



# ADMINISTRATIVE DETENTION

A LEGAL & LETHAL TOOL OF ISRAELI REPRESSION

By Sawsan Ramahi



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# Administrative Detention

A largely neglected instrument of legal Israeli repression used against the Palestinian people is that of administrative detention. Thousands of men as well as women and children are held indefinitely and under horrendous conditions in detention centres dotted across the occupied territories without charge, access to a fair trial or even having been accused of committing a crime. This renders administrative detainees exceptions to the rules that would govern convicts, placing them outside the normal legal system and procedures and beyond the remit of the Red Cross. This not only means that the order cannot be challenged, but it also means that detainees are not provided with adequate living conditions, medical care, food, clothing or access to their families.

The immense amount of power wielded by the military commanders able to issue administrative detention orders arbitrarily, means it has become a lethal tool of political retribution against the resistance. Moreover, it is used as a means of subjugating the people as a whole and of damaging the very fabric of Palestinian society. Israel's application of its administrative detention laws clearly contravenes both international and humanitarian law and according to certain interpretations, constitutes a war crime.

## What is administrative detention?

Administrative detention is when an individual is detained without being accused or convicted of a crime. Their imprisonment depends on a secret dossier of undisclosed evidence that neither the detainee nor their council is privy to. The maximum period of a

single administrative detention order is six months, however, this may be renewed for an unlimited number of times according to arbitrary military decree at appeal.

Administrative detention is a practice closely linked to the political situation in the Palestinian territories and to the protest movement opposing the continued Israeli occupation of those territories since 1967. It is a political measure and a form of punishment stemming from official Israeli government policy to collectively punish Palestinians. In the format in which it is applied by Israeli forces, administrative detention is prohibited in international law.

The International Committee for the Red Cross defines administrative detention as; the deprivation of a person's liberty based on an initiative or order from the Executive Authority and not the judiciary and without criminal charges being brought against the detainee or the person who has been administratively detained. [As elucidated by the Additional Protocols issued on 8<sup>th</sup> June 1977 in accordance with the Geneva Convention of 12<sup>th</sup> August, 1949]

## The origins of administrative detention

Administrative detention as Israeli state policy began with Israel's occupation of the West Bank and the Gaza Strip and was based on Article 111 of the British state of emergency defence regulations of July 1945. On this basis, Israel began enacting special legislation, including the 1970 Security Legislation through military order 378, built on the same framework as British emergency regulations. Since then the occupying state

has carried out cosmetic amendments to these regulations without altering their core substance.

During the first years of the occupation, there was widespread use of administrative detention which declined during the second half of the seventies reaching its lowest levels in 1980 and remained that way until the outbreak of the first Palestinian uprising in 1987. Due to obvious changes occurring thereafter, such as the expansion of popular resistance, the Occupation issued new orders and enacted fresh legislation to facilitate the process of administratively detaining the Palestinian resistance. Some of these laws and orders included;

1. Military Order no. 1228 issued on 17.03.1988 which gave the power to issue an administrative detention order to military personnel ranking lower than Regional Commander.
2. Military Resolution no. 1281 issued on 10.08.1989 which allowed for the period of administrative detention to be extended to a full year in one go subject to renewal.

From 1987-94, the number of administrative detention operations escalated dangerously reaching approximately 20,000. Detainees were held in the Ansar 3 prison in the Negev desert under extremely harsh conditions.

With the signing of the Oslo Agreement and the advent of the Palestinian Authority, the numbers of administrative detainees decreased significantly. However, they began to increase once again with the outbreak of the al-Aqsa Intifada in September 2000. From then onwards, the number of administrative detainees periodically reach upwards of 1,500 with some detainees spending up to five years in captivity before being released.

## Israel's administrative detention process depends on the following:

1. A special directive specific to administrative detention which forms part of clandestine military legislation in place in the West Bank. The majority of those administratively detained are held based on individually issued detention orders. A similar system specific to the Gaza Strip was abolished following the implementation of the 'separation' plan in 2005.
2. The Special Emergency Powers Act (detention) which has been part of Israeli legislation since 1979. It aims to replace arrangements determined by the British emergency regulations system in specific regard to administrative detention. It only became clandestine after the Knesset declared a state of emergency; however, it has been the declared status quo inside Israel since the state was established. The law authorizes the Minister of Defense to detain a given individual for no more than half a year. However, it also allows that the individual's period of detention be extended for an addition half year on an unlimited number of occasions. The law grants the detainee no protection during administrative detention, particularly with regard to the length of time they may be held before being brought before a judge as well as the pace of judicial review.
3. The Imprisonment of Unlawful Combatants Act which came into effect in 2002. This law originally aimed at allowing Israel to continue to hold Lebanese prisoners in their custody at the time and to use them as 'bargaining chips'

in prisoner exchange deals and for the return of dead soldiers' bodies. Today, the law is used to arrest and detain Palestinians from the Gaza Strip without prosecuting them.

## Israeli justifications for administrative detention

Israel justifies its use of extra-judicial punishments like administrative detention by claiming such practices are consistent with the content of defense regulations from 1945 and were part of the laws of the state when it occupied the West Bank in 1967. However, the British British revoked these regulations in May 1948 as confirmed by a letter sent by the British Foreign Office dated 22.04.1987 to The Rights Foundation, a branch of the Commission of International Jurists in Ramallah. Additionally, these regulations are inconsistent with the Jordanian Constitution which prevailed in 1952.

## When Israeli intelligence uses the administrative detention weapon

1. Israel uses administrative detention in instances where its security forces do not possess the necessary evidence to secure a conviction but would nevertheless like to punish an individual.
2. It is often used when a Palestinian has been denounced by another and Israeli intelligence would prefer to keep the identity of the accuser secret.
3. It is also used when Israeli forces want to absent Palestinians seen to have significant capabilities or to pose a danger to Israeli security during a

difficult stage but they do not have the evidence to convict them of a crime.

4. It is used to adversely affect or injure the mental state of certain individuals and thus impact on their activities outside of prison once they are released.
5. It is used to inflict economic damage on detainees and their families.
6. It is used for political reasons such as with the campaign of mass detentions which saw thousands arrested when the self-rule region broke away in mid-March 2002. Those arrested were held in order to;
  - a. To satisfy the Israeli Street; to persuade them of the usefulness of the military campaign against the Palestinians and the success of the Defensive Wall strategy.
  - b. To use the detainees as means of pressuring the other side and as a bargaining tool at the start of any future negotiations with the Palestinians.

## Administrative detention according to Israeli military orders contravenes international laws and standards

- The way in which Israel used administrative detention flagrantly contravenes restrictions set out for its use by international law.
- One of the most important and prominent basic fundamentals of human rights is the right to freedom

and administrative detention is a flagrant violation of freedom.

- The use of administrative detention is subject to strict conditions in accordance with international law because it is one of the most extreme and abnormal punishments permitted by the law. Israel does not pay heed to this in its use of administrative detention.
- Israel's use of administrative detention against Palestinians in accordance with void emergency laws from 1945 is a clear violation of the law.
- Article 43 of the Hague Conventions of 1907 does not allow for an occupying state to make changes to the existing legislative reality in an occupied territory. Israel recognises these regulations as confirmed by legal rulings made in its Supreme Court on more than one occasion, such as the decision in 2000 which ruled that Israel was not entitled to administratively detain Lebanese citizens. As such, there is no legal basis for Israel resorting to the 1945 emergency regulations as a basis for administrative detention. Moreover, administrative detention contravenes the foundations of Israeli law itself.
- The Fourth Geneva Convention of 1949, and specifically articles 70 and 71, require that a fair trial be established and the accused clearly informed of their indictments in a language they understand laying out the reasons for which they have been detained and thus allowing them the opportunity to defend themselves. Given that administrative detentions are based on secret dossiers, it is abundantly clear that this information is not presented to

the court considering the case and claiming to guarantee a fair trial. As such and in accordance with articles 130 and 131 of the Third Geneva Convention as well as articles 147 and 148 of the Fourth Geneva Convention, it becomes a war crime. Particularly given that Israel has taken upon itself to abide by international law and the Hague Convention in its governance of the Palestinians Territories. The Israeli Supreme Court has confirmed in more than one resolution, the most prominent being in 1977, case number 606/78 (Duweikat vs. the Israeli State) on the Alon Morieh Settlement issue.

Authorities of the occupation claim that under article 78 of the Geneva Convention on the protection of civilian persons during times of war (1949) – the Fourth Convention has the right to administratively detain persons under their authority.

Article 78 of the Geneva Convention stipulates the following:

If for compelling security reasons the occupying state considers it necessary to take security measures against protected persons, at most it has the right to impose house arrest on them or to detain them.

1. The administrative detention practiced by the Israeli occupation differs from what the Geneva Convention stipulates in both form and content. The conditions authorities of the occupation use in their application of this form of detention and the legal procedures they take are incompatible with the requirements of the international convention and other international standards of fair trial. It is clear that the convention speaks of administrative detention within the context of extreme emergency and as an unavoidable last

resort. If there is the possibility of imposing house arrest on the individual, this becomes the priority as it is the less damaging alternative.

2. Actual practices in the Occupied Territories highlight that the military commander authorised to issue administrative detention orders does so not only in instances of extreme emergency. This is emphasised by the fact that in some years, the numbers of those being held in administrative detention reaches the thousands, some of whom spend between two and three years behind bars. What are the real and serious dangers posed by an individual that should require them to remain behind bars for two years? Some of them remain in prison for years after being sentenced for perpetrating offences under military orders and after serving their sentence, they are transferred to administrative detention under the pretext that they still pose a danger to security.
3. In the majority of instances of detention, the military commander's orders are based on secret materials – under the second amendment to administrative detention orders (secret instructions) (amendment no. 2) 1988 (no. 1254 in the West Bank and 966 in Gaza) – it is primarily the article which indicates the dangerousness of the individual, i.e. it is the article of evidence against them. However, it is impossible to reveal this information in order to preserve the safety of the sources of this information or that revealing it would expose the methods of obtaining the material. In such situations and on more than one occasion, the Israeli Supreme Court has ruled that it is permissible not to reveal this evidence and the authorities are not

obliged to respect the right of the

accused to a fair trial. However, the Fourth Geneva Convention does not speak about the power to use confidential materials to prove the dangerousness of an individual.

4. The legal explanations of the convention (Jean Beckett) emphasise that the powers in article 78 only come into effect if there is no possibility for the prosecution of the individual because they have not committed an offense under criminal law. The dangerousness deriving from the individual focuses on an action that they have done, but which is not a declared criminal offense. Or, if they declare their intention to commit an act considered an offense but this is not accompanied by an actual action. The military orders relating to administrative detention indicate that the majority of those detained are imprisoned because they are suspected of belonging to illegal organisations or carrying out military actions. This is what they are usually accused of in the text of the military orders themselves. Similarly, there are many detainees who find public materials being used against them such as confessions from other detainees which attribute specific actions to them.

From this we can see that there are fundamental differences between what the Geneva Convention stipulates and the policies of the Israeli occupation. Thus, the demand of administrative detainees to conduct investigations into the dossiers of all those detained, whether they have been tried or released, is a genuine demand.



## Judicial control over administrative detention decisions

Article 79 of the Fourth Geneva Convention alludes to article 43 of the same convention which provides that “any protected person that is detained or confined to house arrest has the right to have the decision taken reviewed as soon as possible by a court or a specialised administrative committee established by the detaining state for this purpose. If the detention or house arrest continues, the court or the administrative committee must examine the situation of the person at least twice annually with the view to amending the decision in their favour if circumstances so permit.”

What is clear from the text of the above article is that the review of the decision should preferably take place before a committee consisting of a number of individuals and not just one person. This will help in achieving a more substantive consideration. The objective of the review is to modify the decision in line with what is in the interest of the detainee and not the reverse.

Amendments to military orders that have occurred during the long years of the occupation indicate that the objectives of legal review of detention orders are incompatible with the demands of the convention for the following reasons:

1. The review is carried out by a military judge and not a commission. Previously, a secret service agent would be called in to discuss each dossier and present the secret material in detail before a judge. But in the period following the re-occupation of the West Bank after the al-Aqsa Intifada in 2000,

this procedure was waived and today, the judge decides whether to call the secret service agent or not. This means that that in the vast majority of cases, the judge hears a summary of the evidence against a detainee rather than all the secret materials and he does not have the opportunity to discuss with a member of the intelligence how the information was obtained or how it was examined to ascertain and ensure its validity.

1. The detainee should be brought before the judge within 8 days of an administrative detention order being issued against them, however, under Israeli law they are brought before the judge within 48 hours. This period is subject to the military commander, who is the law maker, and who carries out adjustments whenever necessary as was the case in April 2002 when the period was extended for 18 days.
3. In the past, when an order was issued for a six month period, it had to be legally reviewed by a military judge twice during this period and there was a right to appeal against all decisions made by the judge. However, since April 2002, this procedure was annulled and the review is now carried out only once along with the right to appeal. It also used to be the responsibility of the military commander to specify the place of detention within the military order itself, however, currently this is unnecessary and in theory it is possible for the administrative detainee to be imprisoned anywhere.

What is clear is that the military commander has the power to carry out any amendments to military orders relating to administrative detention according to military necessity and suitability without taking into account any

international standards related to the rights of detainees either under the Fourth Geneva Convention or human rights laws related to the rights of prisoners.

By analysing some of the issue discussed before Israeli military courts the lack of consistence between their procedures and the accepted standards of a fair trial are apparent. And if the Fourth Geneva Convention does not clearly and explicitly acknowledge the necessity of applying these standards to protected persons, however on the basis of article 2 and article 3d it is possible for us to conclude that the occupation is bound by the standards which apply during peace times or are considered important in the view of the populace to preserve human dignity and rights. It is therefore clear that Israel is obliged to apply the accepted standards of fair trial in cases of administrative detention.

Having analysed the decisions of the military courts and the actions taken before these courts with regard to administrative detention, the indication is that occupying state is guilty of large-scale breaches of standards. In the period in which it re-occupied Palestinian towns and villages and detained thousands of Palestinian civilians, hundreds of them were placed in administrative detention and judicial supervision was carried out by military judges within the detention camps. Given that the judge would look over 150 dossiers daily, is it reasonable to assume that they would be able to study each case and to follow up on it in accordance with the requirements of a fair trial?

## **International law delineates the general principles of administrative detention in exceptional circumstances as follows:**

1. According to the Fourth Geneva Convention, administrative detention is without doubt an exceptional measure as it is a harsh procedure used to maintain control of a difficult situation.
2. Administrative detention is not a substitute for a criminal lawsuit.
3. If administrative detention is carried out according to its prescribed conditions it must only be on a case by case basis. Under no circumstances can it be applied collectively as collective punishment is prohibited under international law according to Additional Protocols II, article 4b.
4. Administrative detention must come to an end once the conditions that led to it no longer exist.
5. The detainee has the right to know the reasons for being administratively detained.
6. The individual subject to administrative detention has the right to challenge the legality of their detention without any delay.

Detainees have the right for the legality of their administrative detention order to be considered by independent and impartial parties.

8. The detained must be allowed access to legal assistance.
9. The administrative detainee and their legal representative must be allowed to personally attend the legal proceedings.
10. The administrative detainee must be allowed to communicate with family members including letters and visits.
11. The administrative detainee has the right to medical care suited to their medical condition.
12. Administrative detainees have the right to submit documents relating to the treatment they receive and their conditions of detention.
13. Administratively detainees have the right to be visited by the International Committee of the Red Cross according to article 143 of the Fourth Geneva Convention.

## What are the procedures for administrative detention?

The administrative detention of an individual is implemented via an order by the regional military commander of the area in which the detainees lives. It is an extremely basic standardized document with blank spaces to be filled in asking for the name of the regional commander; the name, identity card number, date and place of birth of the detainee; the prison where they are to be held and the dates of their detention.

The document very simply states "[name of detainee] poses a danger to the security of the region, and he is hereby administratively detained..." and with that the individual in

question joins tens of thousands of others who have fallen under the yoke of this oppressive occupational procedure.

Administrative detention has three courts, the first is the Ofer Military Court near the crossing in Ramallah, the second is the Negev Military Court near the Negev Desert Prison and the third is the Supreme Court of Justice whose main headquarters are in Jerusalem. It is worth mentioning here that occasionally the Department of Prisons may transfer a detainee's dossier to a court far from where they are being held. For example, a person being held in the Negev Desert prison would expect to be tried in the Negev Military Court, however as their trial date approaches, their file may be transferred to the Ofer Military Court compelling them to travel from the far south to the far north of the territory. This obviously results in hardship and suffering for the prisoner given not just the distance to be travelled, but also the poor conditions they are transferred under such as having both their hands and legs handcuffed throughout the journey and having to sit on iron seats. This is known as al-Busta.



## Harsh conditions of detention

The conditions under which administrative detainees in military detention centers are held are extremely harsh. They are detained in overcrowded tents and they are not provided with appropriate meals in terms of quantity and quality and neither are they given clothing and necessary cleaning equipment. Many Palestinians currently being detained in military detention camps sustained injury during their arrest or were previously injured, however are not given suitable medical attention. Additionally there are those who suffer from chronic illnesses which have resulted in deaths in detention due to medical negligence.

Palestinians wishing to visit detained relatives in Israeli prisons must apply for permission from Israeli Security Services or what is in fact "a permit to enter Israel". Given the permanent closures of Palestinian areas, citizens of the West Bank and Gaza are prohibited from entering Israel without obtaining a special permit. As such, even if Israel does not explicitly or directly prohibit detainees from receiving family visits, the fact that all detainees are imprisoned inside Israel means that the state has the power to determine who is granted an entry permit and who is not and in this way thousands of families are denied the ability to communicate with loved ones inside Israeli prisons.

Despite the fact that according to Israeli administrative detention laws, detainees have the right to receive two family visits, many detainees are barred from receiving any visitors whatsoever and are dealt with in accordance with controls issued by the Israeli authorities in 1996. These controls allow for only certain categories of first instance relatives to visit the detained to include the

father, mother, husband, wife, grandfather and grandmother. However, visits from siblings and children are confined to those under 16 and over 46.

## Images of the suffering of administrative detainees

1. Administrative detention as a means of extracting confessions

Sometimes during interrogations, Palestinian prisoners are faced with various accusations and alleged charges against them made by the Israeli intelligence services which they are expected to admit to. In such situations, they are faced with the prospect of receiving an administrative detention order and are threatened with many years behind bars without prosecution and the prospect of remaining in prison for twice as long as they would if they confessed. The public prosecution practices the remaining role of the investigator at each extension such that the detainee bargains over whether to recognize and acknowledge some of the charges against them or to have their administrative detention order endlessly renewed.

2. Successive extensions

Administrative detention is not limited to a period of three, six or even twelve months and there are hundreds of prisoners whose detention orders have been extended dozens of times. Some detainees have had their orders extended the night before their intended release from detention and other mere minutes before their release. There are also prisoners who have spent upwards of five consecutive years in administrative detention; without any charges being brought against them besides information contained

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in a secret dossier prohibited to both the prisoner and their counsel.

3. The release of administrative detainees and their re-arrest shortly afterwards

In such circumstances, the prisoner has often suffered numerous extensions of their orders and with the prosecution having exhausted their flimsy pretexts to keep them in detention, they are freed and allowed to remain outside of detention for a short period. Currently, they are allowed to remain free for no more than a week, and in many cases they are re-arrested the very same day. Some detainees have been re-arrested as soon as they reach the nearest Israeli military roadblock from the prison and never even make it home.

4. Psychological pressure

When prisoners are made to languish behind bars indefinitely and without being given a fixed release date, they and their families are forced into a state of vigilant expectation and anxiety. This coupled with the prospect that their period of detention could be extended for another four to five months just minutes before their release causes immense psychological pressure. This is a systemized policy aimed at breaking the morale and the will of detainees and their families.

5. Sham administrative trials

In a deceptive attempt to give administrative detention a legal veneer, so called trials are held which cannot be attended by the families of detainees while the charges against detainees remain unclear and the prosecution is armed with a secret dossier that neither the detainee nor their counsel is privy to. Moreover, the detainee does not know what they are being tried for and their lawyer doesn't know what they are pleading against.

The first of these tribunals is known as the Verification trial - the name itself clearly indicating its aims. The detainee is presented before this tribunal as soon as they receive an administrative detention decision and here it is decided whether to release the individual or uphold the judgment against them. The Judge may reduce the sentence by a month or two to give the process the veneer of legality and justice. But, what is the value of a reduction in sentence when in many cases the next sentence extension is also ready.

Then comes the Court of Appeals, however, the secret dossier remains a deadly weapon and the best judges are those who request that the file be sent to them to be studied for a few days. The greatest chapter is what is called the Supreme Court or to some as the Supreme Court of Injustice where, if a request from the detainee is refused, this becomes grounds for extending the detainees period of detention several times.

6. From lawsuit to administration and from administration to lawsuit

No administrative detainee is guaranteed their release date. Similarly, prisoners who are tried and convicted for clear reasons and given a definite sentence remain vulnerable to being transferred into administrative detention. There is no requirement for these prisoners to be provided with justifications or clarifications of the decision as the lethal weapon of the 'secret dossier' is brought into play.

An example of this is the prisoner Shukri al-Khawaja who served out his eight and a half year sentence and after his family had completed all preparations to collect him from prison, he was transferred to administrative detention where he spent an additional 18 months. It was unclear what new charges he had been convicted on since

the activities which led to his original conviction had come to an end eight years previously.

7. From administrative detention to exile

After many long years in administrative detention and numerous extensions of orders which kill off all the family and loved ones' feelings of hope, the exile bargaining tool is used against the detainee who is given the choice of remaining in prison indefinitely or being exiled from the country. The vast majority of those presented with these two options, choose to endure the darkness of imprisonment rather than the pain of expulsion and exile from the soil of the homeland.

## Figures and statistics for administrative detention

It is common knowledge that for many years Israel has detained thousands of Palestinians through administrative detention orders for periods ranging from a few months to many years. According to figures from B'Tselem, the Israeli human rights information centre in the Occupied Territories, Israel arrested more than 1794 under administrative detention during the first Intifada in 1989. In the early and middle nineties, the number of administrative detainees ranged from 100 - 500 while during 'Operation Defensive Wall' in April 2002, hundreds more was detained increasing the figure by the end of that year to nearing 1,000 and by the end of 2003, numbers had surpassed the 1,000 mark.

The table below shows the numbers of Palestinian languishing in administrative detention between 1989 and 2004. The figures are correct for the dates given and only one date is given per year.

Year	Date	Numbers of those administratively detained
1989	5	1,794
1990	*	*
1991	30	348
1992	30	510
1993	1	125
1994	3	163
1995	27	224
1996	25	267
1997	31	354
1998	26	82
1999	23	18
2000	13	12
2001	5	34
2002	8	960
2003	1	1,007
2004	4	638

\*From 2005-2008, there were approximately 750 individuals under administrative detention.

## Administrative detention statistics for 2009

Month	Interest of prisons	Correct as of
December	278	31 December
November	291	30 November
October	322	31 October
September	335	30 September
August	363	31 August
July	387	31 July
June	428	28 June
May	449	31 May
April	487	30 April
March	506	31 March
February	542	28 February
January	564	3 January

## Administrative detention statistics for 2010

Month	Interest of Prisons	Correct as of
31 December	219	December
30 November	205	November
31 October	213	October
30 September	212	September
31 August	189	August
31 July	199	July
30 June	203	June
31 May	213	May
30 April	222	April
31 March	237	March
28 February	259	February
31 January	264	January

## Administrative detention statistics for 2011

Month	Prison benefit	Correct as of
January	219	31 January

## Targeting the Palestinian elite

Administrative detention significantly affects activists and the educated classes within Palestinian society and specifically targets the elite, such as politicians and members of the Palestinian Legislative Council [PLC] with seven PLC ministers currently being held. It also targets from social activists, scientists,

academics, members of the municipal councils and local bodies to university students, school teachers and doctors. The elite have come under attack by a policy which clearly aims at destroying the possibilities for growth and development with Palestinian society by depriving it of its key members - the individuals with the competencies and ability to contribute significantly to the lives of the people and their renaissance.

## PLC Members who have been administratively detained



**Khalil Al-Rabai**



**Omar Abdul Raziq**



**Mohamad Al-Tal**



**Hatem Qafishah**



**Nayef Al-Rajoub**



**Mahmoud Al-Ramahi**



**Azam Salhab**



**Mohamad Jamal al-Natshe**



## The administrative detention of children

Policies of administrative and arbitrary detention are not confined to adults but are also applicable to children. Under both Israeli and international law, a minor is defined as a person under the age of 18, however according to Israeli military law in the occupied Palestinian Territories; a minor is defined as person under 16. This means that according to Israeli military law, children aged between 16 and 18 are dealt with as adults. More than 330 Palestinian children were detained in Israeli prisons at the beginning of 2010 more than 190 of who were held in administrative detention. The most common legal reason for arresting these children is stone throwing, although it is difficult to see how this action can lead to administrative detention. These children are arrested either from their homes or from check points where they are blind folded and hand cuffed without explaining to them why they are being arrested. In many instances the child is deprived access to a lawyer for their defence or to investigate the circumstances of their arrest. Often, these children are forced to sign confessions written in Hebrew which many do not understand, but these confessions are nevertheless used as evidence against them.

## The administrative detention of Palestinian women

Palestinian women, like Palestinian men, are subjected to detention and thousands have been arrested and imprisoned over the course of the Israeli occupation. They are exposed to the worst forms of humiliation and torture and their lives behind bars are filled with pain and suffering. This tragedy is

exasperated yet further if these women have been separated from their children as many of these children will not be able to visit their mothers for long periods of time. When they are able to visit, they are unable to kiss or hold her or even to speak with her clearly given the many bars on the visiting windows.

The suffering of these women must endure is amplified as they are detained without charge and are ultimately subjected to a period of administrative detention. There are three such women who continue to be held in administrative detention, they are:



**Hana Yahya Sabir al-Shibli – Jenin**

28 year old Hana was first detained on 14.03.2009 which was also the first time she had been arrested. She was put into administrative detention for a six month period which ended on 15.03.2010 at which time her period of detention was extended for another six months taking her released date to 15.09.2010. However, her sentence was extended for a third consecutive six month period and is now due to end on 15.03.2010. She is currently held in Hasharon prison.



**Linan Youssef Mousa Abu Gholmeh – Nablus**

The 31 year old widow of the resistance fighter, Amjad Mulitat, Linan was detained on 15.07.2010 with her 27 year old sister, Taghreed Abu Gholmeh who was released on 01.01.2011. Linan was previously detained and sentenced to six

years behind bars being released in June 2006. Currently she has remained in administrative detention for five months and this period of detention should come to an end 25.01.2011, however, she was given a second consecutive six month term when her appeal was rejected. She was transferred to Damon prison.



**Kafah Awni  
Uthman Qatash –  
Ramallah**

Kafah is married and is the 38 year old mother of two boys; 17 year old Muadh and 16 year old Dahi. She is a social activist in Ramallah and al-Bireh and was nominated to run in the al-Bireh municipal elections in 2005. She was arrested from her home during the night of 01.08.2010. She suffers from several ailments including a rare disease called al-Ranouj which results in the narrowing of the arteries preventing blood from reaching her extremities. She also suffers from Rheumatism, sensitive skin and an eye condition. Her health situation is deteriorating and she requires constant treatment and observation. She was transferred to administrative detention for a four month period which was renewed for a second time on 08.12.2010 for another four months. It is expected that her detention will come to an end on 5.4.2011. She is currently being held in Hasharon Prison.

What follows are the accounts and testimonies of women who have previously endured periods of administrative detention. It is hoped that the testimonies of their experience will shed light on the situation and the magnitude of the suffering they were subjected to.



**Majida Fidda, an  
elected  
representative in  
the Nablus  
municipality**

Majida was administratively detained twice; on the first occasion she was detained for six months [from 3.3.2005 to 1.09.2005] and the second occasion she was detained for a year and a half [from 06.08.2008 until 26.01.2010].

She writes the following about her experience:

When I was detained for the second time it came as a quite a shock to me because it was so unexpected and I could find no convincing justification for it. This sentiment may seem appropriate to most people and in most courts the world over, even unjust ones. However, the courts of the Israeli occupation do not wait for justifications or explanations and it does not give opportunities to disprove allegations. This is where I found myself; in the claws of the administrative authority for the second time within a period of less than three years. However, on this occasion the period of detention was protracted extending for a full year and a half.

We used to hear accounts from former administrative detainees about the harshness of prison conditions, the tyranny of the prison wardens and the fear of ending up in the cycle of administrative authority. We used to pray for a happy outcome for them without knowing how many times their administrative orders had been renewed; how long they had been in prison or of their long tales of suffering being shuttled between the courts and the prisons. One who has not experienced it [administrative detention] does

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not know and we were yet to experience it, therefore we did not know.

I have included this introduction here so that a comparison can be made between my first experience, which lasted no more than six months and which I used as an occasion to challenge the jailers and myself to remain steadfast, as well as an opportunity to be able to convey the rare knowledge of this experience to women around me. However, I failed, despite the fact that my imprisonment was through no desire or fault of my own. Once a person's name is on file with the Israeli prison authorities without their having been charges brought against them, it is like they remain forever linked to them by an invisible cord which the authorities use to drag them in whatever direction they please under the pretext of a secret and renewable dossier. This was the source of my shock at my second detention and the beginning of the suffering.

My file was transferred from being a lawsuit to being a secret dossier after the Israeli judge ruled that I was innocent of the charges brought against me which the intelligence service did not like. They then brought administrative papers against me six consecutive times – each time renewed my detention for a six month period and could be reduced by one, two or three months. At the end of each period, it would be renewed once again at the last moment and so forth. The lawyer was unable to provide any assistance because he had no right to access the secret dossier i.e. it was a sham trial in every sense of the word. And with each new administration, the psychological and physical suffering would begin anew. It is just like an indicator on a graph beginning from zero and rising to the absolute maximum point to coincide with the approaching release date only to plunge back to zero with the speed of lightning when news of the renewal comes through. It is torture in the

true sense of the word; you are constantly revisited by the pain and suffering and the thoughts of your family and their reactions. I have a very elderly and ailing father and wondered constantly whether he would be able to bear yet another blow or the fear of not being able to see me again before he died. I would wonder whether when I was finally released, I would find him on his last breath; bedridden and able to neither eat nor drink. The thought of my parents being all alone without sons or daughters around them to look after them and see to their needs gave me many sleepless nights.

An administrative sentence is like a life sentence with a stay of execution. It is intense not knowing when, or even if you will get out. You wait for the last days of the sentence with the patience of Jacob and when the prison warden comes during the last ten days, your heart races as you wonder whether he has come to inform you that you will be staying for another period of detention. After the end of the fifth extension, I was informed by the prison administration that the following day I would be released. I was happy as were the other inmates and we began to sing and chant. Each person told me about their families and gave me handmade gifts to take for them. I in turn distributed my clothes and all my things including my bed sheet and had nothing left beside what I stood up in. We waited for the morning and I went out to the prison courtyard to wait for the vehicle to transport prisoners or what we the called the Autobus. I waited for a long while until the prison director came to tell me that only half an hour ago my administrative order was renewed. It is difficult for me to explain to you the condition I was in at that minute. It is true that I praised God and recovered, however, what is in the heart and goes through the head is more than can be described and more than can be endured; this

was after one year and four months of my imprisonment i.e. it was my sixth renewal. Others had actually reached beyond the prison walls and as far as their front doors only to be led back to prison because there had been a 'new security report' necessitating the renewal of their orders. There are also those who have spent less than a quarter of the time they have spent in administration, with their children.

None of this compares to the way in which prisoners are transported to court inside mobile cells only big enough to accommodate a single prisoner but in which up to four prisoners are squeezed at any one time. These vehicles are known as al-Bosta and have no ventilation whether it is hot or cold. Trained dogs were transported with us and we were treated inhumanely by abusive soldiers. Our hands and feet are bound and we are forced to wear clothes on top of our own clothes despite the heat. We are taken from the prison during the middle of the night and transported to courts a minimum of an hour to an hour and a half away but are forced to travel for days. We female prisoners were transported for three days; however others have spent up to a week being transported. We are taken from prison to prison and from one underground cellar to another until all detainees in Palestinian prisons up and down the country; from the north and south to the east and west are collected together. After that we are taken to the court cells where we stay until eight or nine o'clock and until all the prisoners collected with us have been tried and reassembled. Then we are returned to our original prisons through the same arrangements as the outward journey. It is possible that we may not find our lawyers or our trials could have been postponed without our knowing and we must return exhausted by tiredness; pain in our shackled limbs and lacking of food and privacy. We are transported to court in this manner at least

twice with each extension of a detention order; once to verify the sentence and once for the appeal. During my year and a half in detention, between the trials, postponements and interrogations, I repeated this ordeal no less than 25 times and I even began to wish that I would be charged with something so that I would not have to be forced into this suffering.

Family visits were prohibited on the grounds of there not being any connection between my parents and me while my mother was banned from entering 'Israel' for security reasons. As such, I was cut off from my family and from receiving any news of them or the lawyer and the progress of the case. We did receive visits by lawyers from human rights organizations concerned with the physical and psychological well-being of prisoners but responsible only for reassuring us.

Clothes were only allowed to be brought in once every three months and because I did not know if I would be released or not, it was difficult to coordinate with the times that clothes were allowed in. Because of this, clothes were only brought in for me twice during the year and a half I was detained. Shoes were completely prohibited and as such I was compelled to hand stitch the only pair of shoes I had.

It was difficult to plan or even think about my life after prison because on each occasion I expected my sentence to be extended. The situation was the same for my family. I lost the livelihood I had set up before I went to prison the first time. When I was released, I found it in ruin and had lost both my employees and my capital because there was no one from my family to look after it. I still have not managed to find an alternative job.

A fundamental part of administrative detention is that such detainees are treated as

exceptions with regard to their rooms, medical attention and communication with family because they are considered to be suspended and not convicts according to the rules of the prison or the Red Cross. As such, I did not receive the medical treatment I needed and requested.

Because of the war on Gaza and because Hamas held an Israeli captive, Israel sought to put us under pressure and cause us to suffer. This was not restricted only to administrative detainees and things like preventing books from coming in, the removal of certain key satellite channels and subjecting female prisoners to impromptu mid-night cell searches, to confiscating private pictures and documents and humiliating body searches were common practice and considered by the wardens to be part of their jobs. Most dangerous of all was not being given the appropriate medicine at the appropriate time.

The harassment does not end once you have been freed but continues in many forms including being banned from travelling, from going to Jerusalem or entering the Palestinian Territories occupied in 1948. If something happens and there is a road block between the cities, we are targeted by the delay. And this is not all, as our families become targets also and my mother is delayed at the borders for hours before being allowed to travel and similarly my in-laws who are terrorized at road blocks.

I believe that everything that is illegal must eventually disappear, given that administrative authority is not based in law then it can be brought down easily. There must be those who will toll the bell to establish an international legal commission comprised of international lawyers and jurists who will bring a case against these practices with the cooperation of lawyers from inside Palestine and with international media

attention. Inevitably and God willing, these practices will be brought down.

### **Ikram al-Taweel from Hebron writes the following about her experiences of administrative detention;**

An administrative sentence is a prison term without rules or as they say, the beginning of no end. My administrative sentence was extended five consecutive times on the evidence of what is called a secret dossier provided by Israeli intelligence. I was arrested on 14.10.2003 and was released on 29.09.2005. Over the course of those two years, I was subjected to numerous forms of torture including the psychological torture of not knowing when I would be released or even whether they were telling the truth about the release date specified for me by the courts. I also did not know whether they were working toward my sentence being extended a day or perhaps a few hours before my release. My story unfolds in a similar manner to other prisoners that have experienced this kind of sentence. I spent a whole month on hunger strike and resolved to live on a minimum and ended up in hospital because of it. They brought charges against me inspired by their broad imagination and I was threatened with deportation and spending the rest of my life in detention unless I confessed to what I was being accused of and I was threatened with the detention of my family including my mother. I was also examined using a lie detector which never tells the truth with any detainee. This suffering in the women's prison under administrative sentence lasted for six months without any indictment and where I lived in a room bereft of the necessities of life as my prison used to be a horse stable. We learned a lot there and it increased our determination to remain strong despite my deprivation from family visits; from seeing them or receiving letters from them – I only saw my mother or father once

over the course of my two year imprisonment.

Forgive me not completing this letter; it has reminded me of bitter suffering – perhaps I will complete it later.



**Muntaha Khalid  
Rashid El-Taweel  
from al-Bireh**

I was detained on Monday morning, 08.02.2010 and was

transferred to the settlement of Beit El built on land belonging to the town of al-Bira. At eight o'clock in the morning we were put in a special white car and were taken along bypass roads. By reading the road signs, I realized we were heading toward the city of Nablus but we didn't go into the city. We arrived at a military base called the Dan Shomron Base where we waited for about three hours until a small white bus arrived. I later learned that it was called el-Bosta and is the special means of transport for taking prisoners from prison to court and vice versa or to another prison.

Before I got into el-Bosta, a female recruit took me to a locked room where I was ordered to remove my clothes and I was subjected to what is known as a strip search and was made to squat and stand several times. After that, my hands and feet were cuffed in iron chains and I was transferred to section two of the Hasharon Prison where I was subjected to a second strip search. This was an all-female holding section for criminals of all kinds which had two rooms reserved for security detainees. I was prohibited from speaking to any of the other prisoners and vice versa.

On the Wednesday (10.02.2010), I was transferred to Ofer Prison in Beitunia for interrogation, but before I was allowed into the interrogation room, I was strip searched

for the third time. After I denied the charges I was accused of, I was taken down to the military court where the hearing was postponed until Sunday. I spent Thursday, Friday and Saturday in the Mibar el-Ramla in the criminal block and in a room alone. On Sunday I was returned to court where the trial was once again postponed until Thursday. I was taken back to the holding section of Hasharon Prison and when Thursday came, I was transferred to Ofer which was an extremely difficult journey so much so that on the second day to the court, I spent the day sleeping only getting up to pray or to stand. On Thursday, the judge decided to release me conditionally but the prosecution objected and was given 72 hours to make up its mind. However, the deputy prosecutor then said: the judge is releasing her and we will transfer her to administrative detention to anger her husband. [Her husband is Jamal el-Tawil, head of the El-Birah municipality who has spent longer in administrative detention than he has with his children.]

I was then given three months in administrative detention in the first instance. There are two administrative sessions; the verification and the appeal. There is also a special session which is the Supreme Court. I was continuing to appear in court as my case had not been closed. During the case sessions, I would see my daughter and husband or brother and would reassure them that if I was being administratively detained, then the family would not have been allowed to attend court.

My administrative detention order was renewed four times and during the fourth verification session, I was unable to bear the words of the prosecution and when the judge asked me if I wanted to say anything I said yes then stood and said, "Behind you there is a picture of the scales that are a symbol of justice. However, I would like to ask, where

is the justice in administrative detention which is precautionary or detention without charge? It is in the hands of one side, and in my case, it is in the hands of the intelligence services that decide and extend my detention numerous times according to the mood. On each occasion they claim that there is serious information against me and that my detention was a 'severe blow'. Yet my special counsel is unable to view this information because of what is called a confidential dossier. I know the source of your information is people who do not like me. Can it be expected for such a person to act justly toward the one they hate? In the end, I and my children are the victims, so where is the justice in administrative detention?

Praise is due only to God; the experience has come to end and God willing we will reap the blessings and reward. The journey to court is a journey of agony and fatigue for prisoners and the Mibar is another form of agony. All my concerns in prison were for my children and my husband; how they were managing their affairs despite the fact that my mother, may God protect her, did not abandon them and nor did my sisters. Nevertheless, the confusion and instability affected the family because this was the first time in 23 years that I had been apart from my children. As such, the distance was very painful for me and for them.

With regards to visits, I did not see my children for three months and they eventually came to visit me with the family as my daughter was denied visitation on security grounds which is another form of punishment and psychological pressure.

I was released on 01.02.2011

O my Lord, grant relief to the detainees and return them safely to their families. Amen

## Conclusion

The file on Palestinian administrative detainees and prisoners has not received adequate attention from the Arab and international community nor for that matter, from the official Palestinian community. Indeed, despite the fact that detainees constitute a large segment of the Palestinian leadership, the Palestinian Authority has largely neglected the issue of prisoners in the signing of agreements with Israel.

There is no doubt that administrative detention is a flagrant violation of international law as we have shown given that it encroaches on human freedom without justification. It is a serious and clear breach of an individual's right to protection from arbitrary detention as provided by all international humanitarian and human rights charters and conventions. Moreover, it has been stipulated that every individual that has been the victim of unlawful arrest or detention has the right to compensation.

Despite these stipulations which outlaw administrative detention, the international community has a less than firm stance on the issue and in many instances its silence is a factor in encouraging the Israeli government to continue to pursue this policy. It is a policy which constitutes a clear violation of international laws and customs and demands intervention on the part of the international community, as well as humanitarian and human rights organizations. It must be brought to an end as was done in South Africa and all detainees must be immediately released and compensated for the injustice they have suffered.

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