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Hamas must stop planned judicial executions in the Gaza Strip

The Hamas authorities in the Gaza Strip must stop plans to carry out judicial executions and should immediately establish an official moratorium on executions, Amnesty International said today, amid fears of imminent executions following approval by the Palestinian Legislative Council (PLC) in Gaza and statements by several senior Hamas officials.

On 25 May, PLC members in Gaza met and approved the implementation of death sentences against convicted prisoners who have exhausted their appeals.

While the PLC is itself divided, its members in the Gaza Strip are overwhelmingly affiliated with Hamas, and PLC Deputy Speaker Ahmad Bahar, its most senior official there, has promised speedy implementation of death sentences numerous times in recent days. He and other Hamas officials clearly view the [announcement by the PLC in Gaza](#) as the final step enabling the execution of prisoners whose sentences have been upheld by the highly flawed court system in the Gaza Strip.

Although the brief announcement did not specify how many death sentences had been validated and deemed enforceable, on 20 May, senior Hamas official and PLC member Khalil al-Hayya implied that 13 people convicted of murder, most in connection with armed robberies, had exhausted their appeals. Other senior Hamas officials, including the deputy head of Hamas' political bureau, Isma'il Haniyeh, and the head of the Supreme Judicial Council in Gaza, Abdel Raouf al-Halabi, have spoken similarly of 13 cases in which the legal and judicial measures were complete and death sentences are "awaiting implementation".

On 22 May, Isma'il Jaber, Attorney General in the Hamas de facto administration, told journalists that he hoped death sentences which had been upheld by Gaza's Court of Cassation would be carried out in the coming days, and that the executions should be public in order to achieve "the goal of the punishment... to deter crime". He also requested the co-operation of judicial authorities in the Gaza Strip to "satisfy the community" by proceeding with recent capital cases quickly, and stressed that the PLC was the only legitimate "responsible authority" to ratify death sentences upheld by the Court of Cassation in Gaza. In a Facebook announcement published on 26 May, the Attorney General stated that while the timing of executions had yet to be determined, he hoped that death sentences would be implemented before the month of Ramadan, expected to begin on 6 June.

The moves by Hamas officials follow two murder cases in the last month, widely reported and condemned in the media, a perception that violent crime in the Gaza Strip has increased in recent years, and public calls by the relatives of some of those killed for prompt implementation of death sentences.

Amnesty International acknowledges the right and responsibility of governments to bring to justice those suspected of committing crimes. However, there is no credible evidence that the death penalty has a greater deterrent effect than prison terms. Amnesty International opposes the death penalty in all cases without exception, regardless of the nature or circumstances of the crime; guilt, innocence or other characteristics of the individual; or the method used by the state to carry out the execution. The death penalty violates the right to life as proclaimed in the Universal Declaration of Human Rights. It is the ultimate cruel, inhuman and degrading punishment.

Background

Under Palestinian law, all death sentences must be ratified by the Palestinian President before they can be carried out. However, since 2010 the Hamas de facto administration has carried out executions periodically without obtaining approval from President Mahmoud Abbas. Hamas officials in Gaza assert that since presidential and parliamentary elections have repeatedly been postponed and the “national consensus” government under President Mahmoud Abbas has not assumed most of its functions in the Gaza Strip, authority for ratifying death sentences rests with the PLC.

Between April 2010 and May 2014, the Hamas authorities executed 19 people in the Gaza Strip on charges of murder, treason, or “collaboration” with hostile entities, usually referring to Israel. One of them, [Hani Muhammed Abu Alian](#), executed on 2 October 2013, was under 18 at the time of one of his alleged crimes and was convicted based on a “confession” extracted under torture, flouting numerous international standards.

Amnesty International continues to have grave concerns that torture and other ill-treatment of detainees in the Gaza Strip, including those sentenced to death, are widespread under the Hamas de facto administration, and that courts fail to adhere to international fair trial standards, including in capital cases. Allegations of torture are not independently investigated and perpetrators are not prosecuted.

While judicial executions have not been carried out in Gaza since the formation of the “national consensus” government in June 2014, numerous extrajudicial executions have taken place. Hamas forces [extrajudicially executed at least 23 Palestinians](#) in the Gaza Strip during Israel’s military offensive in July and August 2014. No one has been held accountable for these summary killings and other crimes under international law and serious abuses committed by Hamas forces during the 2014 Israel/Gaza conflict. More recently, on 7 February 2016, the Izz al-Din al-Qassam Brigades, Hamas’ military wing, summarily killed Mahmoud Rushdi Ishteivi, a former member of the brigades, after detaining him in secret locations for over a year. Family members who saw him on occasion during this time reported that he had been tortured.

Both civil and military courts issue death sentences in the Gaza Strip, and civilians are sometimes tried in military courts. In 2015, courts in the Gaza Strip issued or upheld at least 10 death sentences. According to the Palestinian Center for Human Rights, since the beginning of 2016, military and civil courts in Gaza have imposed or upheld death sentences against 10 individuals, most of them accused of “collaboration”.

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