



Arbitrary Detention of Fishermen in the Gaza Sea

**Briefing Note
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Israel's use of arbitrary detention against fishermen in the Gaza Strip

- The Israeli navy systematically subjects Palestinian fishermen who are fishing off the shore of the Gaza Strip to arbitrary detention. From the beginning of 2011 until July 2012, PCHR has recorded 23 incidents of unlawful arrests resulting in the arbitrary detention of 78 fishermen.¹
- Furthermore, during the arrests a total of 23 fishing boats were confiscated while 12 sets of fishing equipment were damaged and/or destroyed.
- Prior to being detained the fishermen are intercepted and arrested while working at sea. From PCHR's documentation it becomes evident that the fishermen, at the time of their arrest, pose no threat to the security of the naval forces, nor are they in violation of any law.
- The arrests often involve the use of live fire, water cannon, and attempts to topple boats. The fishing boats are approached by Israeli navy, in some instances while shooting at or around the fishing boat, with soldiers ordering the fishermen to undress and jump into the water before having to swim towards the navy boat. Once on board of the naval ship, the fishermen are handcuffed and blindfolded after which they are taken to Ashdod port in Israel, where they are detained and interrogated.
- In general, the detained fishermen are not informed of a reason for their arrest and detention, nor informed of charges against them. Interrogation by the Israeli counter-intelligence and internal security service, also known as Shin Bet, usually focus around

¹ A detention is deemed arbitrary, in the sense of Article 9 (1) ICCPR, when the preceding arrest is carried out without the person being arrested being "informed, at the time of arrest, of the reasons for his arrest" or being "promptly informed of any charges against him," in accordance with paragraph 2 of the same Article. See also, "Civil and Political Rights, including the Question of Torture and Detention" (E/CN.4/2001/14) by the Working Group on Arbitrary Detention.



places and persons in the Gaza Strip, especially those connected to Hamas, including civil services such as the naval police. In most cases, the fishermen are released within 24 hours after their arrest, without being charged.

- Most often, the fishermen are not informed of their right to legal assistance, while the interrogations take place without presence of a legal counsel.
- Testimonies given to PCHR by previously detained fishermen indicate that these detainees are put under considerable pressure while in detention to cooperate with and provide information to the Israeli intelligence service. Interrogators threaten detainees with negative consequences to relatives or the denial of access to medical care outside the Gaza Strip if the detainee does not provide full cooperation.
- Minors who are among the detained fishermen are treated similarly to their adult colleagues. The Israeli authorities do not inform parents or other relatives of the arrest and detention of these children. Only when a child is detained for a prolonged period, are relatives contacted by the Israeli authorities. Additionally, minors are interrogated without the presence of either a relative or a lawyer.
- During the arrest fishermen's boats are often damaged and/or confiscated. In all cases the fishing boats and equipment remain confiscated even following the release of the owner. On an ongoing basis, PCHR is involved in legal procedures within the Israeli legal system to seek the return of confiscated boats to the Gaza Strip. Prior to a possible return of property the legal advisor of the Israeli Navy sends PCHR a form in Hebrew; this is to be signed by the owner of the property as a condition for the return of the boat. By signing this form, fishermen pledge to respect the three nautical mile fishing limit, as well as the maximum horsepower limit (25 HP) of the boat engine. Engines with a higher horsepower remain confiscated permanently as Israel deems them illegal when used in Gaza waters by fishermen.
- As a rule, there is no compensation for injuries and damages caused by the Israeli navy to Palestinian fishermen who are arrested and detained. So far, in none of the cases PCHR was able to successfully claim compensation for material damages on behalf of victimized fishermen.



Laws and principles violated by the arbitrary detention of fishermen

- The arrest and subsequent detention of fishermen are carried out arbitrarily, without substantial grounds or reference to any reason for the arrest. This is a violation of Article 9 of the Covenant of Civil and Political Rights (ICCPR).
- The threatening and pressurizing of detainees during interrogation is a violation of the prohibition on inhuman treatment and torture as set out in Article 7 of the International Covenant on Civil and Political Rights. By failing to prevent, investigate and punish this violation, Israel is also neglects its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- By putting forms for signing to the fishermen in Hebrew only, the Israeli authorities violate Article 14 ICCPR, which requires that the communications by the detaining authorities are in a language, or translated into a language, which the detainee understands.
- The Israeli authorities deny detained fishermen legal assistance by not informing them promptly of their right to assistance by a legal counsel. This is in violation of Principle 17 of the Principles for the Protection of All Persons under Any Form of Detention Principles for the Protection of All Persons under Any Form of Detention.
- By arbitrarily detaining minors and not contacting parents, other contact persons, or lawyers, Israel denies them the special protection as codified in Article 37 of the Convention of the Rights of the Child and Principle 16 of the Body of Principles for the Protection of All Persons under Any Form of Detention, which demand that children shall not be unlawfully deprived of its liberty and that in case of detention family or other appropriate persons are notified.
- Following the arbitrary detention the concerned fishermen are legally entitled to compensation, both for their victimization and their financial losses, such as the damage or destruction of their boats and equipment. Article 10(5) of the Covenant of Civil and Political Rights provides that “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation” Israel has not paid any fisherman such compensation.



Overall Human Rights Situation of Fishermen in the Gaza Strip

- The arbitrary detention of Gaza's fishermen take place in a larger context of human rights violations which affects their right to freedom of movement, access to livelihood, and standard of living.
- Israel's use of live fire, water cannons, and attempts to topple boats, during the unlawful arrests of fishermen, frequently violate customary international humanitarian law provisions relating to the prohibition on the direct targeting of civilians and civilian objects.
- Since June 2007, Israel has unilaterally imposed an illegal absolute closure on the Gaza Strip. As part of the closure, Israel has implemented an exclusion zone at sea which prohibits any sailing beyond three nautical miles off the coast of the Gaza Strip. The movement of fishermen has become severely restricted, as has their access to livelihood.
- The fishing exclusion zone, maintained through arbitrary arrests and attacks, constitutes a measure of collective punishment which is prohibited under Article 33 of the Fourth Geneva Convention. The denial of the fishermen's freedom of movement and consequent lack of access to livelihood violate these workers' rights under the Covenant on Economic, Social and Cultural Rights, in particular Article 6, 7 and 11.
- Another integral part of the closure that severely affects fishermen is the near total ban on exports from the Gaza Strip. The severely limited fishing area, combined with a ban on exports, has brought Gaza's fishing industry to near collapse. As a result, the number of working fishermen has fallen from 10,000 in 1999 to 3,200 today, dramatically affecting the livelihoods of 39,000 dependents. The 3,200 fishermen who are still working provide for the livelihood of 19,200 dependents.