

Covid-19 emergency laws are suffocating the Palestinians

Linda Maher

SPECIAL REPORT

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Linda Maher

Linda Maher is a Palestinian journalist, based in Hebron, West Bank. She frequently writes for the Arab Reporters for Investigative Journalism (ARIJ).



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Cover Image: *Artist rendition of microscopic virus*

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MEMO Publishers
1 Green Mews
Bevenden Street
London N1 6AS

t: +44 (0)20 8838 0231

e: info@memopublishers.com

w: www.memopublishers.com

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For Abdul Nasir Saeed, bullets replaced the traditional cannon announcing the time to break the fast (Iftar) on 17 Ramadan last year. Now, whenever he sees Palestinian Security Forces he is haunted by the image of himself prostrate on the ground with blood flowing from his head.

On the morning of 10 May, 2020, Abdul Nasir went to his dairy farm in Jamaeen, a town to the south of Nablus in the occupied West Bank. He passed through two security checkpoints: the first was set up by the Palestinian Authority when the state of emergency was declared to restrict the movement of citizens and limit the spread of Covid-19; the second was Israel's Huwwara checkpoint, about 100 metres further ahead.

When Abdul Nasir was returning home in the afternoon to take his family to the farm for Iftar, an Israeli officer stopped him and said: "The gates will be closing shortly. Tell them [the Palestinian security officers at the other checkpoint] to open the gate," in order to clear the traffic jam at the checkpoints before Iftar time. He went on his way after notifying the Palestinian officers.

Freedom of movement

When Abdul Nasir reached the checkpoint again, he had his family with him and they were heading back to the farm to break the fast. The roads had been very busy since the lockdown lifted, and most Palestinian families went to spend some time on their farms and in their gardens. Abdul Nasir was afraid that he would be late, so he overtook some vehicles while driving. His 16-year-old son, Abdul Jabbar, was sitting next to him and filming the traffic jam on his phone.

A Palestinian security officer saw that the boy was filming. He pulled him out of the car. "Why are you filming?" he yelled, shoving him aside and confiscating his phone. Abdul Nasir got out of his car and told the officer, "I am the one who instructed my son to film the traffic jam." The officer took his identity card and asked him to wait.

"We deleted the pictures in front of him," explained Abdul Nasir. "He told me that things were not as simple as that, and asked me to be quiet." After waiting a while, Abdul Nasir told him: "Excuse me... It is the end of the day, and I do not want to be late for work while fasting. I will come back to you after Iftar." He began to drive away as the security officers shouted behind him, heading towards the Israeli checkpoint to pass through before it closed.

The gate at the Huwwara checkpoint was closed, so he returned to the Palestinian checkpoint to reach his farm via a winding side road. The officers there stopped him; one even punched him.

"In this country, we have lost everything," said Abdul Nasir. "The only thing we have left is a little bit of dignity. When he hit me and insulted me, I hit him back in self-defence." The security officer pulled him out of the car, and with the support of other Palestinian paramilitary guards, beat him with sticks and rifle butts, kicking, punching and humiliating him.

His wife and son Abdul Jabbar stepped in to defend him, but they were beaten too, and pepper spray was aimed at their eyes. Abdul Nasir's twelve-year-old daughter, Salsabil, his six-year-old son, Yaqoub, and his two-year-old daughter were sitting in Abdul Jabbar's lap when they were all attacked with the pepper spray.

When Abdul Nasir fell to the ground at the emergency checkpoint and surrendered, one of the paramilitaries stepped on his head. "I did not allow him to do that; I rose and flipped him on his back and defended myself," said Abdul Nasir. He lost consciousness as a result of the beating he received, but the scene has stayed with him. "A person's heart aches and hurts because his own countryman is treating him in this way," he told this investigation. "The law

does not give him the right to do this: as long as he is wearing the uniform, he represents the law, and does not represent a gang or the law of the jungle.”

After 12 days, Abdul Nasir was released on bail from a PA prison. His son was released three days after that. They were charged with resisting security officials. He filed a complaint with the Intelligence Services, and was asked to settle or drop the complaint against the paramilitary officers who attacked them if he wanted to close his case file.

This investigation has documented sixteen cases where Palestinians were subjected to violations by the Palestinian Authority security forces during the emergency declared to limit the spread of Covid-19. This is in addition to 95 depositions that were documented over the past five months by civil society organisations about people who were subjected to violations, including 65 people in the West Bank.

Islam Al-Tamimi is the director of the Training, Awareness and Advocacy Department at the Independent Commission for Human Rights (ICHR). He explained that there have been numerous violations, especially against freedom of opinion and expression, and peaceful assembly, during the emergency period. There have also been restrictions on freedom of movement and transportation. He said that comparing the number of violations with those before the state of emergency and pandemic should not be used to indicate the reality of violations, because this does not reflect the actual situation. These violations must be analysed and linked to breaches of the emergency laws due to Covid-19.

After the first case of the coronavirus emerged in the city of Bethlehem, a state of emergency was imposed in the West Bank on 5 March for the first time, and for a period of thirty days. It has been renewed monthly ever since. The amended Palestinian Basic Law of 2003 allows the possibility to declare a state of emergency for a period of 30 days by presidential decree. This may be extended for another thirty days with the approval of two-thirds of the members of the Legislative Council, which has not happened since the Legislative Council became inactive in 2007.

Lawyers for Justice followed 38 cases of arrest during the state of emergency which were concentrated in the northern and central regions of the West Bank. According to the report that the organisation provided to this investigation, the Preventive Security and the General Intelligence agencies were the most frequent perpetrators of documented violence, in addition to the administrative detention that the governor was responsible for.



Asa'ad Qabaja : https://www.youtube.com/watch?v=ILVWx_zQG-o



Samir Aasi : https://www.youtube.com/watch?v=-zEFj_HNrrE



Abdul Nasir Saeed: https://www.youtube.com/watch?v=RydNyZWG_rs

Diala Ayash from Lawyers for Justice pointed out that the foundation has recorded human rights violations during the pandemic period, including subpoenas for security interviews, arbitrary arrests and detentions. The lawyer added that courts were only open two days a week until 1 pm at the beginning of the state of emergency. This led to the extension of detentions and to a delay in legal procedures, including being released or being released on bail. Both of these require four days before a court approval is secured.

Articles 111 and 112 of the Amended Palestinian Basic Law of 2003 state the following: “It is not permissible to impose restrictions on fundamental rights and freedoms except to the extent necessary to achieve the declared goal in the decree announcing a state of emergency.

Any arrest resulting from the declaration of the state of emergency must be subject to the following minimum requirements: any arrest conducted under the decree declaring a state of emergency must be reviewed by the Attorney General or the specialised court within a period not exceeding fifteen days from

the date of arrest. The arrested person has the right to appoint a lawyer of his choice.”

The investigation obtained 60 statements from Al-Haq human rights organisation. Thirty of them come from the West Bank and thirty from the Gaza Strip. The reporter has classified the violations that took place during the past five months into thirteen types as follows:

Data from Al-Haq Organisation

Types of Violations	West Bank	Gaza
1. Violating the right to a fair trial	20	36
2. Violating the right to security and physical safety from mistreatment	10	27
3. Violating the right to freedom of opinion and expression	7	22
4. Violating the right to freedom	4	17
5. Violating the right to humane treatment in detention	5	12
6. Violating the right to private ownership	4	9
7. Violating the right to peaceful gathering and the formation of associations	4	8
8. Violating the right to human dignity	2	6
9. Violating the right to work	4	6
10. Violating the right to privacy	1	4
11. Violating the right to the freedom of movement and travel	3	3
12. Violating the right to health	2	2
13. Violating the right to protection from the confiscation of assets	0	1

Impersonating a health worker

On the afternoon of Friday, 20 March, 2020, someone knocked on the door of Asa'ad Qabaja's house. Asa'ad's eldest son opened the door. The men at the door said, "We are health workers from the Palestinian Ministry of Health, and we want to see your father." Asa'ad went to the door and spoke to them, and they asked him to accompany them. He discovered that they were members of the Palestinian Preventive Security Service impersonating health workers.

The paramilitaries entered Asa'ad's house by force to take him to the Preventive Security Centre in the village of Tarqumiyah in the Hebron governorate. Asa'ad asked for a court order, or any legal basis for the arrest. He refused to submit to the arrest warrant, fearing that they might be members of a criminal gang. They started beating and insulting him, and then dragged him to their car. Fearing for their father, Asa'ad's children resisted the soldiers and started screaming, crying and pulling Asa'ad from their hands. One of the security officers took out his weapon and fired it to frighten them and keep them away from their father.

Article No. 202 of the Jordanian Penal Code No. 16 of 1960, which is applied in the West Bank, entails a punishment ranging from a month to a year for "anyone who impersonates a public service employee, whether civil or military. This also applies to occasions on which that employee is assigned to perform a role or to be present at a place within the capacity of his position. It also covers instances wherein a person unlawfully pretends to be an employee in the public service, whether civil or military, and claiming that he has the right to perform any of the roles or to be present at a place in order to take any action by virtue of his position. The punishment shall be imprisonment from three months to two years if the person commits any of the aforementioned acts while working and wearing a uniform or badge belonging to the employees."

Diala Ayash confirmed that the punishment for a paramilitary or security employee impersonating a government employee in a different role is more severe than that imposed on a civilian employee. This is because paramilitary

and security personnel may have their rank stripped from them if they should do this, and if it is proven in what are, in effect, courts martial.

Asa'ad arrived at the Preventive Security Centre still not knowing the reason for his arrest. Eventually, one of the investigators told him that he was charged with trying to spread the coronavirus, as he had held Friday prayers in violation of the emergency health protocols. However, during the investigation, it became clear that Asa'ad had nothing to do with the order to hold prayers in one of the village mosques, as the charges claimed. Asa'ad had held the first Friday prayer with his children in his own backyard after the state of emergency was declared.

The Public Prosecution is the only authority entitled to arrest people and investigate them, as per the Criminal Procedures Law No. 3 of 2001. This law is consistent with the amended Palestinian Basic Law of 2003, of which Article 11 stipulates: "Freedom is a natural right that is guaranteed and untouchable. No one may be arrested, searched, imprisoned, or his freedom restricted in any way or prevented from movement except by a judicial order in accordance with the provisions of the law." Article 12 of the Basic Law states: "Anyone who is arrested or detained shall be informed of the reasons for his arrest or detention. Further, he must be informed quickly in a language that makes him comprehend the accusation levelled against him. He should also be enabled to contact a lawyer and be brought to trial without delay."

Asa'ad was not brought before the court, and was arrested on the orders of the governor for three days. Ayash asserts that administrative detentions by order of the governor violate the amended Palestinian Basic Law, especially Article 32 thereof. The Public Prosecution is the only entity that has the authority to press charges and is responsible for sending files to the specialised court, which in turn follows the necessary procedures to conduct the arrest.

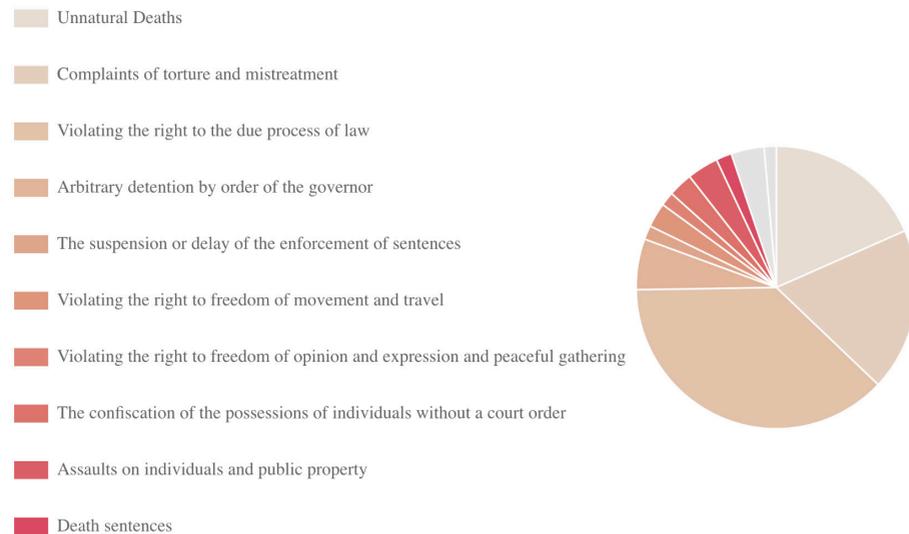
Practically speaking, the administrative detentions by order of the governor stem from the enforcement of the administrative authority which granted him exceptional measures. In practice, these allow him to take away the personal freedom of the individual in order to maintain public security and order, based

on the text of the Jordanian Crime Prevention Law No. 7 of 1954. This law was repealed by the Jordanian Court of Justice. It is also in violation of Article 119 of the Basic Law stating that “it repeals everything that conflicts with the provisions of the amended Basic Law”. Moreover, it clashes with Article 11, which clearly states that “personal freedom is a natural right and can only be restricted by a judicial order.”

Asa’ad pointed out that the detention cells are not suitable for the situation in light of the spread of Covid-19. No health measures are followed except for temperature checks. Prisoners mix freely with each other, social distancing is impossible and security personnel talk to them without wearing masks.

The ICHR Ombudsman Bureau issued reports for the months of January to June last year. It classified violations into ten types, arranged by months and the type of violation divided between the West Bank and the Gaza Strip:

Data from the Independent Commission for Human Rights (ICHR)



Surprise attack

On the same day that Asa’ad and his children confronted the security services, farmer Samir Aasi was facing a similar situation with his sons and nephews. They were spending that Friday evening on their land in Beit Liqya in the district of Ramallah.

Samir, his children and his first nephew were camping on their land, with his second nephew sitting in his car 20 metres away. Samir and those in the tent with him saw approximately 20 people in military-style uniforms approaching the car. Samir hurried to see who they were. “We did not know whether they were soldiers from the Israeli occupation army or security personnel from the Palestinian Authority,” he told this investigation.

From afar, Samir saw that the security officers had caught his nephew and beaten him. He tried to approach them, but backup officers arrived and fired at him.

Samir ran between the olive trees with his sons and his other nephew, with bullets flying around them. “If I didn’t have precise knowledge of the area we were in,” he explained, “we would not have been able to flee.”

Sami, the eldest son of Samir, and his nephew who was running with him were both hit by bullets. Samir hid them inside an old well and closed it while he hid in another well 20 metres away as he tried to figure out the identity of the uniformed officers.

“They started looking for us while we were hiding in the wells, and I heard one of them say, ‘Kill anyone in civilian clothes’.” From his hiding place, Samir recognised two of the officers. “I was surprised that they were from my village, and from the same family, some of whom work in security and the Preventive Security Service.”

After this incident, a meeting was held with the municipality of Beit Liqya to discuss the situation. On 3 April, 2020, the municipality published a statement

denouncing what had happened. Samir and his son also filed a complaint to the military prosecutor in Um Al-Sharayet in Ramallah. To this day, he has not received a response.

Samir did not expect such a horrific experience with his family alongside him. “Some individuals working in the security services took advantage of the quarantine period and the spread of the coronavirus to use force against citizens, to settle accounts and for personal matters. This has become the work of mafias and gangs, and not law enforcement.”

On 5 March, Palestinian Prime Minister Muhammad Shtayyeh confirmed in a call with the Director General of the ICHR that the declaration of the state of emergency is part of the fight against the coronavirus. He assured him that full respect for human rights, freedoms and the law were maintained.

International law imposes commitments on Palestine even in times of emergency, since it has acceded to a wide range of conventions. Article 4 of the International Covenant on Civil and Political Rights requires that the state of emergency be exceptional and in the narrowest scope possible. Measures of non-compliance with the provisions of human rights provided for in the Covenant are of an exceptional and temporary nature.

Mass arrests

At 6pm on Sunday, 19 July, 2020, the Palestinian Security Services arrested nineteen young activists of the “Palestinian Movement against Corruption” during a protest in Ramallah under the slogan “Enough is Enough”. The protest was “a rejection of corruption and the deteriorating conditions of the country amid the coronavirus pandemic.” The arrests were made on charges of “illegal gathering” and “violating the defence law”.

The names of the nineteen people:

 Qassam Mahmoud Hamed Sha'abneh	 Ahmad Raihan Mohammad Shaheen
 Ashraf Rawhi Sa'adi Khalili	 Firas Kamel Yousef Beryosh
 Zuhair Fayez Mohammdo Amsi	 Mohammad Fawzi Nasri Azzam
 Musa Abdulhalim Ahmad Qaisia	 Ali Hesham Ali Abudiab
 Fayez Mohammad Ismael Switii	 Amer Ezzilden Ismeal Hamdan
 Yousef Shaker Khalil Sawathi	 Moayad Musa Abdulfattah Qetawi
 Ahmad Mustafa Talb Barghouti	 Khalid Ahmad Said Zagha
 Jihad Saber Mohammad Abdo	 Usama Jameel Mohammad Khalil
 Jameel Issa Abdulaziz Abu Kbash	 Mibtasem Hekmat Ramdan Shabah
 Mohammad Abduljawad Asa'ad Zebn	

Engineer Faiz Suwayti is the head of the Hand in Hand towards a Country Free of Corruption Association and is an activist in the movement. He was among the people arrested that day. Ten days before this incident, Faiz was in an intelligence prison in the Hebron governorate because of posts on social media accusing directors in the police department of stealing unlicensed vehicles. He went on a hunger strike for three days until an agreement was reached. He was released on the day of his trial on a bail of 100 Jordanian dinars, five days after his arrest.

According to Islam Al-Tamimi, the arrest was because of the expression of opinions, especially by bloggers on their Facebook pages. He says that holding them accountable for their words and their views is an infringement of their right to freedom of expression. This issue is specified by the Basic Law through Articles 19 and 26, meaning that the arrest violates Palestinian laws, the Press and Publications Law, and the Public Societies Law. Al-Tamimi asserts that linking health, safety and freedoms to national security is misplaced. Such an act restricts freedom of work, the media, freedom of opinion and expression, and peaceful assembly.

Every person has the right to express his or her opinion and to publish it by speech, in writing or through any other means of expression or art as long as the law is upheld. Freedom of opinion should not be infringed upon as per Article 19 of the Palestinian Basic Law. Items 1 and 2 of Article 26 assert the right of Palestinians to participate in political life as individuals and groups. In particular, they have the right to form political parties, unions, societies, federations, leagues, clubs and popular institutions, and to join these in accordance with the law. Item 5 provides for holding private meetings without the presence of the police in addition to holding public meetings, processions and gatherings within the limits of law.

Before Faiz's arrival at Al-Manara Roundabout in Ramallah where the protest was being held, the police arrested a number of the younger people involved in the movement. He was taken to the intelligence agency in Ramallah along with his peers. On the first day of their arrest they went on a hunger strike that lasted nine days; they were released on bail of 500 Jordanian dinars.

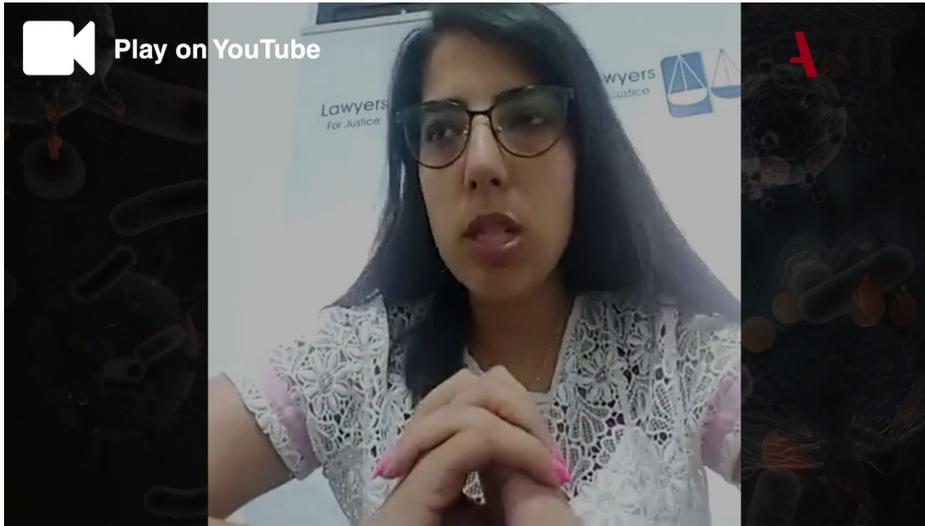
Muhammad Ayash is a member of the movement. He told the investigation that, "During the pandemic period, the Palestinian government is going through a kind of confusion in its decisions, and this has clearly damaged the country." He confirmed that the members of the movement were and remain committed to the quarantine and government guidelines, and that they had taken all preventive measures and adhered to the laws of social distancing. The protest, he insisted, did not amount to overcrowding.



Muhammad Ayash: https://www.youtube.com/watch?v=HVL_Yhe3RQY

Lawyer Diala Ayash described the arrest of the activists as illegal, since the definition of "illegal gathering" does not align with the charge against them; it depends on a specific crime or riot outside the framework of the law. She pointed out that she was at the scene of the incident, and the activists were committed to all emergency laws and necessary health procedures.

Faiz revealed his concern about the health situation in the detention rooms. "The detainees were on top of each other. There were ten of us in a room that could only accommodate four people." He mentioned an incident that happened during the arrest which revealed the weakness of the coronavirus examination procedures. "They brought a new inmate into our detention room, and he told us that he had Covid-19 symptoms. The officers said that he was suspected of infection and that we should not approach him. After six hours of continuous screaming and yelling, they isolated him from us."



Dalia Ayash: <https://www.youtube.com/watch?v=rMCybnkoWY>



Faiz Suwayti: <https://www.youtube.com/watch?v=hyeljy7-r-U>



Islam Al-Tamimi: <https://www.youtube.com/watch?v=AZvWGrLYKDU>

On 16 May, 2020, an interview with Prime Minister Muhammad Shtayyeh with the Council of Ministers was published on social media. He commented on the government press briefing regarding the coronavirus measures: “The state of emergency exists as a measure against the coronavirus and is not against freedom of opinion and expression. There is a difference between viewpoint and slander.” This interview was preceded by a statement on 21 April in a government briefing, in which he had declared: “When there is no parliament, the people must demand, and we care about preserving a detailed scene. We declared a state of emergency, and we cannot infringe upon human rights or freedoms under any circumstances.”

In September last year, the first Right of Reply was sent to the Palestinian Ministry of Interior and the Council of Ministers as part of an investigative report on the violation of citizen rights in light of the state of emergency which was declared to face the ramifications of the Covid-19 pandemic. No response was received from either party.

In December last year, and in cooperation with the office of *Al-Araby Al-Jadeed* in Ramallah, this investigative team sent a letter by registered mail to the

Ministry of the Interior. Fourteen days later, journalist Linda Maher, the author of this report, communicated directly with the ministry's public relations office, and the letter was referred to the Democracy and Human Rights Unit which gave the following response: "ARIJ network is not registered in the Ministry of the Interior, hence, an official response cannot be issued, and the journalist should contact the Prime Minister and Minister of the Interior Mohammad Shtayyeh directly."

As for the Ministry of Justice, it did not respond either, on the pretence that it was preparing a report related to this issue and will make it available to the media. That report has still not been issued. The ministry later requested that the report's author should contact the Public Prosecution directly due to its own lack of jurisdiction in this matter.

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