

Palestinian Prisoners

By MIFTAH

Since Israel began its illegal occupation of the West Bank and Gaza in 1967, more than 750,000 Palestinians have been detained, representing approximately 20 percent of the current total Palestinian population in the Occupied Territories. Throughout the decades of this persisting conflict, Israel has illegally detained Palestinian men, women and children through an extensive and systematic set of regulations that control every aspect of Palestinian life, which restrict or deny their basic human rights. Moreover, the conditions of the prisons and treatment of prisoners are horrendous, violating numerous international as well as Israeli laws. The Israeli military, which governs the Occupied Territories, constantly changes or issues new military orders, which are often unknown to local populations until implemented. Palestinian prisoners are then subject to Israeli military tribunals, which rarely follow required international standards of fair trial. Thus, Palestinians not only live under an illegal occupation, but also under an unstable and unjust system of law and order.

Why is the prisoner issue important?

The Palestinian prisoner issue has been a major point in peace negotiations between Israel and the Palestinians for decades; it is a key, yet controversial, issue in final status negotiations. Israel has illegally detained thousands of Palestinians from all walks of life, continuously denying them their inalienable and fundamental rights. Palestinians claim there will be no peace in the region until Israel addresses its numerous legal and human rights violations against Palestinian political prisoners and ultimately releases them all. Israel, on the other hand, continues to arrest innocent – mostly politically active – Palestinians. The vast majority of the detainees are political prisoners arrested for political expression or no legitimate security reason. This practice contradicts international covenants that protect freedom of speech for all people, especially political dissidents. The Israeli human rights group B'Tselem commented on Israel's questionable detention procedures in the name of 'security': " Security is interpreted in an extremely broad manner such that non-violent speech and political activity are considered dangerous ... [t his] is a blatant contradiction of the right to freedom of speech and freedom of opinion guaranteed under international law. If these same standards were applied inside Israel, half of the Likud party would be in administrative detention.

" Administrative detention is the practice of imprisonment without trial or the continuation of imprisonment after the completion of a sentence. According to Israeli law, specifically Military Order Number 1229 (1988), administrative detention is legal in

the Occupied Territories, empowering military commanders to hold an individual in custody for up to six months if there is “reasonable grounds to presume that the security of the area or public security require the detention.” Israel routinely renews these detention orders without limitation; thus, Israel may hold Palestinians without charge or trial indefinitely. Furthermore, the military judges who deal with cases involving administrative detention make their decisions based on confidential material, which is not provided to the detainee or his attorney. Hearings also take place behind closed doors.

Who are the prisoners?

As of October 2011 a total of 4,772 Palestinians are being held as security detainees and prisoners in Israeli prisons. Out of these 3,753 are serving a sentence, 131 are held as detainees and 278 are in administrative detention. The majority of these prisoners are male, detained for their actions in the struggle against Israel's illegal occupation, whether it was criminal or political. However, many of these Palestinians were also detained to pressure other prisoners. Women and children did not escape Israel's mass arrests and are, thus, also subjected to the excessive mistreatment and human rights violations inside Israel's prison system.

Female Prisoners: Over the last 43 years, an estimated 10,000 Palestinian women have been arrested and/or detained under Israeli military orders. The number of Palestinian women currently held in Israeli prisons is 33. In detention, Palestinian female prisoners constantly face torture, humiliation and horrendous living conditions. After going through the interrogation process, most Palestinian women prisoners are transferred to one of two prisons: Damon or Hasharon-Telmond Prison. Both of these prisons are located outside the 1967 occupied territory in direct contravention of article 76 of the Fourth Geneva Convention, stating that an occupying power must detain residents of occupied territory in prisons inside that territory. Both Hasharon and Damon prison lack a gender-sensitive approach and the Israeli prison administration continually humiliates Palestinian female prisoners by forcing them to strip in front of prison guards, who are generally male; performing regular and brutal body searches; frequently engaging in sexual harassment ; punishing the prisoners in solitary confinement ; prohibiting outside breaks or use of the canteen; carrying out cell searches and confiscating personal property; and attacking the women by regularly beating them or firing tear gas into their cells. The prison administration also works to try and break up the unity of female detainees by isolating them from the outside world and preventing family visits. Many of the Palestinian female prisoners were only arrested in order to place pressure on their husbands, often threatening to harm them or their family members if they do not cooperate as Israel wants.

Child Prisoners: Despite international and Israeli law, occupation forces continue to arrest children. Approximately 700 Palestinian children under the age of 18 from the West Bank are prosecuted every year through Israeli military courts. The most common charge against children is throwing stones, which under military law is punishable by up to 20 years in prison. Currently 176 Palestinian children are held in Israeli prisons, 31 of them are under the age of 16. According to Israeli military orders, Palestinian children are treated, tried and sentenced as adults beginning from the age of sixteen. In practice, Palestinian child prisoners may be charged and sentenced in Israeli military courts from the age of 12. Such orders violate international, as well as Israeli juvenile law, which define children as eighteen or younger. Hence, Palestinian child prisoners suffer harsh, difficult treatment, including torture, solitary confinement and overcrowded cells. The PA Department of Planning and Statistics reported that ninety-nine percent of child prisoners were subject to such inhumane treatment. They are deprived of sleep, adequate education, medical treatment, family visits and recreational programs. Over 25 percent of Palestinian child prisoners suffer from various illnesses.

What are the prison conditions?

There are currently 25 prisons and military detention centers in which Palestinian prisoners are held, including four interrogation centers, four military detention centers and 17 prisons. Of these facilities, 20 are located outside the West Bank and Gaza, meaning that prisoners are illegally transferred outside of occupied territory. This violates Article 47 of the Fourth Geneva Convention, which explicitly states that “protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.”

Israeli forces commonly use torture or other forms of inhumane and degrading treatment when dealing with Palestinian prisoners. Physical and psychological torture against Palestinian prisoners is a distinguishing factor of Israel's illegal occupation, appearing in different forms through the decades, with the Israeli executive powers succeeding in achieving great experience in developing new methods of torment, finding loopholes in order to justify their actions and deceiving the world, despite tangible evidence of their torturous methods, including the death or deformation of tens of detainees in interrogation rooms.

According to B'Tselem, Israel's General Security Service interrogators have used torture for years as a means to solicit “security” information. “Since 1987, the GSS interrogated at least 850 Palestinians a year by means of torture ... [a]ll governmental

authorities – from the Israeli army to the Supreme Court – took part in approving torture, in developing new methods, and in supervising them .”

Some of the methods of torture include:

- Severe beating, punching and kicking of detainees
- Handcuffing detainees for long periods of time in contorted positions, such as to a small chair or to a pipe hanging from the ceiling
- Exposure to loud music and screaming sounds
- Sleep deprivation
- Denial of food, water and use of toilet
- Threats of or actual acts of sexual abuse
- Solitary confinement
- Psychological threats and pressure to collaborate
- Placing dirty, heavy sacks on detainees’ heads
- Denial of medical treatment

About eighty-five percent of all Palestinian detainees were subject to systematic torture by Israel during their incarceration. The use of torture and acts of violence against prisoners in a detention system is a common practice of colonizing regimes, which aim to pressure and break the will of a population that refuses to submit to occupation and injustice.

Life in Israeli prisons also reflects international violations and inhumane treatment of prisoners. The prisons are overcrowded and do not provide adequate shelter against extreme weather; food rations are poor in both quantity and quality, often spoiled or infected with insects and worms; and clean clothes and adequate supplies (such as blankets, mattresses or sanitary cells) are lacking. Many of the prisons are infected with mice and cockroaches and do not have enough, or even proper, ventilation. Access to toilets is also restricted, forcing prisoners to urinate in bottles inside their cells. As for the health condition of the prisoners, many suffer from bad health conditions, including various illnesses, chronic disease or unattended injuries, usually inflicted during their arrests.

Legal Rights and Procedures

The process of arrest and detention of Palestinians in the Occupied Territories follows a wideranging, discriminatory set of military regulations that governs every aspect of Palestinian civilian life. The Israeli military commander of the region is the one responsible for issuing military orders and may do so at any moment, many times without

informing the Palestinian population until it is implemented. The military tribunals that try Palestinians are located within Israeli military centers in the Occupied Territories, and a panel of three judges appointed by the military presides over the cases. These tribunals usually lack governance by legally trained judges and rarely fall within the required international standards of fair trial. The Israeli Prison Ordinance consists of 114 clauses, providing a legally binding set of rules for the Minister of Interior. However, there is no definition of prisoners' rights, no provision stipulating obligations incumbent upon the authorities and no clause guaranteeing a prisoner's minimum standard of life. The process of detention usually begins with Israeli forces conducting mass arrest campaigns in Palestinian towns and villages, imposing curfews, threatening families and ransacking and/ or destroying homes. Arrests may occur at home, on the streets, at Israeli checkpoints or in any public or private space. Detainees are usually handcuffed and blindfolded, and soldiers rarely inform them of the reason for their arrest or where they will be taken. Physical abuse and humiliation is common. These military regulations allow for a Palestinian to be held for up to 18 days without informing the detainee of the reason for arrest and without being brought before a judge. The army also maintains no obligation to inform the detainee's family of their arrest or detention location. Within this period, the person is either sent to an interrogation center (which can last up to 180 days), placed in administrative detention or held in custody. The Palestinian lawyers who represent the prisoners are not permitted any special travel privileges in the Occupied Territories in order to defend their clients. Those that are actually able to access their clients face extremely high case loads and are often subjected to humiliating treatment, such as strip searches, when visiting their clients in prison. In the Occupied Territories, military orders always take precedence over Israeli and international law. The Israeli military courts consistently refuse to abide by international laws and conventions, leaving Palestinians with no legal claim to protect themselves under military occupation. Furthermore, Israeli military courts apply discriminatory legislation in force in an arbitrary manner; there is no consistent application of their own regulations.

Resistance and Solidarity

Prisoner resistance and solidarity is a central part of the Palestinian liberation movement. Most of the key Palestinian leaders have spent time in prison for political resistance, and much of the developments that occur in the public political arena are closely coordinated with movements inside the prisons. Not only do the Palestinian prisoners engage in struggles against the unfair treatment and poor conditions of the prisons, but they also act in the broader struggle for Palestinian justice and self-determination. One of the major forms of resistance and protest include the hunger strike, which has been a powerful weapon in the Palestinian prisoner movement. When launched in coordination with demonstrations, strikes and sit-ins across the West Bank, Gaza and

international community, they can be quite successful in pressuring Israel to improve some of the living conditions and in gaining international recognition and support for the Palestinian struggle, both in terms of politics and human rights issues. On April 17 Palestinian Political Prisoners Day is commemorated, reminding the world of one of the many injustices against the Palestinian people, who struggle only to live a normal life with all the basic human rights. On this day every year, Palestinians and sympathizers in districts across the West Bank and Gaza, as well as across the world, organize sit-ins, demonstrations and solidarity tents in support of their relatives, friends and neighbors in prison. These actions often take place outside the International Committee of the Red Cross office, because it is the body in charge of monitoring the conditions of Palestinian detainees.

International Law

There are several international laws that protect the rights and treatment of political prisoners: Article 5 of the Universal Declaration of Human Rights (1948) outlines the illegality of torture and other forms of inhumane punishment; The International Convention for Political and Civil Rights (1966) states that no one shall be subjected to torture or cruel, inhumane or degrading treatment or punishment; Article 2 of the United Nations Convention against Torture and Cruel and Inhuman Treatment (1984) states that “Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction ... [and] no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture ... [and] an order from a superior officer or a public authority may not be invoked as a justification of torture”; Article 4 of the same UN Convention ensures that all acts of torture, attempts to commit torture or an act by any person which constitutes complicity or participation in torture are offences under criminal law; And the Fourth Geneva Convention (1949) prohibits Israel from transferring detainees outside of the Occupied Territories. The Israeli Supreme Court made a ruling in 1999 which stated that only some methods of interrogation used against Palestinian detainees were illegal and unacceptable. The fact that the Israeli Supreme Court does not fully ban torture essentially suggests that it legally condones some forms of torture, once again violating international law.

Prisoner swap

While there have been a number of prisoner swaps in Palestinian history, the most recent swap took place between Israel and Hamas in October 2011, in which Israeli soldier Gilad Shalit was released in exchange for the release of 1027 Palestinian

prisoners. 477 of the Palestinian prisoners were released on the same day as Shalit, who had been held captive in Gaza since June 2006.

The indirect talks between Israel and Hamas that led to the swap, were brokered by Egypt with the involvement of a German mediator. After years of negotiation the parties announced that a deal had been signed on October 11, 2011; the exchange took place a week later. Some of the released Palestinian prisoners were deported from the West Bank to the Gaza Strip while others were sent into exile abroad. The prisoners, most of whom have been serving life sentences, included six Palestinians from inside Israel and 16 from east Jerusalem. Noticeably missing from the list of freed detainees are the highest profile Palestinians, namely PFLP secretary general Ahmad Saadat and Fateh leader Marwan Barghouti. According to Hamas sources, Barghouti's name was originally on the list but was rejected by Israel at the last minute.

The remaining 550 prisoners Israel agreed to free will be released on December 18, 2011. This list of prisoners is to be decided by Israeli authorities without Hamas interference but, according to Palestinian sources will only include political and not criminal prisoners. Speculation is that the prisoners to be released in the second phase of the swap will include the elderly, the sick and children.

Hunger Strikes

In response to harsh Israeli prison practices, such as administrative detention—imprisonment without trial or the continuation of imprisonment after the completion of a sentence—denial of basic living amenities, restriction of visiting hours, and solitary confinement, Palestinian detainees have been refusing food provided by the Israeli prisons inside and outside of the West Bank and Gaza. Almost 5000 Palestinian prisoners are held in Israeli jails and 300 of these detainees are held under “administrative detention”.

Starting in late December 2011 and early January 2012, Palestinian political prisoners began long-term hunger strikes to gain a sliver of the prisoner's human rights that are promised to any prisoner held for any reason. Detainee Khader Adnan, suspected by Israel as a leader in the Palestinian Jihad movement, was arrested on Dec 17th under administrative detention and promptly began his hunger strike within the following day. As days turned to weeks and his weight began to drop, hundreds of other Palestinian prisoners joined the hunger strike to end administrative detention and stop the torturous treatment of the prisoners. Adnan's strike persisted for 66 days until Feb 21st, when the Israeli government promised to end the renewal of his administrative detention and gave him a concrete release date. In tandem with Adnan's steadfast hunger strike, the Palestinian population outside of the prison also formed their own strikes and

demonstration in support. Thousands of Palestinians coming from Hamas, Fatah, the Islamic Jihad and other factions all participated in numerous marches and sit-ins protesting the Israeli detainment authorities.

Not even a month after Khader Adnan's hunger strike ceased, Hana Shalabi—another Palestinian incarcerated under administrative detention for a second time—began her own hunger strike following her arrest in mid February after being released from custody in January. She was protesting the same detainment issues, as she was imprisoned without being charged for any crimes for a second time. Her strike also incited more stand-ins and demonstrations from Palestinians further reinforcing the opposition to administrative detention and unwarranted strip searches and torture. After 43 days of refusing food and suffering fatal symptoms of malnutrition, Shalabi was granted exiled freedom in Gaza for three years, unable to travel to the West Bank, where her family resides.

Throughout the month of April, a select few Palestinian prisoners held under administrative detention kept hunger strikes alive, and a majority of the Palestinian detainees initiated a mass hunger strike to coincide with Prisoner's Day, April 17th. On this date over 1,600 prisoners commenced an open-ended hunger strike in protest to lack of visitation procedures, administrative detention, solitary confinement, torturous interrogations, and a shortage of basic amenities like electricity and books. Inmates such as Bilal Diab and Thaer Halahla, who began their hunger strikes in the preceding months, were nearing their 50th day without food and were in critical condition. These hunger strikes united Palestinians under a single cause and again, they were supported by the population outside of the jails with various demonstrations and protests.

With the help of Egyptian negotiators, the Israeli prison administrators and Palestinian Authority came to a compromise on May 14th. Israelis agreed to lift the ban on family visitations, and to either provide accusations for the administrative detainees or release them at the end of their prison term. Israel also agreed to transfer prisoners in solitary confinement to regular cells. In agreement, the Palestinian prisoners must stop their hunger strikes immediately and not refuse food in order for the deal to stand. The thousands of Palestinians participating in the strike agreed and Diab and Halahla ceased their strike as well on the 77th day. Both were a few days away from death.

A few independent strikers continued, saying that they were not a part of the mass strike, so the deal does not apply to them. Palestinian national soccer player Mahmoud al-Sarsak stayed on strike, today crossing over the 70th day-mark without food. He is still being held under the "unlawful combatant law" which gives him continuous six-month detention orders without informing him or a lawyer. Meanwhile, even though they made a deal revising their administrative detention procedures, Israel is still arresting Palestinians without a charge. Israel's prison authorities state that they made changes

with solitary confinement and family visitations, but that they never said they would change their administrative detentions. The deal allowed for Israel to create loopholes for themselves and for Palestinian prisoners to still be denied many of their human rights after starving themselves to death in order to make changes.

Sources:

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