



PALESTINIAN POLITICAL PRISONERS



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Since the Israeli occupation of Palestinian territories in 1967, Palestinians have been charged with offenses under Israeli military law and tried in military courts. Over the last 43 years, an estimated 700,000 Palestinians have been detained under Israeli military orders in the occupied Palestinian territory (OPT), which constitutes approximately 20 percent of the total Palestinian population in the OPT, and as much as 40 percent of the total male Palestinian population. While arrests can occur at any time and in any place, Palestinians are most commonly arrested at checkpoints, off the street, at border crossings and from homes in the middle of the night. Upon arrest, detainees are usually cuffed with plastic handcuffs and blindfolded. Once bound and blindfolded, the detainee may be kept waiting, standing or kneeling, for long periods of time before being thrown on the floor of a military jeep, sometimes face down, for transfer to an interrogation center. During the transfer, which can take up to several hours, Israeli soldiers often abuse detainees. Cases of beatings, kicking, insults, threats and deliberate humiliation are routinely reported. Palestinian detainees are typically not informed of the reason for their arrest, nor are they told where they will be taken. Most children are subjected to the same treatment.

As of **1 September 2010**, there were 6,257 Palestinian prisoners in Israeli detention including:

- ✓ **190** administrative detainees.
- ✓ **280** child detainees.
- ✓ **12** Palestinian Legislative Council members.
- ✓ **38** women.
- ✓ **792** Palestinians serving life sentences in Israeli prisons.
- ✓ **118** prisoners sentenced for more than 20 years.
- ✓ **313** prisoners arrested before the signing of the Oslo agreements.

All but one of the prisons where Israel detains Palestinian prisoners are located inside Israel, in direct contravention of Article 76 of the Fourth Geneva Convention, which states that an Occupying Power must detain residents of occupied territory in prisons inside the occupied territory. In addition to illegality under international law, the practical consequence of this system is that many prisoners have difficulty meeting with Palestinian defense counsel, and do not receive family visits as their attorneys and relatives are denied permits to enter Israel on “security grounds”.

Detention Facts and Figures

- ✓ 700,000 Palestinians arrested since 1967
- ✓ 50,000 arrested since the beginning of the Al-Aqsa Intifada.
- ✓ 2,000 cases of torture in 2008 alone.
- ✓ More than 600 complaints of torture and ill-treatment submitted against ISA interrogators since 2001.
- ✓ Not one criminal investigation initiated.
- ✓ Between March 2002 and October 2002, 15,000 Palestinians arrested in mass arrest campaigns.

TORTURE & ILL-TREATMENT

Israel's ill-treatment and abuse of Palestinian detainees is widespread and systematic and typically starts with the moment of arrest. Most detainees, including children, report being beaten, kicked, threatened, having their property illegally searched and confiscated and their family home destroyed. Some also report the Israeli army's use of police dogs and "sound bombs" at arrest. On arrival to an interrogation and detention centre the detainee is either placed in a cell, often in solitary confinement, or taken straight for interrogation. During the interrogation period, he or she is typically subjected to some form of either physical or psychological cruel, inhuman or degrading treatment. The methods of ill-treatment most frequently alleged to take place during interrogation include: prolonged constraint of movement in an uncomfortable position causing physical pain; sleep deprivation; beatings; long periods of solitary confinement in small, windowless and, often, cold cells; excessive use of handcuffs placed for extensive periods and the use of threats directed at the detainee or a family member.

Harsh detention conditions in interrogation centres, including the use of solitary confinement, are often used as a means of exerting psychological pressure on the detainee, coercing him or her into giving confessions, sometimes about crimes he or she had not committed. The often windowless, individual cells usually only contain a mattress and a Turkish toilet, falling short of acceptable hygiene standards. During the interrogation period, detainees are prevented from communicating with their family, having access to books or the media. Their only contact with the outside world occurs during lawyers' or ICRC delegates' visits. At times, detainees are prevented from changing clothes or shower for prolonged periods of time.



The use of physical pressure against prisoners and detainees is less common since the 1999 High Court ruling in *The Public Committee Against Torture in Israel v. Government of Israel*, which placed certain restrictions on the use of torture during interrogation. However, under the court's decision, "moderate physical pressure" was allowed to continue in the "necessity of defence" and in "ticking time-bomb" cases. Despite the landmark court ruling, Israeli interrogators today continue to use forbidden interrogation techniques. These techniques primarily involve the use of painful stress positions, where the detainee is bent backwards over the seat of a chair causing pain to the back, or where he or she is forced to stand for prolonged periods against a wall with bended knees.

THE MILITARY COURT SYSTEM

Once the interrogation period is over, Palestinian detainees from the West Bank are processed for trial, sentencing and imprisonment in one of two Israeli military courts currently operational in the OPT: Salem, near Jenin in the northern West Bank, and Ofer, in the central West Bank near Ramallah. Both military courts are located inside Israeli military bases.

Within these military courts, military orders always take precedence over Israeli and international law. Israeli military courts refuse to apply international laws and conventions, and it is impossible to make any legal claims to protect individuals under military occupation. On the rare occasions international law is used, it is used to favour the occupying power.

Judges in the military courts are military officers in regular or reserve service. Most of the judges do not have long term judicial training, and many served previously as military prosecutors. The prosecutors are Israeli soldiers in regular or reserve service appointed to the position by the Area Commander; some of them are not yet certified as attorneys under the Israeli Bar Association.



As per Israeli military orders, a Palestinian can be held without charge by order of a military judge for an initial period of up to 90 days. This period can be extended for another period of up to 90 days by request of the Chief Area Legal Advisor for the OPT, via an order from the Military Court of Appeals. By comparison, an Israeli citizen can be held without indictment for an initial period of 30 days, which can be extended three times in 15 day increments on the authority of the Attorney General.

Trials for Palestinians before the military courts must be completed within two years, while the comparable limit for detainees before Israeli civilian courts is nine months. If proceedings before the military courts have not concluded within the two-year time frame, a judge from the Military Court of Appeals can extend the detention of a Palestinian in the military courts by six month increments.

Language is a fundamental problem in the military courts. Israeli jurisprudence provides that a prisoner must be interrogated in his native language and that his statement also be written in that language. In practice, however, the detainee's confession or statement is frequently written in Hebrew by a policeman, requiring the detainee to sign a statement he or she cannot understand. Once obtained, these confessions constitute the primary evidence against Palestinian detainees in the Israeli military courts.

ADMINISTRATIVE DETENTION

“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.” ICCPR, [Article 9(4)]

Administrative detention is a procedure that allows the military to hold prisoners indefinitely on secret evidence without charging them or allowing them to stand trial. In the occupied Palestinian West Bank, the Israeli army is authorized to issue administrative detention orders against Palestinian civilians on the basis of Military Order 1651. This order empowers military commanders to detain an individual for up to six months renewable periods if they have “reasonable grounds to presume that the security of the area or public security require the detention.” On or just before the expiry date, the detention order is frequently renewed. This process can be continued indefinitely. There is no explicit limit for a maximum amount of time an individual may be administratively detained, leaving room for indefinite legal detention. The grounds on which someone can be detained are unclear, leaving it up to the military commanders to decide what constitutes “public security” and “security of the area.” Detainees are not informed of the reasons of their detention; neither are their lawyers. While international law permits administrative detention during armed conflict, such detention is only permitted under very specific and narrowly defined circumstances: There must be a public emergency that threatens the life of the nation, and detention can only be ordered

on an individual, case-by-case basis without discrimination of any kind. A protected person may be interned or placed in assigned residence only if “the security of the Detaining Power makes it absolutely necessary”¹ or, in occupied territory, for “imperative reasons of security”².

However, the actual use of administrative detention by Israel often does not seem to be for its intended security purposes. Israel has claimed to be

under a continuous state of emergency sufficient to justify use of administrative detention since its inception in 1948. In addition, administrative detention is frequently used – in direct contravention to international law – for collective and criminal punishment rather than for the prevention of future threat. Vague and expansive definitions of “security” in the laws further enable this practice. Thus, Palestinians can be detained for months, if not years, under administrative detention orders, without ever being informed about the reasons or length of their detention. As of September 2010, 190 Palestinian administrative detainees are held in Israeli prisons, including three Palestinian Legislative Council Members, four women and two children.

ADMINISTRATIVE DETENTION IN NUMBERS

- ✓ As of November 2009, more than 110 administrative detainees have been held for one to two years.
- ✓ 27 Palestinians have been held in continuous administrative detention from two to five years.
- ✓ 14,000 administrative detention orders were issued between 1987-1992.
- ✓ In 2009, only 3.6 % of all administrative detention orders were rejected by the military judge.
- ✓ In 2007, approximately 63% of administrative detention orders were approved by the military judge as issued.
- ✓ In 2007, detainees submitted 2368 appeals, of which the courts accepted 329 – or only about 1.38 %.
- ✓ In 2005-2007, the number of administrative detainees averaged 765.

1- Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, Art. 42.

2- Id., Art. 78.

POLITICAL PRISONERS & NEGOTIATIONS

On 13 September 1993, the day representatives of the Palestine Liberation Organization and the State of Israel signed the Declaration of Principles on Interim Self-Government Arrangements (also known as the “Oslo I” Agreement), starting the so-called “Oslo Peace Process”, Israel held more than 12,000 Palestinian political prisoners in its prisons and detention centers. Although this initial agreement failed to directly tackle the issue of political prisoners, the Gaza-Jericho Agreement, signed in 1994, and the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (also known as the “Oslo II” Agreement), signed in 1995, outlined procedures and steps for the release of sentenced prisoners and administrative detainees as a series of “confidence building measures”. The Gaza-Jericho Agreement called for 5,000 Palestinian prisoners to be released within five weeks of signing, but Israel failed to comply with its obligations, releasing far fewer prisoners than the agreement stipulated. One year later, Israel agreed to release Arab and Palestinian prisoners in three stages under the Oslo II Agreement, but then unilaterally froze all releases in 1996 after the assassination of Yitzhak Rabin and the election of the right-wing Likud government.

Since the beginning of negotiations over prisoner releases, Israel has continuously used Palestinian political prisoners as a tool to secure political gains, and has considered their release as concessions and “good-will gestures”, as opposed to obligations incurred under previous agreements and applicable international law.

Comparative studies of recent peace process, such as those in South Africa and Northern Ireland, reveal the importance and centrality of prisoner releases to the greater negotiations towards a lasting peace. In a negotiated peace settlement, amnesties are often a necessary condition for a conflict to end. Once released, prisoners usually play a central role in post-conflict politics and are instrumental in addressing past grievances and in seeking justice and reconciliation. Fifteen years after the beginning of the “Oslo Peace Process”, Israel still holds a total of 313 Palestinian political prisoners, who were arrested before 13 September 1993, the cutoff arrest date for prisoners who were supposed to be included in subsequent releases. Approximately 95 prisoners have spent more than 20 consecutive years in Israeli prisons. They have been excluded from the releases and forgotten by the “peace process”.

Prisoner Profile: Nael Al-Barghouthi



Date of birth: 23 October 1957

Place of residence: Kobar, Ramallah

Date of arrest: 4 April 1978

Place of detention: Eshel Prison, Section 11

Occupation: Tawjihi student (prior to his arrest)

Nael Al-Barghouthi, aged 53, is the longest-held political prisoner in the world. Arrested from home on 4 April 1978 at the age of 21, he has spent the last 31 years – most of his adult life – in prison. Nael is one of 330 Palestinian political prisoners who were arrested before the signing of the 1993 Oslo Peace Agreement and who are still held in Israeli detention.

For more information about Palestinian political prisoners or what you can do, please contact Addameer Association directly at: info@addameer.ps

CHILD DETAINEES

Approximately 700 Palestinian children (under 18) from the West Bank are prosecuted every year through Israeli military courts after being arrested, interrogated and detained by the Israeli army. Since 2000, more than 6,500 Palestinian children have been detained.³

In practice before the military court system, there are no special interrogation procedures for children detained by the Israeli military, nor are there provisions for an attorney or even a family member to be present when a child gives a confession. Many children even serve time in the same prisons and detention facilities as adults. Military Order 1644, issued on 29 July 2009, established a separate military court for Palestinian children and ended 42 years of trying children as young as 12 years of age in the same courts as adults. However, the order fails to correct many of the fair trial deficiencies in the military courts relating to children (including insufficient provisions regarding qualifications for the judges, no added protections during interrogations, and discretionary language granting the prosecutor broad authority to suspend protections for children), which indicate that Military Order 1644 will do little to improve the protection of Palestinian children before the Israeli military legal system.

While the UN Convention on the Rights of the Child defines a “child” as “every human being below the age of eighteen years”, according to Israeli military order 1651, Palestinian children age 16 and older are tried and sentenced by Israeli military courts as adults. By comparison, juvenile legislation defines Israeli children as age 18 or younger. What’s more, a Palestinian child’s sentence is decided on the basis of the child’s age at the time of sentencing, and not at the time when the alleged offense was



committed. Thus, a child who is accused of committing an offense when he or she is 15 will therefore be punished as an adult if he or she has a birthday while awaiting sentencing.

There are currently 280 Palestinian children detained in four Israeli prisons, including: Ofer, Megiddo, Rimonim and Ketziot, in the Negev desert. Very limited provisions are made for the education of Palestinian child detainees. The Israeli Prison Service provides education only in Megiddo and imposes restrictions on what subjects can be taught, allowing children to study only mathematics and humanities, and banning other subjects for “security reasons”.

3- See DCI-Palestine, Palestinian child prisoners: The systematic and institutionalized ill-treatment and torture of Palestinian children by Israeli authorities, June 2009, p. 8 (available at: <http://www.dci-pal.org/english/publ/research/CPRReport.pdf>)

FEMALE PRISONERS

Since 1967, an estimated 10,000 Palestinian women have been arrested or detained under Israeli military orders. Between the years 2000 – 2009, the Israeli Occupying Forces arrested more than 750 Palestinian women. As of September 2010, there remain 38 Palestinian women held in Hasharon and Damon prisons in northern Israel.⁴ Both of these facilities lack a gender-sensitive approach and female prisoners' personal health and hygiene needs are thus rarely addressed by the administration.



The majority of Palestinian female prisoners are subjected to some form of mental pressure and torture through the process of their arrest. Beatings, insults, threats, sexual harassment and humiliation are techniques used by Israeli interrogators to intimidate Palestinian women and coerce them into giving confessions. In prison, degrading and intrusive body searches often occur during transfers to court hearings and can sometimes take place in the middle of the night as a punitive measure. Harsh imprisonment conditions, such as the lack of fresh air, sunlight, moisture in the winter, heat in the summer, insects, dirt and overcrowded cells combined with stress, poor diet and isolation from families all negatively impact womens' health, often leading to of rheumatism, dermatological diseases and gynecological problems among female detainees.

Over the years, pregnant women have also been imprisoned. Their cases are of outmost concern, as the incarceration of pregnant women poses a high risk not only to the woman herself, but also to the birth outcomes, posterior growth and development of the newborn. However, pregnant women do not enjoy preferential treatment in terms of diet, living space or transfers to hospitals, which are carried out under strict security supervision with the woman's hands and feet shackled with metal chains. Pregnant prisoners transferred to the hospital to give birth are typically chained to their beds until they enter delivery rooms and shackled once again minutes after delivery. Between 2003–2008, there were four cases of women giving birth under such conditions and with very limited pre and post-natal care.

4- As of this writing, one Palestinian female prisoner was also held in isolation at Nitzan Prison, part of the Ramleh prison compound inside Israel, southeast of Tel Aviv.

DETENTION CONDITIONS

All central prisons holding Palestinian prisoners are located outside of the OPT. In most of these prisons, there is overcrowding, a lack of very basic amenities, poor hygiene, humidity and a significant lack of fresh air. In recent years, the average living space per prisoner has dropped from 3.4 to 2.9 square meters. Windows in prison cells are often covered by iron sheets, thus reducing the availability of natural sunlight. Prisoners held in Megiddo, Ofer and Ketziot prisons live in unheated, threadbare tents that do not provide adequate shelter against extreme weather in the winter or summer. The Israeli Prison Service (IPS) rarely provides essential hygiene products, such as toothpaste, shampoo, cleaning supplies and soap, forcing prisoners to purchase these items in the prison canteen at very high prices. Most prisoners complain about the poor quality and insufficient quantities of food prepared by the IPS and must purchase food to supplement their diet from the prison canteen.



Medical Neglect

The IPS has adopted a systematic policy of medical negligence in prisons and detention centres housing Palestinian detainees. Long delays in providing substandard medical treatment are typical. Although all prisons include a medical clinic, physicians are on duty irregularly and specialized medical healthcare is generally unavailable. Prisoners are not treated outside the assigned clinic hours and typically must wait for long periods of time before being examined. Once they are examined, however, most prisoners are simply prescribed painkillers without any thorough medical follow-up. Transfers to hospitals for needed treatment may take place only after weeks or months.

Detention conditions have a huge impact on the health of prisoners and detainees. As a result of their imprisonment, released detainees are often faced with chronic health problems such as skin diseases, extreme fatigue, anemia and weakness, kidney problems, rheumatism, problems with their teeth and ulcers. Language again is a fundamental problem as most clinic doctors do not speak Arabic and not all prisoners speak Hebrew. The communication difficulties often impact a prisoner's treatment negatively and hinder the development of a trust necessary in the relationship between a doctor and his patient.

FAMILY VISITS

Until the outbreak of the Al-Aqsa Intifada in September 2000, family visits to Palestinian detainees held in Israeli prisons were regular and took place largely without interruptions. However, following the Israeli re-invasion of the West Bank and as a result of imposed movement restrictions, all Palestinian families from the occupied territory who wish to visit a family member detained in Israel – with the exception of Jerusalem ID holders – must receive an entry permit into Israel. The application process is lengthy and can take between one and three months, while the permit itself is valid for only one year. The application is submitted via the International Committee of the Red Cross (ICRC) and then transferred to the Israeli authorities. Visits are restricted to first degree relatives – children, spouses, parents, siblings and grandparents only, thus isolating the detainee from his or her social and professional environment. Men between the ages of 16 and 35 are typically prevented from visiting prison and receive special permits only once a year if they are the brother of the detainee and biannually if they are the son of the detainee. In practice, however, hundreds of families fail to receive permits at all, based on “security grounds”. The reason for the rejection of a permit application is never given apart from the standard phrase: “forbidden entry into Israel for security reasons”.

When family visits are allowed, they take place once every two weeks for 45 minutes. In the visiting room, a glass window separates the visitor and the prisoner. Communication takes place through a telephone or through holes in the glass. For every prisoner, only three adults and two minors are allowed to visit at the same time.

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On 6 June 2007, citing unspecified security reasons, Israeli authorities suspended the ICRC Family Visits Programme in the Gaza Strip, effectively barring all means of communication between Gazan prisoners and the outside world. The ongoing family visits ban, which was upheld by Israel’s High Court of Justice and which is compounded by an IPS prohibition of telephone communication between all detainees and their families, currently affects approximately 733 detainees from the Gaza Strip. The use of phones was not made available to Gazan detainees even after the suspension of the ICRC Family Visits Programme or during Israel’s aerial and ground aggression against Gaza from 27 December 2008 – 18 January 2009. When and if phone contact is allowed, it remains a very rare exception.

