



General Assembly

Distr.: General
4 September 2017

English only

Human Rights Council

Thirty-sixth session

11-29 September 2017

Agenda item 7

**Human rights situation in Palestine and other
occupied Arab territories**

**Joint written statement* submitted by the International
Organization for the Elimination of All Forms of Racial
Discrimination (EAFORD), Arab Organization for Human
Rights, International-Lawyers.Org, Union of Arab Jurists,
non-governmental organizations in special consultative
status, International Educational Development, Inc., World
Peace Council, non-governmental organizations on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 August 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-15279(E)



* 1 7 1 5 2 7 9 *

Please recycle



Depriving Prisoners of Human Dignity: The Israeli Detention System*

Israel's system of occupation and institutionalized discrimination of the Palestinian people is buttressed by divergent legal systems and courts that apply discriminatory standards of evidence and procedure to Palestinians as compared to Jewish Israelis, which implicate severe, disproportionate and often baseless penalties for Palestinians while Jewish Israeli perpetrators emerge unscathed. The inhumane conditions and injustice reigning in Israel's prison system yet again expose its longstanding blatant disregard of international law and human rights.

Administrative Detention

Israel's employment of administrative detention, executed on the basis of a British Mandate-era law, is in blatant violation of the provisions enshrined in international law¹. Its statutory law and its military legislation¹ applied in the West Bank expressly allow administrative detention. Israel continues to arbitrarily detain Palestinians, including women and children, without charge or trial and to restrict access to legal counsel. The Israeli military judicial system disregards the right to freedom and due process, the right of defendants to state their case, and the presumption of innocence: Administrative detainees – whose detention periods can be renewed indefinitely – are arrested for vague “security reasons” based on “secret evidence”, without being informed about the accusations against them. While the detainee has the right to appeal to a military court and the Supreme Court, neither the detainee nor the lawyer receive insights into the evidence. Fair trial procedures are absent in the Israeli military courts, particularly due to the ban on meetings between lawyer and clients, insufficient time and inadequate facilities for the preparation of an effective defense, and the denial of bails. Currently, 6,128 Palestinians – including more than 450 administrative detainees, 62 female prisoners and 320 minors – are imprisoned under Israeli custody.²

Circumstances of Arrest

In order to arrest Palestinian suspects, Israeli forces regularly conduct raids in Palestinian refugee camps, towns and cities, including in areas under exclusive Palestinian control (Area A) in the West Bank. The process of arrests often entails early morning raids, the destruction of property, physical violence, the unleashing of dogs in civilian homes, and humiliating strip searches. Israel furthermore pressures the Palestinian Authority (PA) to undertake actions to fulfill its security demands, such as swift incarceration of suspects.

In contravention to international humanitarian law, which requires the defendant from an occupied territory to be detained in the occupied country, and if convicted, to serve the sentences therein, tens of thousands of Palestinians, including women and children, are imprisoned in Israeli jails. Thereby, the Occupying Power largely inhibits the possibility of relatives to visit them due to the closure and permit regime.

The implementation of the military orders violates Palestinians' right to a fair trial as contained in the ICCPR, to which Israel is party. Administrative detainees spend months or even years in prison without receiving insights into the allegations against them, rendering any meaningful defense impossible and leaving them in darkness about the length of their stay as orders are renewable. The Criminal Procedure (Detainee Suspected of Security Offence) (Temporary Provision) Law allows for significant delays before trial and before providing access to a lawyer, for the extension of detention without involving the suspect in the decision of postponement, and for the disclosing of evidence to the detainee on grounds of “security concerns”.

¹ Particularly, the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Convention on the Rights of the Child, and the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

² <http://www.addameer.org/statistics>

Systematic Ill-Treatment and Torture

While specific legislation to ban torture has not been adopted, Israeli counter-terrorism legislation and regulations are marked by vagueness of definitions. The interrogation techniques in Israeli military courts and *de facto* legalization of torture under the Landau Rules are in breach of the Convention against Torture. Conditions of imprisonment of Palestinian arrestees remain abhorrent and often lead to severe injury and psychological distress. They are marked by the denial of family visits or extremely short visiting times; solitary confinement; overcrowding in small living spaces far below the international standard; denial of basic facilities; poor hygiene; the denial of access to education; and lack of medical care, including deliberate medical negligence resulting in cases of death. Methods of torture include beatings; painful shackling; fixation in stress positions; sleep deprivation; threats against family members; and physical and verbal abuse.

In recent years forms of psychological torture have become increasingly predominant – including denigration of religion, values or culture; being forced to stand naked; and solitary confinement. Such methods permanently harm Palestinian prisoners. Interrogation procedures involve psychological and physical violence such as prolonged isolation and protracted interrogations in painful positions. Israeli authorities continue to resort to coercive techniques to extract confessions, provide Palestinian child detainees with typed confessions, and employ evidentiary presumptions largely illegally obtained in military courts to the detriment of the defendant.

The prison and legal system seem to be designed to break the Palestinian prisoners mentally and physically – an aim that is largely achieved as numerous detainees suffer severe bodily and mental damage owing to the conditions of detention. Thousands of Palestinians suffer from serious illnesses, for which most are only treated with painkillers by Israeli doctors employed by and complicit with the Israeli Prison Service. Hunger strikers protesting the abhorrent conditions are further punished with the refusal of essential salts and water, medical negligence, banned family visits, and blocked access to lawyers – as was again the case during the hunger strike begun on 17 April 2017. This reflects a policy of denying Palestinian prisoners and detainees respect for basic human values.

Children and Women

Israel had also failed to establish a separate juvenile justice system to try accused Palestinian children and continued to subject Palestinian children to the same arrest, interrogation, trial and imprisonment procedures as adults, often transferring them into Israeli prisons. In contravention to the Convention of the Rights of the Child, an estimated number of 500-700 Palestinian children are arrested each year – mostly on charges of throwing stones. On 3 August 2016, the Israeli Knesset adopted the Youth Bill, providing for the imprisonment of Palestinian children as young as 12 years if convicted of “terrorism” against Israeli civilians or military personnel.

Children are usually arrested in the middle of the night, blindfolded, and taken to a detention center without their parents knowing about their whereabouts. The systematic use of ill-treatment and torture of Palestinian children includes lengthy solitary confinement; denial of family visits; physical and verbal violence; painful shackling and hooding of the head in a sack; death threats against themselves and family members; sexual assaults; denial of foods, water and hygiene. Children’s psychological well-being is permanently harmed by detention. Women are not given the special considerations enshrined in CEDAW, but are subjected to ill-treatment, including beatings, sexual harassment, and humiliation such as intrusive body searches.

The Israeli prison system has hardly left a Palestinian family untouched and has created widespread bitterness and resentment among prisoners and the larger society. Israel has also consistently failed to ensure the independence of oversight mechanisms of law-enforcement officials and to implement effective investigations into cases of torture, thereby perpetuating lawlessness and injustice without redress. In a statement to the family members of stabbing victims on 27 July 2017, Prime Minister Netanyahu has called for the death penalty of those allegedly involved in “severe terror cases”.

Conclusion and Recommendations

Stripped of their human dignity, Palestinian detainees remain imprisoned even when they are released: They are permanent prisoners of an occupying system that has no regard for the most fundamental human rights, penetrates every sphere of their lives, deprives them of hopes and dreams, and haunts their loved ones through fear and collective punishment. The signatories to this statement would like to emphasize that the perpetuation of grave injustice against the Palestinian people in Israel's legal system are not only manifestations of Israel's complete disregard for international law and human rights, they also undermine any prospect for peace in the region. The undersigned organizations therefore call on the United Nations, in particular the Human Rights Council, and Member States to take all necessary measures to ensure that Israel:

- Release immediately all political prisoners and administrative detainees and ensure fair and speedy trials for those charged with an offense;
- Ensure that prisoners are treated in accordance with international humanitarian law and international human rights law; hence by ceasing torture and ill-treatment and solitary confinement of Palestinian prisoners;
- End the use of the criminal, legal and security tools to obstruct legitimate opposition to the occupation, including the use of arbitrary arrests and detentions.
- Allow for family visits and appropriate medical care;
- Facilitate access of independent representatives of humanitarian organizations to monitor and alleviate the situation of the hunger strikers and other prisoners.

*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, The Brussels Tribunal, Rural Women Development Society (RWDS), Euro-Mediterranean Human Rights Monitor, Association of Humanitarian Lawyers (AHL), The Iraqi Commission for Human Rights (ICHR), Human Rights & Democracy Media Center "SHAMS", Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Youth Against Settlements (YAS), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights (ICHR), International Anti-Occupation Network (IAON), NGOs without consultative status, also share the views expressed in this statement.

1 The 1979 Emergency Powers (Detentions) Law, part of Israeli statutory law and replacing the arrangements under the Emergency Regulations of the Mandate period, continues to be applied by the minister of defense to administratively detain persons in Israel on the basis of Israel's prolonged state of emergency in place since its founding. The detention period of initial six months can be extended indefinitely.

The 2002 Internment of Unlawful Combatants Law, amended in 2008, is used to administratively detain Palestinian residents of the Gaza Strip, where military legislation was repealed in the context of the disengagement plan in September 2005. It provides for the unlimited internment of "unlawful combatants", i.e. of civilians not entitled to prisoner-of-war nor the civilian detainee status and "directly or indirectly" engaging in or being part of groups carrying out hostilities against Israel. If considered security risk, the detention can be infinitely extended by Israeli courts without showing evidence. This law strips detainees from the rights and protections enshrined in international humanitarian law and human rights law.

The 2009 Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651), 5770-2009, which is part of the military legislation in the West Bank, excluding East Jerusalem, empowers military commanders to detain a person without charge or trial for six months and indefinite extensions on grounds of regional or public security. The order allows for "secret evidence" to be withheld from the detainee or his lawyer. Besides, it comprises a redefinition of categories of age, enabling harsher penalties for children. The order provides that "throwing stones at people or property can carry a ten-year jail sentence". It also replaced Military Order 378, which established Israeli military courts in the Occupied Palestinian Territory.

The 2010 Criminal Procedures (Detainees Suspected of Security Offenses) Law, amending the 2006 Law and disproportionately affecting Palestinian citizens of Israel and Palestinian residents of Gaza suspected of committing "security offenses", provides Israeli law enforcement authorities with more time to

interrogate individuals without having to convene courts, lawyers and family members. Moreover, it permits the extension of detention for long periods without granting the suspect right to a defense. This also facilitates the employment of illegal interrogation methods amounting to cruel, inhuman and degrading treatment and/or torture to extract false confessions.