

**“SHAMS” Center issues a report on the status of death penalty in the
Palestinian territories: in 2017
Executing (6) citizens and inflicting death penalty upon (32) citizens
And for the first time citizens are executed due to charge of drugs trafficking**

Introduction:

In 1994, Palestinians welcomed the inception of Palestinian National Authority (PNA) in order to manage their civil affairs in the West Bank and Gaza. Also Palestinian president Yasser Arafat issued a decree (1) of 1994 to keep working on laws valid preceding June 5th of 1967 in the Palestinian lands, earlier to occupying west Bank and Gaza Strip by Israel.

In 2012 UN General Assembly voted to recognize Palestine as non-member state, while in April 1st and December 31st of 2014, Palestine has acceded to (35) international conventions and treaties including the Universal Declaration on Human Rights, International Covenant on Civil and Political Rights, International Covenant on Social and Economic Rights besides Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The accession to the majority of these conventions represented the enhancement for Palestinian human rights movements. It was believed among human rights organizations that accession to such treaties will be reflected positively on the status of human rights in Palestine and will put an end to violations against the right to life in particular however, nothing has changed on the ground.

Palestinian legal experience is an exceptional one as there are (74) penal crimes in the Palestinian legal system. It is inconsistent combination of inherited legislations the British and the Jordanian and not Palestinian basically.

As an example, British Mandate Penal Law No. (74) Of 1936 has been applied in Gaza Strip which includes (15) capital crimes. While the Jordanian Penal Law No. (16) Of 1960 which includes (16) capital crimes. In addition to Fireworks Law No. (23) Of 1963 which includes 1 capital crimes have been applied in the West Bank. In addition to Revolutionary Penal Law No. (5) Of 1979 (Penal Code endorsed by Palestinian Liberation Organization PLO and it is currently applied in both Gaza Strip and West Bank includes (42) capital crimes.

Information and statistics on the capital punishment in Palestine

Since the inception of the Palestinian National Authority (PNA) in 1994 until 26/9/2017, it has inflicted (193) death penalties upon citizens accused of different crimes (including crimes related to national security). It is worth noting that (20) sentences were inflicted in the West Bank, while (173) ones were inflicted in Gaza Strip among which, (115) sentences were inflicted only in 2007. In addition, (PNA) implemented (41) death penalties (39) ones in the Gaza Strip and (2) in the West Bank. And among penalties issued in Gaza Strip, (28) ones were executed only in 2007 extra-judicially without the ratification of the Palestinian president. 3 sentences were implemented on May 31st of 2016, 3 sentences were implemented on April 25th of 2017, which represent 3 sentences implemented firstly without ratification of the Palestinian president and following National Consensus Government formulated in June 2014. Moreover, it should be mentioned that death (30) sentences issued in Gaza Strip since the beginning of 2017, including (19) new sentences while (12) sentences were issued to affirm previous judgments and 6 death sentences were implemented.

- **Number of death penalties implemented in 2017.**

6 penalties were implemented in 2017 (detailed information are mentioned in annex No. 1)

- **Number of death penalties issued in 2017.**

32 death penalties were issued in 2017 among which (12) sentences were issued to affirm previous judgments. Affirmation decisions were made by civil and military courts (detailed information are mentioned in annex No. 2)

- **As precedent:** Palestinian courts inflict capital punishments upon drugs dealers despite the fact that combating drugs, psychotropic substances, drug sponsors, traffickers and users are not recognized capital crimes by decree-by law no. (18) Of 2015. But such cases are judged with sentence of permanent hard labour, provisional hard labour with fees which are between 10,000 JD and 20,000 JD maximum.

- **(74) Capital crimes within applied laws in Palestine.**

“SHAMS” Center mentioned that “we in Palestine are applying inconsistent legal combination of laws that punish with death penalty, which are not Palestinian laws basically except for the Penal Revolutionary Law no. (5) of 1979 as the following:

1. British Mandate Penal Law No. (74) Of 1936 which includes (15) capital crimes.

2. Jordanian Penal Law No. (16) Of 1960 which includes (16) capital crimes.
3. Fireworks Law No. (23) Of 1963 which punishes “one who use fireworks for spreading terror of causing damages in spirits and properties either the harm caused or not” with death penalty.
4. Revolutionary Penal Law No. (5) Of 1979 (Penal Code endorsed by Palestinian Liberation Organization PLO and it is currently applied among affiliated members of the Palestinian security institution) which includes (42) capital¹ crimes.

The problem

Capital punishment violates against an essential human right since life is a gift, and it is irreversible once executed. It doesn't represent a public deterrent so; it is nothing but a form of violence not a solution for it. Besides, the center explained that opposing the implementation of death penalty in the Palestinian territories results from the belief that there are different difficulties pertaining to it.

- 1) Death penalty is continuously implemented in Palestine:** Despite the fact that Palestine has acceded to (35) human rights' international conventions and treaties in 2014. On April 1st Palestine has acceded to (15) conventions while on December 31st of Palestine has acceded to another (20) treaties. However, Palestinian legislations haven't been matched with related international conventions and no penal legislations have been enacted on the ground.
- 2) Death penalty in Palestine is influenced by the attitudes of the public opinion:** There is a social misunderstanding and a supportive approach to use the capital punishment, and those who call for implementing it include lawyers, physicians, university instructors and decision-makers ... etc.
- 3) The poor and marginalized people are those who are penalized with capital punishment:** in all cases death penalty was inflicted upon less advantaged people. They don't have potentials to assign qualified lawyers to defend them, and they don't have sufficient potentials to make reconciliation with families of victims.
- 4) Capital punishment is inflicted by military trials and field (revolutionary) courts:** until present, Palestinian civilians are death penalized brought to military trials. This infringes upon the constitution,

laws and international conventions which assure the citizen's right to be prosecuted before natural judge.

Implementing death penalty contradicts with Palestinian Basic Law and related Palestinian laws

Death penalty reverses Palestinian Basic Law and related Palestinian laws. Article (30) of the Palestinian Basic law stipulates:

- a) Submitting a case to court is a protected and guaranteed right for all people. Each Palestinian shall have the right to seek redress in the judicial system. Litigation procedures shall be organized by law to guarantee prompt settlement of cases.
- b) Laws may not contain any provisions that provide immunity to any administrative decision or action or against judicial review.
- c) Judicial error shall result in a remedy by the National Authority. Conditions and methods of such remedy shall be regulated by law.

So, prosecuting citizens before military judiciary is a constitutional breach. Furthermore, article (109) of the Palestinian Basic Law which grants the president a constitutional right to sign or reject death sentence "A death sentence pronounced by any court may not be implemented unless endorsed by the President of the Palestinian National Authority". As well as articles (408) and (409) of Criminal Procedures Law no. 3 of 2001, stipulate that death sentences shall not be implemented without ratification of the present of the state.

Recommendations

Human Rights and Democracy Media Center "**SHAMS**" recommends:

- 1- The importance to sign the Second Optional Protocol annexed to the International Covenant on Civil and Political Rights of 1989 regarding the abolition of death penalty.
- 2- The importance of the abolition of death penalty from Palestinian legislations.
- 3- Requesting the Palestinian president Mahmoud Abbas not to ratify death sentences.
- 4- The need to match national legislations with related international conventions & treaties.

- 5- The need to enhance collaboration and coordination between local, regional and international civil society organizations. represented by (Palestinian Coalition against Death Penalty, Arabic Coalition against Death Penalty and World Coalition against Death Penalty).

Annexes:

1. Number of death penalties implemented in 2017.
2. Number of death penalties issued in 2017.

Death penalties implemented in 2017

#	Name	Case	Court	Judgment Day & date	location	Notes
1.	Adel Abdulqader Almadhoun 55 years old	Espionage with Israel	Permanent Military Court of Gaza, the sentence was affirmed by Military Court of Appeal and High Court being the court of competence	Thursday 6/4/2017	Gaza	Death by handing Sentence executed in passports' yard in Gaza city
2.	Wahid Said Ahel 42 years old	Espionage with Israel	Permanent Military Court of Gaza, the sentence was affirmed by Military Court of Appeal and High Court being the court of competence	Thursday 6/4/2017	Gaza	Death by handing Sentence executed in passports' yard in Gaza city
3.	Ahmad Hasan Shreteh 32 years old	Espionage with Israel	Permanent Military Court of Gaza, the sentence was affirmed by Military Court of Appeal and High Court being the court of competence	Thursday 6/4/2017	Gaza	Death by handing Sentence executed in passports' yard in Gaza city
4.	Ashraf Abu Leila 38 years old	Espionage with Israel,	Field Military Court	Thursday 25/5/2017	Nuseirat camp	Death by handing

		murdering and getting involved in murder				
5.	Hisham Mohammad Aloul 44 years old	Espionage with Israel, murdering and getting involved in murder	Field Military Court	Thursday 25/5/2017	Gaza city	Death by handing
6.	Abdulla Ahmad Nashar 38 years old	Espionage with Israel, murdering and getting involved in murder	Field Military Court	Thursday 25/5/2017	Gaza	Firing squad

Death penalties issued in 2017

	Name	Case	Court	Judgment Day & date	Location	Notes
1.	Nael Wael Mahmoud Jundia	Murdering Mohammed Halas in 2013 as he was punched with a harsh stick, razor, lancet and a firearm which caused death instantly	Gaza Court of First Instance	Tuesday 10/1/2017	Gaza	Death by handing
2.	Mohammad Ali	Murdering Mohammed Halas	Gaza Court of First Instance	Tuesday 10/1/2017	Gaza	Death by handing

	Masoud Jundia	in 2013 as he was punched with a harsh stick, razor, lancet and a firearm which caused death instantly				
3.	Khamis Jabra Zaki Shawwa 36 years old	Killing Nahed Ibrahim Sawaf with a knife on 8/11/2010 in collaboration with a partner	Gaza Court of First Instance	Tuesday 24/1/2017	Gaza	Death by handing
4.	Ghasan Shafiq Abdulrahman Ismail 49 years old	Killing his brother (Adnan) 30 years old with a knife on 14/5/2008	Deir Albalah Court of First Instance	Tuesday 24/1/2017	Deir Albalah	Death by handing
5.	Khalid Mahmoud Samari 48 years old	Espionage	Permanent Military Court	Sunday 19/2/2017	Khan Younis	Death by handing
6.	Ali Abed Mohammed Alhessi 67 years old	Espionage	Permanent Military Court	Sunday 19/2/2017	Jabalya	Death by handing
7.	Ismail Amin Abu Sadeq 44 years old	Espionage	Permanent Military Court	Sunday 19/2/2017	Khan Younis	Death by handing
8.	Wahid Said Ahel 42 years old	Espionage	Permanent Military Court	Sunday 19/2/2017	Gaza	Affirmation / death by handing
9.	Mohammed Bassam Dabashi 32	Espionage	Permanent Military Court	Sunday 19/2/2017	Nuseirat camp	Affirmation / death by handing

	years old					
10	Rafat Anaba 55 years old	Espionage	Permanent Military Court	Sunday 19/2/2017		Death by handing
11	Adel Abdulqader Madhoun 55 years old	Espionage	Permanent Military Court	Sunday 19/2/2017	Khan Younis	Affirmation / death by handing
12	Ahmad Abdul-latif Mahmoud Abu Zbeida 43 years old	Murdering his wife Ilham Sehwal on 15/11/2015	Deir Albalah Court of First Instance	Thursday 2/3/2017	Albriej	Death by handing
13	Rafat Hasan Madi 40 years old a sergeant in National Security entity	With charge of drugs possession for trafficking	Permanent Military Court	Sunday 19/3/2017	Rafah	Firing squad
14	Ziyad Altarabeen 26 years old an outlaw	With charge of drugs and psychotropic substances trafficking	Permanent Military Court	Sunday 19/3/2017	Rafah	Death by handing
15	Husni Fathi Shaqura 38 years old	With charge of murdering Hajja Samiha Awadallah	Court of Appeal	Wednesday 29/3/2017	Jabalya	Affirmation / death by handing
16	Mahmoud Mohammed Ashour Khodari 25 years old	The charge of murdering the victim Thuraya Albadri (78 years) with intentional killing, burglary, theft and holding a	Gaza Court of Cassation, affirms the sentence issued by Court of Appeal	Thursday 4/5/2017	Gaza	Affirmation / death by handing

		harmful tool. She was killed on 11/5/2016				
17	Alaa Nabil Naser 28 years old	Murdering the victim Husein Abu Mu'mar with charge of intentional killing, kidnapping, theft illegally	Gaza Court of Cassation, affirms the sentence issued by Court of Appeal	Thursday 4/5/2017	Rafah	Affirmation / death by handing
18	Mohammed Ahmad Jundia 36 years old	The charge of drugs and psychotropic substances trafficking	Permanent Military Court	Thursday 11/5/2017	Gaza	Death by handing
19	Ahed Walid Alqadi 40 years old	The charge of drugs and psychotropic substances trafficking	Permanent Military Court	Thursday 11/5/2017	Rafah	Death by handing
20	Mahmoud Mohammed Abu Shammale h 28 years old	Murdering the victim Husein Abu Mu'mar with charge of intentional killing, kidnapping, theft illegally	Gaza Court of Cassation, affirms the sentence issued by Court of Appeal	Thursday 4/5/2017	Rafah	Affirmation / death by handing
21	Ashraf Abu Leila 38 years old	Espionage with Israeli authorities, murdering and getting involved in murder	Field Military Court	Thursday 25/5/2017	Nuseirat camp	Death by handing
22	Hisham Mohammed Aloul 44 years old	Espionage with Israeli authorities, murdering and getting involved in murder	Field Military Court	Thursday 25/5/2017	Gaza city	Death by handing

23	Abdulla Ahmad Alnashar 38 years old	Espionage with Israeli authorities, murdering and getting involved in murder	Field Military Court	Thursday 25/5/2017	Gaza	Firing squad
24	Ibrahim Mohammed Ahmad Manaya' 53 years old	Killing Sami Rawagh 33 years old	Gaza Court of Cassation, affirms the sentence issued by Court of Appeal	Wednesday 7/6/2017	Beit Hanoun to the north of Gaza	Affirmation / death by handing
25	Nahla Abu Anza 28 years old	Killing her husband Riayd Helmi Abu Anza	Gaza Court of Appeal, affirms the sentence issued by Court of First Instance	Wednesday 12/7/2017	Khan Younis	Affirmation / death by handing
26	Ahmad Abdul-latif Mahmoud Abu Zbeda 43 years old	Killing Ilham Mohammed Sehwail	Gaza Court of Appeal, the sentence issued by Court of First Instance	Wednesday 12/7/2017		Affirmation / death by handing
27	Mohammed Derbashi 32 years old	Espionage with Israeli authorities, murdering and getting involved in murder	High Military Court affiliated with Military Judiciary of Gaza	Thursday 13/7/2017	Nuseirat camp	Affirmation / death by handing
28	Isam Hasan Qeshta 53 years old	Espionage with Israeli authorities, murdering and getting involved in murder	Military Judiciary of Gaza	Thursday 13/7/2017	Rafah	Affirmation / death by handing
29	Subhi Ismail Jabri 54 years old	Associate in murder and burglary	Deir Albalah Court of First Instance	Tuesday	Khan Younis	Death by handing

30	Yusuf Hasan Abu Shab 64 years old	Associate in murder and burglary	Deir Albalah Court of First Instance	26/9/2017	Khan Younis	Death by handing
31	Ahmad Abdul-qader Albanna 38 years old	Associate in murder and burglary	Deir Albalah Court of First Instance	Tuesday 26/9/2017	Khan Younis	Death by handing
32	Mahmoud Mohammed Khalifa 55 years old	Murdering his brothers Ra'fat Mohammed Khalifa and Jihad Mohamed Khalifa	Khan Younis Court of First Instance	Thursday 28/12/2017	Rafah	Death by handing