



Palestinians held in administrative detention by Israel: Policies towards Palestinian detainees and prisoners on hunger-strike constitute cruel, inhuman and degrading ill-treatment 15 May 2012

I. Palestinian prisoners and detainees and Administrative Detention

According to Prisoners' Rights group Addameer, 4,610 Palestinians from the occupied Palestinian territory (oPt) are currently held in detention facilities within Israel under the classification of 'security prisoners'.¹

Palestinian prisoners classified by Israel as 'security prisoners' are held in much harsher detention conditions than criminal prisoners. Their access to family visits and social services is severely restricted, and they are denied telephone contact with the outside world. They do not receive amnesty from the President of the State of Israel, and those sentenced to life imprisonment have no opportunity for the reduction of their sentence. Families from Gaza are not allowed to visit their relatives in Israeli prisons following a total ban imposed five years ago. In 2011, the Israel Prisons Service (IPS) imposed new restrictions on security prisoners, worsening their conditions of confinement as part of the pressure for the release of Israeli soldier Gilad Shalit, then held in Gaza. These restrictions have not been removed despite the prisoners swap deal that enabled his release.² These conditions, combined, constitute cruel, inhuman and degrading treatment in violation of international human rights and humanitarian law.

As of 1 April 2012, 322 Palestinians were held in administrative detention in Israel. A form of internment without trial, Administrative detention can be ordered by a military commander in the oPt based on 'security reasons', which are broad enough to include peaceful political activity and virtually any act of opposition to the Israeli occupation. Detainees are held without trial and neither they nor their lawyers are allowed to see the 'secret evidence' used against them. While detainees may appeal the detention in a military court, such a right is rendered meaningless without access to the information on which the detention order is based. Administrative Detention orders are valid for up to six months at a time and can be renewed indefinitely. According to testimonies collected by human rights organizations, detainees have been held in administrative detention for periods ranging from one month to as much as six years. The frequency of the use of administrative detention has fluctuated throughout Israel's occupation.³ It has specifically been used as a means of collective punishment against Palestinians opposing the occupation. UN CERD has recently expressed its opinion that Israel's current practice of Administrative Detention is 'discriminatory and constitutes arbitrary detention under international human rights law'.⁴

While Palestinians from the West Bank are held in administrative detention under Military Order 1651, which is part of the military regime applied to the occupied West Bank, Israel uses the Unlawful Combatant Law (2002) to detain Palestinian residents of the Gaza Strip without charge or trial. According to the law, an 'unlawful combatant' is a person who is suspected of direct or indirect participation in violence against Israel. It enables incarceration of persons based on their membership in a group, and irrespective of their personal conduct.⁵

II. The hunger strike and Israeli response

The extensive use of Administrative Detention and other punitive measures has triggered growing protests by Palestinians within the prisons. On 18 December 2011, Palestinian Administrative Detainee Khader Adnan started an open-ended hunger-strike in protest at his interrogation and detention. After 66 days' fast and near-death, public outcry and international pressure secured his release on 17 April. Eight other Administrative Detainees subsequently followed his example and joined this mode of protest against denial of access to due and fair judicial process, among them Hana' Shalabi, who was later forcibly displaced by Israel to Gaza. **As of 14 May, detainees Thaer Halahleh and Bilal Diab are on their 77th day of hunger strike and in a life-threatening condition.** Six additional Palestinian

1 According to the Israel Prisons Service (IPS), the current number of 'security prisoners' is 4,275.

2 For further details on this and on a previous mass hunger-strike, see our briefing of 24 October 2011, <http://www.adalah.org/eng/Palestinian%20Prisoners%20and%20Detainees%20Final%20Briefing%20Paper%20Oct%202011.pdf>

3 For a recent official statement from Israel's Minister of Public Security regarding the practice see <http://www.haaretz.com/blogs/diplomania/israel-should-reduce-use-of-administrative-detentions-for-palestinians-top-official-says-1.428118>

4 "Concluding observations of the UN Committee on the Elimination of Racial Discrimination: Israel," 9 March 2012, available at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf>

5 The UN Committee Against Torture expressed concern about this law in its Concluding Observations of 2009: <http://unispal.un.org/UNISPAL.NSF/O/DBE3C94863A888938525763300544555>



prisoners have passed the 50th day of their hunger strike. On 17 April 2012, over 1,600 Palestinian detainees and prisoners launched a mass hunger strike demanding an end to Administrative Detention, solitary confinement and other punitive measures including the denial of family visits and access to education and adequate healthcare.

As the hunger strike gathers speed and support, the response of the Israel Prisons Service has increased in hostility. Prison staff has exerted pressure on hunger-strikers to break their protest in various ways including isolation from the outside world by denial of access to lawyers, independent doctors and family; separation from other prisoners through solitary confinement and frequent transfers from one prison to another; and punitive measures such as raids on striking prisoners' quarters, confiscation of personal belongings and fines. IPS medical staff has been implicated in this process by preferring the interests of the prison to their obligations to their patients, in breach of medical professional-ethical standards. Hunger-strikers have been shuttled between medical facilities and denied access to proper medical care and follow-up in the public health system, despite the inability of the IPS medical facility to address their dangerous medical condition.

Access to trustworthy legal advice and independent doctors is crucial to the hunger-strikers' ability to make conscious and informed decisions regarding their actions, but PHR-Israel doctors and the detainees' lawyers have only gained access to some of the hunger-striking prisoners after repeatedly appealing to the courts.

III. Recommendations to the EU

On 17 February 2012 EU High Representative Catherine Ashton issued a public statement of concern regarding both the condition of then-hunger striker Khader Adnan and the underlying issue of administrative detention, stating that *"the High Representative reiterates the EU's longstanding concern about the extensive use by Israel of administrative detention without formal charge. Detainees have the right to be informed about the charges underlying any detention and be subject to a fair trial."*⁶

The undersigned organisations note that the transfer of people from an occupied territory to the territory of the occupying power is counter to international humanitarian law.

The undersigned organisations request that the EU:

- a. Actively engage with Israel to end the arbitrary and extensive use of administrative detention, including the Unlawful Combatants Law (2002), and condemn the punitive measures used to quell the hunger-strikers, who are engaged in legitimate protest.
- b. Mandate its Delegation in Tel Aviv to continue its follow-up of this issue, and encourage its representatives to attend court hearings, make demarches, and intervene in specific cases of hunger-strikers at risk, especially on the matter of regular access to independent medical follow-up, legal counsel and family visits, including from the Gaza strip.
- c. Continue to issue public statements from Brussels on individual prisoners as well as the underlying matter of administrative detention, with a view to immediate protection of the human rights and lives of Palestinians held in Israeli custody.
- d. Include issues relating to Torture/CIDT and human rights of Palestinians in Israeli custody in general, and administrative detention in particular, as a priority in the local human rights country strategy for Israel.
- e. Report on this matter as a violation of international human rights and humanitarian law in its annual ENP progress report on Israel.
- f. Bring up this matter as well as the rights of Palestinians held in Israeli custody in general in its Council Conclusions and the EU-Israel Association Council, and in bilateral fora, including the informal EU-Israel Working Group on Human Rights and the Subcommittee on Political Dialogue.



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JOINT PROJECT OF ADALAH, AL MEZAN (GAZA) AND PHYSICIANS FOR HUMAN RIGHTS-ISRAEL

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