" <list\_e@pchrghaza.net>  
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**Subject:** On the World Day Against the Death Penalty, PCHR Calls for Making Efforts to Abolish the Death Penalty in the Occupied Palestinian Territory

# PCHR

Palestinian Centre for Human Rights  
 Press Release



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## **On the World Day Against the Death Penalty, PCHR Calls for Making Efforts to Abolish the Death Penalty in the Occupied Palestinian Territory**

On 10 October every year, the international community commemorate the World Day Against the Death Penalty. There are increasing international demands to abolish the death penalty, as it violates one of the fundamental human rights, which is the cornerstone of other rights, that is the right to life, and constitutes the most severe degree of torture and cruel and inhuman treatment. The death penalty violates article 3 of the Universal Declaration of Human Rights of 1948, and article 6 of the International Covenant of Civil and Political Rights of 1966, which call for the protection of the inherent right to life and not arbitrarily depriving anyone of it. It also violates the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) of 1984, which prohibits subjecting anyone to torture or to cruel, inhuman or degrading treatment or punishment, including the death penalty.

The United Nations have made efforts to urge States to abolish the death penalty in their domestic laws. It is worth noting that 55 States, including 12 Arab States, have continued to apply the death penalty at both the *de jure* and the *de facto* levels, whereas 37 States have abolished the death penalty at the *de facto* level.<sup>[1]</sup> Palestinians in the Occupied Palestinian Territory (OPT) have been subject to the death penalty, both by the Palestinian National Authority (PNA), which apply the death penalty, and Israeli Occupation Forces (IOF), which have continued to extra-judicially execute Palestinian resistance activists.

The Palestinian law applies the death penalty in accordance with the Penal Law (74) of 1936 applicable in the Gaza Strip, and the Jordanian Penal Law (16) of 1960 applicable in the West Bank. Since its establishment in 1994, the PNA has issued at least 76 death sentences against persons convicted of various crimes, including crimes related to national security.<sup>[2]</sup> Most of those sentences were issued by State Security Courts, which were established in February 1995. State Security Courts routinely violate fundamental human rights, including the right to fair trial before an independent and impartial court and to appeal against sentences to a higher judicial body. Trials in State Security Courts are summary; the accused are not given time to prepare a defense and are denied access to effective legal counsel. Sentences issued by these courts cannot be appealed to a higher body, including death sentences. In addition, the PNA has Death sentences have been also based on referred in the application of the death penalty to the Revolutionary Penal Law of the Palestine Liberation Organization of 1979, which legalizes the application of the death penalty, but has not been approved by the Palestinian Legislative Council.

Equally, extra-judicial executions committed by IOF against Palestinian resistance activists equally deprive individuals of their right to fair trials. Even though IOF abolished the death penalty in chapter 4, article 22 a and b of military order #395 issued in March 1971,<sup>[3]</sup> IOF have extra-judicially executed Palestinians under fake claims that these Palestinians

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threaten the security of Israel. In most cases, these killings have been approved by the political establishment and the judiciary in Israel to execute specific persons instead of bringing them to justice. From the beginning of the Intifada in September 2000 until July 2006, IOF committed 252 extra-judicial executions, which killed 603 Palestinians.

Extra-judicial executions violate articles 3 and 33 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949, which prohibits the occupying power from practicing violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture,” “the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples,” collective punishment, “Pillage” and Reprisals against protected persons and their property.”

The policy of extra-judicial executions has failed to improve the security situation in Israel. Likewise, the death penalty applied by the PNA has failed to deter crimes in the Palestinian society, as crimes have increased. PCHR would like to seize this occasion to call upon the PNA to abolish the death penalty, as it has failed to deter crimes in the Palestinian society.

PCHR calls upon the PNA to abolish the death penalty as it constitutes a flagrant violation of international human rights instruments. PCHR emphasizes that the abolishment of the death penalty does not mean in anyway indulgence with those who are convicted of serious crimes, but other forms of punishment which maintains the human dignity should be considered. PCHR’s position concerning the death penalty is professional and moral. It is not related to a specific case, and does not contradict the rule of law, for which PCHR steadily struggle.

PCHR highly appreciates the decree issued by the Palestinian President Mahmoud ‘Abbas on 22 June 2005, stipulating the retrial in civil courts of all those convicted in State Security Courts. PCHR calls upon President ‘Abbas to use his constitutional authorities and continue the retrial in civil courts of all those convicted by State Security Courts. Since the beginning of 2006, 11 of such cases have been transferred to civil court.

PCHR calls upon President ‘Abbas to issue a decree abolishing State Security Courts and the Revolutionary Penal Law of the Palestine Liberation Organization. PCHR highly appreciates the decision taken by the then Minister of Justice ‘Abdul Karim Abu Salah in July 2003 abolishing these court, but believes that there is a need to promulgate such a presidential decree to ensure that these court would never be operated.

PCHR calls upon the PNA reconsider Palestinian laws related to the death penalty, particularly the Penal Law (74) of 1936 applicable in the Gaza Strip and the Jordanian Penal Law (16) of 1960, which is applicable in the West Bank. PCHR calls upon the PLC to promulgate modern laws that are consistent with international human rights instruments, including those which call for the abolishment of the death penalty.

In addition, PCHR calls upon the international community to meet its legal and moral obligations to provide protection for Palestinian civilians and property. In this context, PCHR calls upon the High Contracting Parties to the Fourth Geneva Convention to take concrete steps ensure the application of the Convention in the OPT, and hold accountable those who are responsible for grave breaches of the Convention, including extra-judicial execution.



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For more information please call: +972 (0)- 8 - 2824776 – 2825893.\*

\*Office Hours are between 0800 – 1500 hours (0500 GMT – 1200 GMT) Sun – Thurs.

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**Palestinian Centre for Human Rights**  
9 Omer El Mukhtar St., El Remal, PO Box 1328 Gaza, Gaza Strip tel/fax: +972 (0)8 282 4776 – 282 5893  
email: [pchr@pchgaza.org](mailto:pchr@pchgaza.org) website: [www.pchgaza.org](http://www.pchgaza.org)

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For more information please call PCHR office in Gaza, Gaza Strip, on +972 8 2824776 - 2825893  
PCHR, 29 Omer El Mukhtar St., El Remal, PO Box 1328 Gaza, Gaza Strip. E-mail: [pchr@pchgaza.org](mailto:pchr@pchgaza.org),  
Webpage <http://www.pchgaza.org>

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[1] <http://www.handsoffcain.org/bancadati/index.php?tipotema=arg&idtema=8000573>

[2] According to PCHR's documentation.

[3] The order prescribes: "Wherever there is a law that the death penalty must be applied, local courts may issue imprisonment sentences instead." See Israel Defense Force in the Gaza Strip and Northern Sinai, Orders and Declarations, volume 23, 4 March 5731 (1/3/1971).