

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Criminal Justice Reforms Urgently Needed

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(Gaza City) Palestinians face serious abuses in the Hamas criminal justice system, including arbitrary arrest, incommunicado detention, torture, and unfair trials. Since it took control of Gaza in 2007, Hamas has executed at least three men convicted on the basis of confessions apparently obtained under torture.

The 43-page report, [Abusive System: Criminal Justice in Gaza](#), documents extensive violations by Hamas security services, including warrantless arrests, failure to inform families promptly of detainees whereabouts, and subjecting detainees to torture. It also documents violations of detainees rights by prosecutors and courts. Military courts frequently try civilians, in violation of international law. Prosecutors often deny detainees access to a lawyer, and courts have failed to uphold detainees due process rights in cases of warrantless arrest and abusive interrogations, Human Rights Watch found.

After five years of Hamas rule in Gaza, its criminal justice system reeks of injustice, routinely violates detainees rights, and grants impunity to abusive security services, said [Joe Stork](#), deputy Middle East director at Human Rights Watch. Hamas should stop the kinds of abuses that Egyptians, Syrians, and others in the region have risked their lives to bring to an end.

The Hamas authorities have failed to investigate and prosecute abusive security officials, and have in practice granted impunity from prosecution to officials in the Internal Security service in particular, Human Rights Watch said.

Hamas should urgently reform Gazas criminal justice system to end arbitrary arrests, ensure that detainees have prompt access to lawyers, end prosecutions of civilians in military courts, and hold accountable security officials who commit violations, Human Rights Watch said. The executions of people whose confessions were obtained under torture is a clear signal that authorities should immediately impose a moratorium on, if not abolish, the death penalty. Hamas authorities should also promptly, impartially, and thoroughly investigate all credible allegations of abuse in detention.

Human Rights Watch interviewed victims of abuses and their families, lawyers, judges, Palestinian rights groups in Gaza, and reviewed case files and court judgments. Witnesses reported that the Internal Security agency, the drugs unit of the civil police force, and police detectives all torture detainees. The Independent Commission for Human Rights, a non-partisan Palestinian rights group that also monitors Palestinian Authority abuses in the West Bank, reported receiving 147 complaints of torture by these three Hamas forces in 2011 alone.

In one case Human Rights Watch documented, in August 2008, members of Hamass armed wing, the al-Qassam brigades, arrested and tortured Abdel Karim Shrair at an unknown location for three weeks before transferring him to the custody of the police, his family and lawyers told Human Rights Watch. The military prosecutor transferred Shrair to the Internal Security agency, where interrogators tortured him again and prevented him from seeing his family for weeks, the family and lawyers said. Shrairs mother said that when she was finally able to see him, his legs and face were bruised, his feet were swollen, his hands and arms had rope marks, and his chest had burn marks.

The prosecution charged him with collaborating with Israel, in part on the basis of confessions that appear to have been coerced under torture, Human Rights Watch said. His lawyer said that during military court hearings on his case, Shrair had visible bruises and scars and was incontinent. Yet the military courts did not adequately address Shrairs claims of torture, and held that his arbitrary arrest and detention had been retroactively corrected when the al-Qassam brigades transferred him to police custody.

A firing squad executed Shrair in May 2011. His mother said that Hamas authorities had prohibited the family from burying him, and that police beat her when she tried to hold his body during the interment.

In a meeting with Human Rights Watch on September 26, the deputy director of the Internal Security agency, Mohammed Lafi, said that the agency had a complaints department that dealt with allegations of abuses, but that it had not investigated Shrairs case because it had never received a written complaint. Human Rights Watch had publicly documented the case in May 2011 and asked the authorities for further information in July 2012, but received no response.

In the cases Human Rights Watch examined, the military judiciary did not throw out any criminal cases against detainees because of due process violations, and ignored or failed to investigate credibly detainees claims that they had been tortured. Human Rights Watch documented two other cases in which Hamas executed prisoners whom judicial authorities sentenced without adequately reviewing credible claims that their convictions were based on evidence obtained under torture.

Three criminal defense lawyers told Human Rights Watch that they had themselves been arbitrarily arrested by Hamas security forces; two said they were abused or tortured in detention

The authorities in Gaza have allowed the directors of three Palestinian human rights groups ad hoc access to detainees in prisons and at Internal Security detention facilities. Hamas should follow this positive step by ensuring prompt access to detainees by their lawyers, and by regularizing and expanding access to detainees by human rights organizations. The Gaza authorities should also lift their prohibition against access to detainees by the Independent Commission for Human Rights, which Hamas officials have dismissed as biased.

Hamas officials claim to have disciplined hundreds of members of the security services for abuses since the group took power in 2007, but Hamas has not made public details about the officials involved or, in many cases, information about the abuses or punishment involved. In meetings in Gaza on September 24 through 26 with officials from the ministries of foreign affairs, justice, and interior, Human Rights Watch urged the authorities to publish verifiable information about accountability for abuses.

Most of those disciplined were apparently members of the civil police force. Officials in Gaza told Human Rights Watch that members of the Internal Security agency had been disciplined in a few cases. None of the officials said they knew of any criminal prosecutions of Internal Security officials, despite consistent allegations of severe abuse.

Lafi, the deputy Internal Security director, said that four Internal Security officers had been demoted by one rank or a half-rank and transferred elsewhere after the death in custody of Nihad al-Dabaki in February 2009. An internal investigation found that al-Dabaki had died as a result of cold and his poor health, officials said. However, investigations at the time by the Independent Commission for Human Rights stated that its field workers observed clear marks of torture on al-Dabakis body.

In another case, Adel Razeq died in Internal Security custody in April 2011. Lafi said that after an investigation, the Internal Security agency fired an official who had exceeded his authority by slapping Razeq to rouse him after he had fallen onto a chair and injured himself. However, [family members told Human Rights Watch](#) that Razeqs body had bruises on the head and legs, and broken ribs, that he had been arrested without a warrant, and that they had been unable to meet with him in detention.

Former detainees who alleged they were abused by security services told Human Rights Watch that they despaired of finding justice. Several were afraid to describe what had happened to them in custody, even on condition that their identities would be kept confidential. Some men said they had needed medical care due to torture and sought to obtain medical records as evidence that they had been tortured, but that hospital officials refused to provide them.

Hamass rival in the West Bank, the Fatah-dominated Palestinian Authority, arrests and detains Palestinians arbitrarily, including Hamas members or sympathizers, and similarly subjects detainees to torture and abuse. The intra-Palestinian political rivalry remains a significant factor behind many Hamas abuses against detainees in Gaza, Human Rights Watch found.

Some of the Gaza abuse cases documented were against people detained on suspicion of collaborating with Israel or the Palestinian Authority in the West Bank. Collaboration is a serious crime under Palestinian law, but suspicion of collaboration does not justify torture or other abuse.

Human Rights Watchs findings are also consistent with increasing reports of abuse by security forces in Gaza against detainees accused of non-political crimes, including people accused of drug offenses and fraud.

Human rights lawyers in Gaza said that they have continued to receive the same kinds of allegations of abuse from victims since Hamas and Fatah announced a political reconciliation in May 2011.

The abusive practices of Hamass security services flout human rights norms that Hamas has pledged to uphold, Human Rights Watch said. These practices also violate Palestinian laws that require police to obtain judicial arrest and search warrants, and prohibit torture and the use of evidence obtained under torture.

Hamas grew out of the Palestinian wing of the Muslim Brotherhood. Human Rights Watch said that Egypts Muslim Brotherhood, whose political arm holds the countrys presidency, should pressure Hamas leaders to end the kinds of abuses, including arbitrary detention and torture, that they themselves suffered under former president Hosni Mubarak.

There is ample evidence that Hamas security services are torturing people in custody with impunity and denying prisoners their rights, Stork said. The Gaza authorities should stop ignoring the abuse and ensure that the justice system respects Palestinians rights.

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Suspicious Killings and Extrajudicial Executions by Egyptian Security Forces

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