



## **Addameer Prisoner Support and Human Rights Organization**

### **Shadow Report for Consideration Regarding Israel's Fourth Periodic Report to the UN Human Rights Committee**

### **International Covenant on Civil and Political Rights (1966)**

Submitted September 2014



**Addameer Prisoner Support and Human Rights Association (Addameer)** is a Palestinian non-governmental, civil institution that focuses on human rights issues. Established in 1992 by a group of activists interested in human rights, the center offers support to Palestinian prisoners and detainees, advocates for the rights of political prisoners, and works to end torture through monitoring, legal procedures and solidarity campaigns.

Addameer (Arabic for conscience) believes in the importance of building a free and democratic Palestinian society based on justice, equality, rule of law and respect for human rights within the larger framework of the right to self determination. To this end, Addameer's work comprises four main program areas, namely: legal aid, research and documentation, advocacy, and the Training and Awareness Program.

Addameer is a member of the Executive Committee of the Palestinian NGO Network, the Palestinian Human Rights Organizations Council, and works closely with international human rights organizations such as Amnesty International, Human Rights Watch, OMCT and FIDH to provide regular information on the situation of Palestinian political prisoners and detainees.

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## Introduction

Since the Israeli occupation of Palestinian territory in 1967, more than 800,000 Palestinians have been detained under Israeli military orders in the occupied Palestinian territory (oPt). This number constitutes approximately 20 percent of the total Palestinian population in the oPt and as much as 40 percent of the total male Palestinian population. It also includes approximately 10,000 women jailed since 1967, as well as 8,000 Palestinian children arrested since 2000. As of August 2014, the number of Palestinian political prisoners and detainees is 6,000, spread around 17 prisons, four interrogation centers and four detention centers.

## Methodology:

**1. Legal Aid Program:** Addameer provides Free Legal Aid to hundreds of Palestinian prisoners and detainees and their families on annual basis ( average of 500 new applications each year). Services under this program include: legal defense and representation before Israeli military courts, Israeli civil courts, Israeli supreme court, Palestinian civil courts, and Palestinian High Court; lawyers visits to clients in detention centers and facilities during interrogation, pending trials, trails, or judicial reviews, and during internment; submission of petitions, appeals, and other forms of legal interventions against sentences, arbitrary detention, cases of torture, denials of rights, ill-treatment, and various other forms of violations.

**2. Monitoring and Documentation Program:** Addameer monitors and documents violations committed against Palestinian prisoners and detainees and their families in addition to monitoring conditions of detention. Activities under this program include: regular lawyers' visits to detention facilities; regular documentation officers field work and visits; monitoring and documenting media reports on violations; collating other institutions/actors documentation and publications.

**3. Research and Legal Research Program:** Through this program Addameer regularly prepares reports on violations and status of Palestinian prisoners and detainees, and prepares studies, fact sheets, analysis, comparative analysis and papers.

**4. Accountability and Advocacy Program:** Addameer actively works towards building local, Arab, and international awareness of violations and conditions and building supporting networks. To achieve this Addameer: submits alternative and shadow reports to UN and other international forums; files individual and collective complaints and cases using UN available protection mechanisms; publishes and disseminates reports, studies, papers, researches, factsheets; issues public statements, urgent appeals, press releases, individually or jointly with other organizations; lobbies policy makers, diplomats, legislators through meetings, briefings, lectures, briefing international delegations, visits to institutions, etc.

**5. Training Program:** Addameer training program is three fold; the first relates *training Palestinian lawyers* working on the issue of Palestinian prisoners and detainees in the Israeli military court system, the second provides educational lectures hosting as interns under *training Palestinian senior law students on IHL and IHRL*, while the third is a *capacity building of local community grassroots human rights activists and volunteers (Addama'er Program)*, provide

lectures on IHRL and IHL, trainings on select lobbying and advocacy skills, for local community grassroots human rights activists (especially the youth) focusing on political and civil rights within the Palestinian community;

**6. Awareness Raising:** this program targets the detainees and prisoners themselves by what we call ‘Know Your Rights – Defend Your Rights’, families and community of detainees and prisoners and would-be or expected prisoners, and the larger community. Major activities and outputs under this program include: series of radio shows targeting detainees inside Israeli occupation prisons in a ‘know your rights – defend your rights’ approach covering different categories of rights and available tools to achieve them; booklet/s explaining process of arrest, detention and prosecution, and rights in detention disseminated in local communities; lawyers and staff conducted public forums with local community members where lectures and discussions take place;

### **Social and Political Context**

Since the Israeli occupation of Palestinian territory in 1967, Palestinians have been charged with offenses under Israeli military law and tried in military courts. Over the last 47 years, an estimated of more than 800,000 Palestinians has been detained under Israeli military orders in the occupied Palestinian territory (oPt). According to Addameer, there are currently at least 6,000 Palestinians in Israeli prisons, of which 480 are in administrative detention; 19 are female prisoners; and 192 are child prisoners.

The main function of the Israeli military court system is to prosecute Palestinians who are arrested by the Israeli military and charged with security violations (as defined by Israel) and/or other crimes. It is worth highlighting that the military orders enforced through the military courts also criminalize a wide array of other types of activities, including “certain forms of political and cultural expression, association, movement and peaceful protest, even certain traffic offenses – anything deemed to threaten Israeli security or to adversely affect the maintenance of order and control of the territories”.

Arrests can occur at any time and in any place, at checkpoints, off the street, at border crossings and from homes in the middle of the night. Upon arrest, detainees are usually cuffed with plastic handcuffs and blindfolded. They are typically not informed of the reason for their arrest, nor are they told where they will be taken. Most detainees, including children, report being beaten, kicked, and threatened, having their property illegally searched and confiscated and their family home destroyed. Physical abuse and humiliation of detainees by Israeli forces during arrest remains common. Despite some increase in the use of Arabic during interrogations, Palestinian detainees held for interrogation are routinely made to sign confessions written in Hebrew, a language that only few of them understand. These confessions then serve as primary evidence against the detainees when prosecuted before the military courts. In the vast majority of cases, Palestinians remain in detention until the conclusion of legal proceedings.

Harsh detention conditions in interrogation centers, including the use of solitary confinement, are often used as a means of exerting psychological pressure on the detainee, coercing him/her into giving confessions, sometimes about crimes he/she has not committed. The often windowless,

individual cells usually only contain a mattress and a Turkish toilet, falling short of acceptable hygiene standards. During the interrogation period, detainees are prevented from communicating with their family and from access to books or the media. Their only contact with the outside world occurs during lawyers' or ICRC delegates' visits. At times, detainees are prevented from changing clothes or showering for prolonged periods of time.

Based on these circumstances and the expectation that the Israeli state is not going to change its policies and strategies in the oPt, strong evidence on this intention can be found in the daily arrests processes, settlement expansions and house demolitions and many other grave violations for IHL and IHRL committed on a systematic way daily.

### **Application of the ICCPR to the OPT**

Israel has consistently maintained that its obligations under the International Covenant on Civil and Political Rights (ICCPR or the Covenant)<sup>1</sup> do not apply to areas that are not subject to its sovereign territory and jurisdiction, i.e. to the OPT. To support this contention in its 2013 submission to the committee Israel states "The applicability of the Convention to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality [...] Israel believes that the Convention, which is territorially bound, does not apply, nor was it intended to apply, to areas beyond a state's national territory." Therefore Israel allege that the Covenant is the responsibility of the Palestinian National Authority, however the "well-established" principles of international law clearly indicate that Israel's obligations under the Covenant continue to apply to the OPT.

### ***The Relationship between International Humanitarian Law and Human Rights Law***

Legal scholars, international courts and various UN bodies and reports have all affirmed the opinion that international human rights law is applicable along with humanitarian law during times of armed conflict.<sup>2</sup> Article 4(1) of the ICCPR explicitly states that some of the non-derogable human rights they provide are to be respected even "in times of war."

Equally, in the *Legal Consequences of the Construction of a Wall in the OPT* case, the ICJ stated clearly that as an occupying power that has subjected the occupied to its territorial jurisdiction for over 37 years, leaves Israel responsible for fulfilling its obligations stemming from human rights conventions in that territory.<sup>3</sup>

Thus the traditional position that human rights agreements such as the ICCPR can only be applied in peacetime has clearly been rejected as a principle of international law. The accepted rule instead is that, during armed conflict, IHL is the *lex specialis* and international law, including human rights law is in abeyance only as needed.

<sup>1</sup> International Covenant on Civil and Political Rights, 999 UNTS 171, 6 I.L.M. 368. (March 23, 1976) [hereinafter ICCPR].

<sup>2</sup> Noam Lubell, *Challenges in Applying Human Rights Law to Armed Conflict*, 87 INT'L REV. RED CROSS 737, 740 (2005) (available at: [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/review-860-p737/\\$File/irrc\\_860\\_Lubell.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/review-860-p737/$File/irrc_860_Lubell.pdf)),

<sup>3</sup> <http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6>

### *Israel's Remaining Obligations under the Covenant*

Israel, in both its 2013 and 2001 submissions allege that any obligations it may have in regards to the implementation of international human rights law in the OPT has been transferred over to the PA. The ICJ however, has determined that a State's obligations under international human rights law and international customary law exist wherever it exercises effective control over a territory, including non-sovereign Occupied Territory. As Israel has effective control over the OPT it therefore has obligations under international law in the OPT.

It is true that agreements in the last 20 years have resulted in the PA sharing some responsibility for the protection of human rights in the OPT. Even though this may be the case on paper the reality on the ground must be recognized that Israel's authority over the OPT extends far beyond the confines of Areas B and C.<sup>4</sup> In practice Israeli military law governs all of the OPT with no distinction to citizens of Area A as well as of B and C.

### **Scope of this Submission**

Israel maintains responsibility under the Covenant and has not notified other States of any relevant derogations from its human rights obligations in the OPT. Where limitations on human rights are permitted on security grounds, they must be strictly necessary and proportionate to the security threat. However, violations of human rights, recognized and protected by the Covenant by Israel in the OPT are wide ranging and ongoing.

The following submission presents evidence to this effect, and provides suggested questions for the Committee to pose to Israel.

It should be noted that Israel's denial of the application of the Covenant to the OPT means that they do not provide relevant information on the application of the ICCPR to the OPT in their submissions to the Committee, and if they do mention it, it is in disregard with no explanation. Due to this the following submission will not always contain comparative claims to Israel's 2013 submission as they simply do not exist.

Finally, our comments in this submission are limited to issues under the Covenant related to detention, the prison system and criminal justice, as these issues are the primary focus of Addameer's mission and work in the OPT.

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<sup>4</sup> Since the Oslo Accords in 1993, the West Bank has been divided into three areas: Area A – full Palestinian civil and military control (effective in urban areas only); Area B – full Palestinian civil control and joint Israeli-Palestinian military control; and, Area C – full Israeli civil and military control. In practice, however, these distinctions have little application in the Israeli military courts.



## ARTICLE 1: THE RIGHT OF SELF DETERMINATION

Article 1 of the Covenant recognizes the right of all peoples to self-determination, to freely determine their political status and freely pursue their economic, social and cultural development. The Palestinian people, although largely constituting an occupied territory, also have the right to enjoy the freedom of self-determination.<sup>5</sup> Israel's policy of widespread arrests and detention, especially of Palestinian political leaders, and ongoing illegal construction of the Annexation Wall in the West Bank violates the right of the Palestinian people under this article to self-determination.

### Targeting Palestinian Political Leaders:

Both, international law and Israeli courts have held that the government cannot detain someone for their political opinions, however, Palestinian political leaders are routinely arrested and detained as part of an ongoing Israeli effort to suppress Palestinian political processes. As a result of this Palestinian's right to political sovereignty and self-determination is denied.

Some leaders have been imprisoned for many years, such as Popular Front for the Liberation of Palestine Secretary General Ahmed Sadat, who has been imprisoned since 2006 and is serving a 30 year sentence. Others such as prominent Fatah leader Marwan Barghouti has been detained since 2002, and is serving five life sentences. Both Ahmed Sadat and Marwan Barghouti are members of the Palestinian Legislative Council (PLC).

In June 2014 Israel launched a mass arrest campaign which targeted a large number of PLC members which more than tripled the number of PLC members in Israeli prisons to 35. The majority of these are held in administrative detention, which is detention without charge or trial and therefore do not know the reason for their detention, when they may be released, and are not given the opportunity to give a defense in court.<sup>6</sup>

More recently in August 2014, the Israeli authorities issued PLC member Khalida Jarrar a military order expelling her from her home in Ramallah to Jericho for a period of six months with immediate effect.<sup>7</sup>

There are currently 35 PLC members in Israeli detention. Due to Israel's policy of arrest and detention of these leaders they deny the Palestinian right to self determination as it prevents the PLC from convening and has not been able to do so since mid-2007.

Addameer would therefore urge the Committee to clarify that political

<sup>5</sup> General Assembly resolution 2625 (XXV) of 1970, held by the ICJ to constitute customary international law, affirmed the illegality of the acquisition of territory resulting from the threat or use of force, as well as the right of peoples in non-self-governing territories to self-determination. The ICJ has recognized the latter as a right *erga omnes*, i.e. an inalienable right, the protection of which all states have a legal interest. See Pieter H.F. Bekker, the World Court Rules that Israel's West Bank Barrier Violates International Law, July 2004 (available at: <http://www.asil.org/insigh141.cfm>); See also, East Timor (Portugal v. Australia), Judgment, I.C.J Reports 1995, p.90, 102, para 29, 30 June 1995.

<sup>6</sup> See Appendix 1: Detention of PLC member Yasser Mansour - profile

<sup>7</sup> See Appendix 2: Letter to the UN Secretary General Ban Moon - PLC member Khalida Jarrar

expression is a basic right of self determination and to ask the Israeli authorities the following:

**Question:**

- 1) What measures is the government taking to ensure the freedom of political expression, which is fundamental to the right of self-determination in the OPT?
- 2) What measures is the government taking to ensure that no other individuals are detained for engaging in legitimate political activity and that all those thus detained are released immediately?

**The Annexation Wall:**

Ten years ago, the International Court Justice (ICJ) issued an advisory opinion on the construction of the Wall, in which it voted unanimously on the illegality of its construction. It also voted on Israel's obligation under international law to stop its construction, and to dismantle the already constructed parts of the Wall. However, contrary to the advisory opinion, Israel has denounced the opinion, the Wall construction has continued relentlessly, and the consequences of the Wall and its regime for Palestinian communities affected have been dire.

Palestinians have found themselves physically divided, isolated, ghettoized and cut off from farmland and valuable water sources, which are often expropriated for Israeli settlers. Moreover, Israel has set up a complex system of land controls and permits, enforced by the army and border police, to restrain and monitor Palestinians' freedom of movement and restrict access to their land and other communities. The regime thereby created by the Annexation Wall has had far reaching and detrimental effects on all the Palestinians living in the West Bank.

In villages across the West Bank, local residents have formed committees and taken on a campaign of mass popular resistance to the Annexation Wall, engaging in weekly, and even daily, demonstrations. In retaliation to these peaceful demonstrations by the popular resistance committees against the Annexation Wall, Israel have been using Military Order 101, which "prohibits any assembly, vigil, procession, or publication relating to "a political matter or one liable to be interpreted as political...and permits the use of "the required degree of force" for the purpose of its enforcement, but does not clarify what this degree is, leaving considerable room for discretion and creating an opening for the excessive use of force,<sup>8</sup>" to arrest, detain and criminalize the actions of Palestinian against the Annexation Wall.

**Question:**

What action will the Israeli government take to abide by the ICJ ruling, including (1) Stopping the construction of the Wall in the occupied Palestinian territory; (2) Dismantling the sections built to date; and (3) Providing compensation for all damage, including for land confiscation caused by the construction of the Wall?

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<sup>8</sup> "Military Order 101," ( B'tselem, September, 8 2011).

## ARTICLE 4: STATE OF EMERGENCY

Israel continues to claim it is under a continuous state of emergency despite the Concluding Observations made by the committee in both 2003 and 2010. In the Committee's 2010 concluding observations it stated that the exception under Article 4 only allows derogations in times of public emergency with the recommendation that: "The state party should ensure the full application of the covenant in Israel as well as in the occupied territories, including the West Bank, East Jerusalem, the Gaza Strip and the occupied Syrian Golan Heights."<sup>9</sup> Further to this, in paragraph 7 of the 2010 Concluding Observations the committee stated that Israel should "Complete as soon as possible its review of legislation governing the state of emergency. Pending the completion of its review, the State party should carefully re-examine the modalities governing the renewal of the state of emergency". Even with the acknowledgement of these recommendations by the Committee, on May 8 2012 Israel's High Court of Justice rejected the petition to cancel Israel's state of public emergency. The High court stated that they believe Israel's existence still to be at threat but that amongst this status it still observes basic rights and freedoms including freedom of expression. This however is clearly not the case and not given in the OPT to Palestinians and is therefore clear that Israel does not have any provisions or measure in place to end the state of emergency and respect its duties to uphold human rights according to international law.

### Question:

Given that the state of emergency has now been ongoing for more than 60 years, what real measures is Israel taking to end the state of emergency and to respect its duties to uphold human rights according to the standards of international law?

## ARTICLE 7: PROHIBITION OF TORTURE

### Torture and ill-treatment during arrests:

More than 800,000 Palestinians have been detained by the Israeli military since the occupation of Palestinian territory in 1967. While arrests can occur at any time and in any place, Palestinians are most commonly arrested at checkpoints, off the street, at border crossings and from raids into homes in the middle of the night. Physical abuse and humiliation of detainees and their families by Israeli forces during arrest remains common. Addameer has documented numerous cases of Israeli Occupying Forces (IOF) abuses during and after arrest, including: shooting detainees; beating detainees or family members. In 2013 and 2014 19 people have been killed during arrest operations by IOF during arrest operations.<sup>10</sup>

On 11 March 2014, a 28 year old man from Askar refugee camp, Daoud Abu Hayyeh, was shot while being arrested. When Hayyeh heard noise outside his house at 05:30AM, he rushed to the

<sup>9</sup> Concluding Observations of the Human Rights Committee 2010, page 2, paragraph 5 (CCPR/C/ISR/CO/3)

<sup>10</sup> See Appendix 3: Table listing civilians murdered during Israeli arrest operations in 2013 and 2014

balcony to identify the source of the noise, only to be shot at three times in both of his legs. He was then dragged by his head down the stairs by Israeli forces, and then taken to Huwwara detention center. On his way there, Hayyeh was in immense pain after being shot three times and started screaming, yet the Israeli soldiers started beating him and shouting at him. Six months later, Hayyeh was still suffering from the brutality and torture by Israeli forces. Hayyeh is currently in Megiddo prison awaiting trial<sup>11</sup>

In addition, Israeli forces often neglect the medical needs of Palestinian detainees, even for those who suffer from critical medical issues, as in the case of Adnan Mohsin. Mohsin, a husband and a father of three, had an accident in 2001 while working in Jerusalem. He fell from a three meter height which caused a cut in his spinal cord and hence paralysis in his lower body. Consequently, Mohsin uses a wheelchair and is in constant need of help, he cannot even use the restroom normally as he has to use urinary drains. Mohsin also suffers from breathing problems and requires constant medical treatment and attention. At 01:30AM on 19 June 2014 Israeli forces raided Mohsin's house. The Israeli forces had a gurney which they used to carry him on. His father refused this method of arrest and insisted that they should take him in his wheelchair. After a long argument the IOF agreed and took Mohsin on the wheelchair to an armored personnel carrier. Although paralyzed, and unable to take care of the most basic needs on his own, the Israeli forces immediately blindfolded and shackled him. Mohsin received a four-month administrative detention order, and since his arrest his family haven't been allowed to see him or gain any information on his health condition.<sup>12</sup>

Israeli forces also fail to present arrest orders or the permit issued by the party in charge of issuing the detention order; using relatives and neighbors as human shields; searching the house and destroying property; illegally confiscating property from the house; using police dogs during arrest; throwing stones, opening fire or using "sound bombs" directed at the house before entering; forcing family members to evacuate the house after midnight in severe winter weather without taking children and the elderly into consideration; stripping detainees of their clothing.<sup>13</sup> Moreover, once bound and blindfolded, detainees typically are not informed of the reason for their arrest and neither they nor their families are informed where they will be taken. Detainees may be kept waiting, standing or kneeling, for long periods of time before being thrown on the floor of a military jeep, sometimes face down, for transfer to an interrogation center. During the transfer, which can take up to several hours, Israeli soldiers often physically and verbally abuse detainees.

### Question:

What measures do the Israeli authorities intend to take in order to put a stop to the use of all violence, including killings, against detainees, their families and property during arrest and investigate killings which have already occurred?

<sup>11</sup> See Appendix 4: Daoud Abu Hayyeh profile - shot during arrest

<sup>12</sup> See Appendix 5: Adnan Mohsin profile - disabled detainee

<sup>13</sup> See Appendix 6: Statement on Muataz Washaha - executed during 'Arrest'

## **Torture and ill-treatment during interrogation and detention:**

In its 2003 Concluding Observations to Israel's Second Periodic Report, the Committee expressed its concern that "interrogation techniques incompatible with article 7 of the Covenant are still reported to be used frequently." It also stated that the necessity defense retained by Israel in the 1999 High Court decision in *The Public Committee Against Torture v. The Government of Israel* is not recognized under the ICCPR, and directed Israel to provide detailed statistics on its use of the necessity defense in intervening years. However, unlawful interrogation techniques remain in use, and such statistics on the necessity defense use have not been provided in Israel's 2013 submission. The methods of ill-treatment most frequently alleged to take place during interrogation include: prolonged constraint of movement in an uncomfortable position causing physical pain, such as tying the suspect to a chair with the hands behind their back, throughout hours or days of interrogation; sleep deprivation; beatings and long periods of solitary confinement in small, windowless and, often, cold cells.

In its 2010 Concluding Observations to Israel's Third Periodic Report, the Committee noted its concern that the crime of torture had not been incorporated into Israel's legislation and made the recommendation that Israel should incorporate the crime of torture into its legislation in conformity with Article 7 of the Covenant and furthermore that Israel should "completely remove the notion of "necessity" as a possible justification for the crime of torture. In the Committee's note on torture it further observed that "the prohibition of torture, cruel, inhuman or degrading treatment in Article 7 is absolute and according to Article 4, paragraph 2 no derogations therefore are permitted, even in time of public emergency." In Israel's 2013 submission they have stated that they have not implemented torture as a crime into their legislation and further to this at paragraph 356, page 57 of their 2013 submission Israel states that "The defense of "Necessity" remains in Israeli legislation, and this defense has neither been cancelled nor limited by legislation." Israel has given no explanation as to why they have not incorporated torture as a crime into their legislation, nor why the defense of "necessity" still exists within their legislation given the Committees condemnation in their most recent Concluding Observations. Addameer is seriously concerned by the complete disregard Israel seems to have given to the Committees 2010 Concluding observations and is additionally distressed at the continued use of torture committed against Palestinian political prisoners.

Recent changes to Israeli military orders now means that a Palestinian detainees can be given an initial 20 days interrogation order, which can be extended for 15 days at a time for 75 days. After the first 75 days, the Military Advocate General (head of the military prosecution) can go to the Military Court of Appeals to extend the interrogation for as long as 90 days at a time. This can be renewed for up to 90 days at a time indefinitely. During this period he/she can also be denied lawyer visits for a period of 60 days. During the interrogation period, a detainee is often subjected to some form of cruel, inhuman or degrading treatment, whether physical or psychological, and ranging in extremity.

The continuous use of torture in the interrogation centers during the arrests in 2013 also led to the murder of the detainee Arafat Jaradat, 33 years old, in Megiddo prison, after being

interrogated with in Jalameh. Autopsy results showed that Jaradat was tortured and died as a result of extreme pain caused by severe injuries.<sup>14</sup>

In addition to the committees 2010 concluding observations regarding torture the committee expressed concern over the utter disregard Israel shows towards complaints of torture raised by Palestinian political prisoners. The Committee recommended that Israel should “examine all allegations of torture, cruel, inhuman or degrading treatment pursuant to the Manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment.”

Furthermore the Committee commented on their concern over the lack of independence of the officials in place to investigate allegations of torture. At the time (in 2010) the Inspector for complaints against the Israel Security Agency (ISA) interrogators was a staff member of the ISA. The Committee recommended that the investigations should be performed by “an authority independent of any of the organs” mentioned in paragraph 12 of the 2010 Concluding Observations. In Israel’s 2013 submission they have responded to this recommendation and stated that they are transferring the Inspector position for the ISA to the Ministry of Justice and that the new Inspector chosen to serve is Colonel Jana Modzgvishvily. Mrs Modzgvishvily has for the last four years been the Chief Military Prosecutor for Israel and therefore it is of Addameer’s highest concern that this transfer of Inspector of Complaints is not to an independent body as was recommended by the Committee in 2010 but is to one of the organs listed by the committee to not be independent especially considering Mrs Modzgvishvily’s previous employment.

On 6 September 1999, the Israeli High Court of Justice ruled to ban the use of torture during interrogation. A seemingly considerable victory for human rights defenders has proved in practice not to be applicable to Palestinian “security” detainees. Indeed, the ruling failed to explicitly forbid the use of torture but rather allowed that interrogation methods such as “moderate physical pressure”—widely deemed as torture—be used in situations where a detainee is considered a “ticking bomb”. Furthermore, the ruling, while banning the use of the “necessity of defense” ex ante, continued to allow this defense post-factum in cases of “ticking bombs”, thereby effectively allowing for impunity in cases of torture. As it stands in 2013, the use of torture and ill-treatment against Palestinian prisoners by Israeli authorities is so widespread to be rightly characterized as systematic. Since 2001 more than 750 complaints of torture and ill-treatment have been filed against the ISA by Palestinians, to date, not one of these complaints has resulted in a criminal investigation. Since 1967, 72 prisoners have died as a result of torture.

### **Question:**

What measures do the Israeli authorities intend to take in order to put a stop to the use of all torture during interrogation and detention?

What measures will the Israeli authorities take in order to ensure that the use of torture is not indirectly sanctioned through recourse to the defense of necessity?

<sup>14</sup> See Appendix 7: Statement by human rights organizations on the death of Arafat Jaradat

In view of the low number of investigations carried out compared to the number of complaints received, what action do the Israeli authorities intend to take in order to ensure that a proper and independent investigation is carried out in every case?

## ARTICLE 9: PROHIBITION OF ARBITRARY DETENTION

### Administrative Detention

Addameer is seriously disturbed by Israel's continued policy of administrative detention where they detain Palestinians without charge or trial in violation of the prohibition on arbitrary detention, torture and inhuman or degrading treatment and punishment.

Israel derogated from Article 9 upon ratification of the ICCPR in 1991.<sup>15</sup> However, Addameer believes that Israel has exceeded the bounds of permissible derogation, given the widespread and systematic use of administrative detention levied on Palestinians from the OPT, and all the human rights violations that accompany its administrative detention regime detailed in this section.

The Committee noted in its 2010 Concluding Observations, "the Committee nonetheless expresses concern at the frequent and extensive use of administrative detention, including for children, under Military Order No. 1651<sup>16</sup>, as well as the Emergency Powers (Detention) Law. Administrative detention infringes detainees rights to a fair trial, including the right to be informed promptly and in detail, in a language which they understand, of the nature and cause of the charge against them, to have adequate time and facilities for the preparation of their defense and to communicate with counsel of their own choosing, to be tried in their presence, and to defend themselves in person or through legal assistance of their own choosing (Arts. 4, 14 and 24)."<sup>17</sup> The recommendations put forward by the Committee in regard to this was that Israel should "Refrain from using administrative detention, in particular for children, and ensure that detainees' rights to fair trial are upheld at all times." In 2009, at the time of Israel's last ICCPR submission the number of administrative detainees in Israeli prisons was at least 500 and as of August 2014 the number stands at approximately 480. From this clear statistical similarity and Israel's answer to question 4 in its submissions to the ICCPR, it is of great concern to Addameer that Israel has not taken on board any of the recommendations made by the Committee in 2009 regarding administrative detainees and continues to detain Palestinians without reason or trial for indefinite periods of time.

While during times of armed conflict administrative detention is permitted, this is only for very limited circumstances. These are where there is a public emergency that threatens the life of the nation and detention can only be ordered on an individual, case by case basis without discrimination of any kind.<sup>18</sup> Israel has continually tried to justify the use of administrative

<sup>15</sup> Israel, Derogations: Notifications under Article 4(3) of the Covenant, 3 October 1991 (available at: <http://www.iilj.org/courses/documents/IsraelDerogations.pdf>)

<sup>17</sup> Concluding Observations of the Human Rights Committee 2010, page 3, paragraph 7 (CCPR/C/ISR/CO/3)

<sup>18</sup> ICCPR, *supra* note 2, Art. 9.

detention due to its continuous state of emergency since 1948. Israel uses administrative detention on Palestinians as a form of collective punishment as a substitute for when there is insufficient evidence for a conviction.

The detention period for a detainee held in administrative detention can be renewed every six months and it is Addameer's serious concern that Israel systematically renews these detention periods of detainees without full examination of evidence and facts and under secret evidence that the prisoner and his or her lawyer cannot see or know of and therefore prevents the ability for them to prepare any possible defense. Although Israel must renew these detention periods every six months, in practice, Palestinians can be detained indefinitely for years without ever knowing the reason for their detention. Further to this, often detainees are only told that their detention period is being extended a day or two before the previous order expires.

Administrative detention orders are usually based on secret evidence according to the Israeli Security Agency (ISA). Neither the detainee or his or her lawyer is allowed to access or see the alleged evidence being used against the detainee and are therefore left in court to contend allegations that are very broad and unspecific. Addameer is extremely worried about the continuous use of this secret information as a basis of administrative detention due to the fact it stops the detainee from being able to present a defense and therefore emphasizes the arbitrary nature of detention.<sup>19</sup>

In reaction to the extensive use of administrative detention on Palestinians, administrative detainees launched an open-ended hunger strike on 24 April 2014. Over 100 Palestinian administrative detainees began this hunger strike in protest of the policy and the ongoing violations committed against them. In response the hunger strike the Israeli Prison Service (IPS) began denying the administrative detainees numerous rights such as family visits, denial of medical treatment, confiscation of clean drinking water and extensive cell raids. During the strike the hunger strikers were shackled by their hand and foot to the bed 24 hours a day. The hunger strike ended after 63 days with no apparent agreement between the IPS and the detainees.

On top of this, due to the fact that hunger strikes cause severe health problems and could result in the death of the prisoners, rather than discuss with the administrative detainees a way to give them their rights, the Israeli Knesset proposed a force-feeding bill that, if passed, would effectively legalize torture. As of September 2014 the Israeli Knesset passed the bill through its first reading. This bill was widely condemned both internationally and nationally. The UN Office of the High Commissioner for Human Rights released a statement by Mr Juan Mendeaz, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment that said: "Even if it is intended for the benefit of the detainees, feeding induced by threats, coercion, force or use of physical restraints are tantamount to cruel, inhuman and degrading treatment." Addameer is seriously concerned over the possibility of this bill coming into force due to the fact that if it does pass a majority vote the bill not only denies the prisoners right to individual autonomy but also the ability to protest conditions and policies by hunger strike.

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<sup>19</sup> See Appendix 8: Administrative Detainee Abdul Farraj - profile



## Question:

Given that administrative detention is an extreme measure of control, what action will the Israeli authorities take in order to prevent its misuse, in particular to stop the practice of administrative detention being used as a collective measure or as form of punishment in lieu of criminal prosecution?

What measures are being taken to correct the obvious discrimination arising from the widespread imposition of administrative detention against Palestinians, as well as the fact that Palestinians are subject to renewable administrative detention orders of up to six months duration, whereas Israelis detained administratively have their orders reviewed on a maximum three monthly basis?

What procedural safeguards do the Israeli authorities intend to establish in order to ensure that the arbitrary nature of administrative detention based on the use of “secret information” is minimized?

What measures do the Israeli authorities intend to put in place to ensure that the use of “secret information” is restricted to cases where there is a legitimate security basis?

Does Israel intend to review its policy of administrative detention per the recommendations of the Human Rights Committee for its compliance with article 9 of the ICCPR?

## The ‘Unlawful Combatants Law’

In 2002, the Israeli Knesset passed the *Incarceration of Unlawful Combatants Law*, which is used to detain residents of the Gaza Strip without trial. Under this law, Israeli officers are authorized to order the internment of a Palestinian first for a period of 96 hours, which can then be renewed for an indefinite period of time as opposed to administrative detention of Palestinians from the West Bank and Israeli citizens, which can only be ordered for a maximum of 6 months at a time. The internment can only be ended when one of the conditions for the internment ceases to exist or other reasons to justify the person’s release arise. Alleged unlawful combatants must be brought before a judge within 14 days of the issuance of the internment order. If the order is confirmed by the judge, the internment must be reviewed every six months.

This law defines an “unlawful combatant” as a person who takes part in hostile activity against Israel, either directly or indirectly, or belongs to a force engaged in hostile activity against the State of Israel, and who is not entitled to prisoner of war status under IHL.<sup>20</sup>

This law carries a presumption that as long as there are hostilities, the release of such an individual will harm national security unless the detained person can prove otherwise. It is therefore the detainees burden to prove that he or she is not a threat. This law, therefore denies

<sup>20</sup> See Appendix 9: Unlawful Combatant Law - detainee Mahmoud Sarsak profile

the detainees right to a presumption of innocence, and results in a system of indefinite detention justified by speculation with no real evidence. In 2009 17 political prisoners from Gaza were arrested or detained under the 'Unlawful Combatants Law', most of whom were arrested during the 2008/2009 war on Gaza. Indeed some prisoners were eventually sentenced but instead of being released upon completion of their sentence were again held under the 'Unlawful Combatants Law'.

As of August 2014, one Palestinian is being held under the Unlawful Combatants Law.

### **Question:**

Given that the Unlawful Combatants Law clearly violates the rights of the accused to the presumption of innocence, what measures does Israel intend to take to either repeal this law in order to bring it in conformity with the provisions of the ICCPR?

## **ARTICLE 10: CONDITIONS OF DETENTION**

Addameer continuously publishes reports documenting widespread human rights violations and abuses throughout the process of arrest and detention in the Israeli prison system. The documentation of these violations shows that Palestinians detainees and their families are severely affected by the difficulties and abuses inherent within the Israeli detention system.

### **Prison Conditions**

There is a severe lack of basic human rights within Israeli prisons that Palestinians are held in. This includes serious issues with hygiene, violence and excessive punishment, lack of health care, insufficient recreation time outdoors, poor food quality and quantity, and insufficient prisoner complaint mechanisms. Addameer has found that prisons are often overcrowded with no adequate shelter from extreme weather conditions, the prisoners are not provided with adequate food rations in quantity or quality and no consideration is taken into account for prisoners with special dietary requirements such as those who suffer from diabetes or high blood pressure. Furthermore the prisoners are not provided with clean clothes or adequate cleaning supplies and therefore are forced to buy such goods from the overpriced canteens. Finally cell searches and confiscation of personal belongings is a common practice in the prisons and attacks on the prisoners by beating detainees or firing tear gas into cells occurs regularly.

Further to this Addameer has recently documented in depth, the IPS Special Forces use of advanced special arms on Palestinian political prisoners. Their members go through specialized, intensive trainings on how to break into the cells and sections of detainees and prisoners and beat them, using all kinds of weapons, including stun guns, batons, sticks, toxic gas, tear gas, rubber-coated metal bullets, etc., in order to suppress their legitimate demands for better detention conditions and to apply degrading forms of searches to them. These forces break into detainees' cells and sections frequently, almost on daily basis using all kinds of pretexts. Data available to Addameer and other organizations concerned with prisoners' affairs indicate that these special forces have escalated their acts of breaking-in in the last years. In 2010, more large scale breaks

were reported. This trend has continued over the past years, with an evident increase during the prisoners' hunger strike in early 2011, reaching its peak in Ramadan of 2012, when 42 acts of breaking-in and maltreatment of detainees and prisoners were documented. These acts of breaking-in and the accompanying abuses cause hundreds of injuries among the prisoners and detainees, including severe ones, such as loss of site, physical impairment, skull fracture, backbone injury, limb injury, as well as suffocation due to the inhalation of toxic gas or tear gas.<sup>21</sup>

Addameer would urge the Committee to clarify the applicable standards to which the Israeli Police and Prison authorities should be held in terms of ensuring adequate conditions of detention, and to ask the Israeli authorities the following:

**Question:**

Given the fact that prisoners have to supplement the provision of basic items from the Israeli authorities through their own funds, what measures is the government taking to ensure that prisoners are provided with their needs in terms of outdoor recreation, health care, hygiene products, clothing and food?

What measures is the Israeli government taking to put a stop to the practice of long-term isolation of prisoners?

**Female Prisoners**

As of August 2014 there are 19 female prisoners in Israeli prisons. Female prisoners are mainly held in Hasharon prison and until 2011 they were also held in Damon prison, as well as in interrogation centers throughout Israel.

Addameer is seriously concerned that both Damon and Hasharon prisons lack of gender-sensitive approaches. This deficiency is to the detriment of female Palestinian prisoners' health and hygiene. A study conducted by Addameer in September 2008 revealed that approximately 38% of Palestinian female prisoners suffer from treatable diseases that go untreated. For instance, those suffering from diseases such as asthma, diabetes, kidney and eye diseases, sickle cell anemia, cancer, and seizures have little to no access to medical services. Long delays in providing substandard medical treatment are typical. Although all prisons include a medical clinic, physicians are on duty irregularly and specialized medical healthcare is generally unavailable. To date, there are no specialized gynecological services available for Palestinian women held in Israeli prisons and detention centers, despite their continuous requests for access to such services and complaints launched against the IPS's repeated denials. Also of particular concern is the absence of trained Arabic-speaking female medical specialists.

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<sup>21</sup> For more information regarding the IPS Special Forces see Addameer Report 'Aggressions by Special Units of the Israeli Prison Service against Prisoners and Detainees during Transfers and Raids' 2014 (Arabic)

Female prisoners are subjected to the same psychological and physical abuse as their male counterparts; female prisoners report beatings, insults, threats and sexual harassment. Female prisoners are also routinely humiliated by intrusive body searches, which often occur before and after court hearings and during the night as punitive measures.<sup>22</sup>

### **Question:**

What measures do the Israeli authorities intend to take in order to improve the conditions of detention for female Palestinian prisoners in accordance with international standards, particularly with regard to healthcare, nutrition, living space and access to the outdoors?

### **Juvenile Prisoners**

Addameer acknowledges that on paper Israel has made a number of minor changes regarding the detention of children in military custody, however, in practice the reality has not changed. For example in terms of interrogation, for minors, the first interrogation order can be for up to 15 days, this can then be extended for 10 days at a time for a maximum of 40 days. The Military Advocate General can then extend the interrogation for 90 days at a time in the Military Court of Appeals (Indefinitely). The order does not specify what information is needed to extend the interrogation. So although Israel states that they have different detention periods and laws for children, a child can still be held in interrogation for as long as an adult (for 90 days and then indefinitely extended). It must be noted that in the three months from June to August 2014 over 800 people have been arrested in Jerusalem alone, the majority of these children.

### **Question:**

What measures is Israel taking to ensure that every detained child is not compelled to give testimony or to confess guilt due to interrogation, in conformity with Article 40(2)(b)(iv) of the Convention on the Rights of the Child?

What measures are being taken to ensure that all juvenile prisoners, including those between the ages of 16 to 18, are in all cases detained separately from adult prisoners?

### **Medical Neglect**

Addameer is acutely concerned by Israeli authorities responsible for prisoners whom regularly neglect their duties to provide medical support for Palestinian prisoners in their care, as required by the Geneva Conventions. Medical problems are widespread, and range in severity from chest infections and diarrhea to heart problems and kidney failure. Treatment is often inadequate and is delivered after substantial delays. Often medication is limited to over-the-counter pain killers.

Although all prisons include a medical clinic, physicians are on duty irregularly and specialized medical healthcare is generally unavailable. Prisoners are not treated outside the assigned clinic hours and typically must wait for long periods of time before being examined. Once they are

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<sup>22</sup> See Appendix 10: Muna Qa'adan profile - Female Prisoner

examined, however, most prisoners are simply prescribed painkillers without any thorough medical follow-up. Transfers to hospitals for needed treatment may take place only after weeks or months. It must be noted that the physicians in Israeli prisons are employed by the IPS and are not members of the Israeli Medical Association, and therefore their loyalty lies with the security establishment and not in the interest of their patients.

Due to the medical neglect inside the prisons the detention conditions have a huge impact on the health of prisoners and detainees. As a result of their imprisonment, released detainees are often faced with chronic health problems such as skin diseases, extreme fatigue, anemia and weakness, kidney problems, rheumatism, problems with their teeth and ulcers. Since 1967, 53 prisoners have died as a result of medical neglect, including four prisoners in 2013 alone.<sup>23</sup>

### **Question:**

What measures have been taken by the Israeli authorities to ensure that investigations have been carried out into the deaths of all prisoners that have died as a result of medical negligence?

What measures have been taken by the Israeli authorities to ensure that all prisoners receive the appropriate medical care?

### **Prison Locations**

All but one of Israel's military prisons are located inside Israel in complete contravention of Article 76 of the Fourth Geneva Convention, which states that an Occupying Power must detain residents of the occupied territory in prisons within the territory it occupies. In addition to this being in direct contravention of international humanitarian law it causes many practical difficulties. Due to the location of the prisons many prisoners have difficulty meeting with their defense counsel who are often OPT residents and are not allowed permits to enter Israel and hence cannot get to the prison, and further their families cannot visit as they are continually denied permits to enter Israel on "security grounds."

### **Question:**

Given that the detention inside Israel of prisoners from the occupied territory is in itself a violation of international law, what measures is the Israeli government taking to ensure that all prisoners and pre-trial detainees have their right to regular family meetings respected?

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<sup>23</sup> See Appendix 11: Joint Statement on the death of prisoner Maysra Abu Hamdiya

## ARTICLE 14: JUDICIAL PROCESSES AND GUARANTEES

Addameer wishes to highlight its continued concern regarding the absence of fair judicial processes for Palestinians being tried in the Israeli Military Courts. It has been previously noted by the Committee that whilst trying civilians in military courts is not specifically prohibited internationally, it does raise serious fair trial issues.

Given the extent of the jurisdiction of the military courts, provisions giving the widest protection to those being charged should be enshrined within the judicial processes. The evidence of military courts complying with fair trial processes shows that Palestinians being prosecuted in the military courts are systematically denied these rights.

Examples of the lack of fair judicial processes within the Israeli military courts include:

### Independence of the Judiciary

The military orders used in the OPT require that the judges in the military courts act impartially. It is, however, questionable whether the use of military courts to try civilians can ever satisfy the requirements under international human rights law that trials take place before independent and impartial tribunals. International law furthermore guarantees certain fundamental fair trial rights, but these are regularly flouted by Israeli military courts:

- **The right to prompt notice of criminal charges:** Israeli military orders contain no requirement that the charge be given to the accused without delay, and in a language he or she understands, as required by international law. In practice, information on charges against the accused are often not disclosed by the prosecution until the day of the first hearing, which typically determines whether the accused will remain in detention until the end of the proceedings.
- **The right to prepare an effective defense:** During interrogation, a detainee can be held for up to 60 days without access to a lawyer. Lawyers acting as defense counsel before the military courts highlight many further obstacles preventing an effective defense, including difficulties in meeting with their clients in detention facilities inside Israel; the lack of proper facilities to hold confidential meetings; court documents written in Hebrew; and the provision of incomplete prosecution material.
- **The right to trial without undue delay:** Palestinians can be held in custody for four days before being brought before a judge and this can be extended to 8 days in special cases.<sup>24</sup> As previously mentioned, a Palestinian can be held without charge for interrogation purposes, by order of a military judge, for a period of 75 days, which can be extended for a further period of up to 90 days, which in turn can be extended indefinitely.
- **The right to interpretation and translation:** Israeli jurisprudence provides that a prisoner must be interrogated in his native language and that his statement also be written in that language, but in practice the detainee's confession or statement is almost always written in Hebrew, requiring the detainee to sign a statement he/she cannot understand.

<sup>24</sup> Association for Civil Rights In Israel <http://www.acri.org.il/en/2014/04/10/hcj-minors-detention/>

Moreover, all proceedings in the military courts are conducted in Hebrew with insufficient or inadequate translation.

- **The right to presumption of innocence:** Israeli military orders do not include an explicit provision regarding the presumption of innocence. The exceedingly low rate of acquittals in the military courts, the practice of denying bail to the vast majority of pre-trial detainees, and the uncorrected prosecutorial reversal of the burden of proof against the accused all serve to indicate a strong presumption of guilt built into the military court system.

### Question:

What measures are being taken to ensure the independence and impartiality of the Israeli military courts? It may be presumed that a judicial procedure outside the chain of command of the military would be more likely to comply with the requirements of independence and impartiality.

### Discriminatory Sentencing

As mentioned above in Article 9 the discriminatory detention periods are a serious issue of detention in the military court system. In addition to this sentencing differences are clear depending on whether someone is tried in a military or civilian court. There are severe differences in the sentences passed for identical crimes dependant on whether the defendant is Palestinian or Israeli. An example of this is manslaughter cases, if a Palestinian is convicted of this crime their sentence can be up to a maximum of life imprisonment and this means for life, at the same time, if an Israeli is convicted of the same offence and sentenced to life, this means a maximum of 20 years in most cases and at a maximum 25 years. Further to this under Israeli civil law criminal prisoners can be released after serving one half of their sentence, where as Palestinians are only allowed to ask for probation after serving two-thirds of their sentence (it should however be stated here that the early release of a Palestinian detainee rarely ever happens).

In addition, under Israeli criminal law, a person cannot be held criminally responsible for attempting to commit an offence, if, through his/her own decision or remorse, he/she refrained from committing it. Again, no such provision exists in Israeli military law, it is an offence for a Palestinian to merely plan and not execute or think of committing an offence.

In practice, the differences in law produce much higher sentences for Palestinians committing similar or lesser crimes than Israelis. On 21 January 1996, Israeli settler Nahum Korman who beat an 11-year-old Palestinian child, Helmi Shusha, to death, was sentenced to 6 months of community service. On the same day, Suad Ghazal, a 15-year-old Palestinian girl accused of attempting to stab an Israeli settler was sentenced to 6 and a half years in prison.

### Question:

What measures are being taken to correct the fact that a Palestinian convicted through the

military court system receives a heavier sentence than an Israeli convicted of the same offense through the civilian courts?

What measures are being taken to correct the fact under the Israeli penal code, Israeli criminal prisoners may be released after serving one-half of their sentences, whereas Palestinians convicted through the military courts can only appeal for probation after serving two-thirds of their sentence?

What action is being taken to reduce the maximum period of detention allowed at each stage of the judicial process through military courts and bring those periods more in line with the standards of Israeli civilian court system?

What action is being taken to rectify the fact that very few Palestinian detainees are granted bail through the military court system?

### **Privilege against Self-Incrimination and the Presumption of Innocence**

Article 14(3)(g) of the Covenant protects the accused against self-incrimination, including of incriminating statements or confessions obtained through coercion. The use of compulsion, intimidation and torture against Palestinian detainees to obtain confessions is an ongoing issue and form of evidence used against the accused in military courts operating in direct violation of the detainees rights.

In the military courts a presumption of innocence is not a luxury afforded to Palestinian detainees as the military courts have a 99.7% conviction rate.<sup>25</sup> Many Palestinian detainees, due to their lack of faith in the judicial process and the ill-treatment and torture at the hands of their interrogators end up admitting to the offences attributed to. Once this happens the defense lawyer seeks to gain a plea bargain/reduced sentence for the detainee with the prosecution. Many defense lawyers working in the military courts believe that conducting a full trial with full evidence leads to harsher sentences and therefore many Palestinians prefer to plea bargain so that their detention period is shorter. Furthermore, in Israeli military courts a trial must be completed within 18 months while in Israeli civil courts trials must be completed within 9 months.

In addition to this the military court often works with a reverse onus of proof. Internationally it is recognized that before any justice system the onus of proof is on the prosecution to prove the defendant's guilt, and any doubt should be found in favor of the defendant. Within the Israeli military court system the prosecution often reverse the onus of the state to the defendant.

Addameer would therefore encourage the Committee to express concern with regard to the use of coerced evidence, and ask the Israeli authorities the following:

### **Question:**

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<sup>25</sup> <http://www.addameer.org/etemplate.php?id=359>



What measures are being taken by the Israeli authorities to prevent the use of coerced evidence and to protect the accused from self-incrimination?

What measures are being taken by the relevant Israeli authorities to ensure that the military courts respect a presumption of innocence rather than a presumption of guilt as currently indicated by the high level of convictions and plea bargains?

What measures is Israel taking to ensure that the burden of proof does not lay with the defendant but with the prosecution?

### **Juveniles Tried before Military Courts**

Addameer continues to be seriously concerned at the detention of children within the Israeli military court system. The resulting reports of a group of UK lawyers in 2012 ‘Children in Military Custody’<sup>26</sup> and the UNICEF report eight months later ‘Children in Israeli Military Detention’<sup>27</sup> both concluded with findings of numerous rights violations especially of the UN Convention on the Rights of the Child and the Fourth Geneva Convention. The UNICEF report concluded that “the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized.” Whilst the UK lawyers report found at least six articles have been breached from the Convention on rights of the Child and at least two articles of the Fourth Geneva Convention have been breached. As of August 2014 there are 200 children being held in Israeli prisons, 22 between the ages of 14 and 16.

### **Question:**

What measures is the government taking to ensure that imprisonment of children is a measure of last resort, including by developing alternatives to prosecution?

What on-going measures is the government taking to train judges, prosecutors, and investigators in the specific circumstances that arise when children are in conflict with the law?

What measures is the government taking to ensure that adequate facilities exist for children who are sentenced to prison terms?

What measures are being taken to correct the fact that a Palestinian child’s sentence is decided on the basis of the child’s age at the time of sentencing and not at the time when the alleged offence was committed?

<sup>26</sup> <http://www.childreninmilitarycustody.org/report/>

<sup>27</sup> [http://www.unicef.org/oPt/UNICEF\\_oPt\\_Children\\_in\\_Israeli\\_Military\\_Detention\\_Observations\\_and\\_Recommendations\\_-\\_6\\_March\\_2013.pdf](http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf)

## APPENDIX 1: Detention of PLC member Yasser Mansour Prisoner Profile

**Name:** Yasser Mansour

**Date of birth:** 22 April 1958

**Occupation:** Member of the Palestinian Legislative Council (PLC)

**Marital status:** Married

**Education:** BA in Islamic Law from the University of Jordan

**Date of arrest:** 23 November 2012

**Marital Status:** Married with 8 children



### Arrest

On 23 November 2012, Israeli Occupying Forces (IOF) raided Yasser Mansour's house at 3:30 AM. Military vehicles surrounded his house and soldiers banged on the back door, attempting to break it down, but Yasser immediately went to the window and told them to enter from the front door. Approximately seven soldiers then entered from the front door and raided the house. They ordered everyone to gather in the living room and grabbed Yasser and violently arrested him. His wife ran to the bedroom to bring her husband a pair of shoes and a jacket but the soldiers started yelling at her. Taking only his ID and jacket, the soldiers refused to allow Yasser to bring anything else with him. The process of arrest lasted for about half an hour. The soldiers did not allow Yasser's children or wife to say goodbye to him and pushed him out of the house. Yasser was immediately transferred to Megiddo Prison. After a few days, Israeli intelligence issued an administrative detention order for six months against him, which was then confirmed by a military judge. Yasser's current administrative detention order is due to expire in November 2014.

### Previous arrests

**First arrest:** In 1991, Yasser was arrested by IOF and detained for 36 days in an interrogation center in Nablus. He spent the interrogation period in a cell where he was subjected to torture, such as sitting in stress positions on a small chair for long periods of time. He was released after 36 days without ever receiving a charge.

**Second arrest:** In 1993, Yasser was arrested by IOF and sentenced two and a half years' imprisonment. During this time, he was held in Far'a, Megiddo and Negev Prisons.

**Third arrest:** In 1997, Yasser was held in administrative detention for four months in Megiddo Prison.

**Fourth arrest:** On 4 April 2003, Yasser was arrested and held in administrative detention for 8 months in Negev Prison. When IOF raided his house to arrest him, they confiscated all the mobile phones and ransacked the house.

**Fifth arrest:** On 25 September 2005, Yasser was detained for 9 months in administrative detention in Negev Prison before being released on 23 June 2006. During his detention he was elected as a member of the PLC.

**Sixth arrest:** On 29 June 2006, a mere 6 days after his release, IOF re-arrested Yasser. He was then charged with being a member of “Change and Reform” Party, which had won the elections, and sentenced to 36 months imprisonment. It is worth noting that Yasser was elected to the PLC as part of the “Change and Reform” bloc while in administrative detention, but was not charged until the administrative detention order expired. Yasser’s re-arrest came as part of the arrest campaign launched by IOF against Hamas members after an Israeli soldier’s imprisonment in Gaza. This campaign was used as a form of collective punishment against Hamas and its members.

**Seventh arrest:** Yasser was arrested for the seventh time after the attacks on Gaza at the end of 2012. At this time, also as a form of collective punishment, dozens of Palestinians were rounded up by IOF and detained for standing in solidarity with Palestinians in Gaza during the attacks.

### **Health condition**

Yasser suffers from breathing problems and an increased percentage of fat in his body, which causes him serious pain. He also suffers from back problems.

### **Family**

Yasser is married to Amal Abdullah Qarawi. They have 8 children: Hamza (26 years old, a student at An-Najah University), Hazem (also a student at An-Najah University), Hammam (currently working), Bara’ (currently working), Mohammad (currently working), Mo’men (11<sup>th</sup> grade), Omar (10<sup>th</sup> grade), Abdul Rahman (6<sup>th</sup> grade), Asma’ (4<sup>th</sup> grade).

## **APPENDIX 2: Letter to the UN Secretary General Ban Ki Moon on the situation of Khalida Jarrar**

### **Palestinian Civil Society Demand UN Secretary-General intervenes on behalf of PLC member Khalida Jarrar**

His Excellency Mr. Ban Ki Moon  
United Nations Secretary General  
UN Headquarters  
First Avenue at 46<sup>th</sup> Street  
New York, NY 10017  
USA

**25th August 2014**

#### **Re: Forcible Transfer of Palestinian Legislative Council Member Khalida Jarrar**

Dear Secretary-General,

We, the undersigned Palestinian coalitions and associations, request your immediate intervention on behalf of Palestinian Legislative Council Member Khalida Jarrar who has recently been issued with an Israeli military order detailing her forcibly transfer. The order states that Jarrar must leave her place of residence in Ramallah to Jericho for a period of six months with immediate effect.

At approximately 1.30AM on 20 August 2014 Israeli forces surrounded Jarrar's home in Ramallah and delivered to her the military order which she refused to sign. The order states that Jarrar is 'dangerous to the general security of the area'. Since then she has taken refuge at the PLC building in Ramallah where she remains.

The current order is clearly a continuation of the Israeli policy of targeting elected representatives of the Palestinian people. There are currently 36 PLC members being held in Israeli prisons, 28 of these are being held in administration, which is a form of detention without charge of trial.

The order issued to Jarrar comes in the midst of the on-going war in Gaza and the continued targeting of Palestinians in the West Bank, including East Jerusalem. For too long there has been an unwillingness by yourself as Secretary-General and the United Nations as a whole to pressure Israel to end its occupation policies, whether these be the current war on Gaza, the treatment of political prisoners or the targeting of Palestinian elected representatives. It is this unwillingness that has led Israel to believe that it can continue to act free in the knowledge that it will not be held accountable. It is clear that unless enough pressure is brought on Israel, particularly by the United Nations, Israel will not change its policies.

Jarrar was elected to the PLC in 2006 and has been active within Palestinian society for many years, particularly around the issue of Palestinian political prisoners whom she has consistently advocated on their behalf. She is also the head of the PLC Prisoners Committee and is the PLC representative to the Council of Europe. Jarrar has also been banned from travelling internationally since 1998, apart from one occasion in 2010 when she visited Jordan for medical treatment.

The order issued against Jarrar clearly violates Article 42 and 49 of the Fourth Geneva Convention which relate, respectively, to the prohibition of assigned residency of protected persons, and the prohibition of the forced collective or individuals transfer.

We call on your in your capacity of as Secretary-General of the United Nations to intervene immediately with Israel to ensure that:

- Immediately revokes the military order related to Jarrar's forcible transfer.
- Immediately release all imprisoned PLC members, including all those held under administrative detention, and cease its policy of targeting PLC members.

Signed:

**Palestinian Bar Association**

**Palestinian Human Rights Organizations Council**

**Palestinian Journalists Syndicate**

**PNGO - Palestinian Non-Governmental Organizations Network**

### APPENDIX 3: Table listing civilians murdered during Israeli arrest operations in 2013 and 2014

#### List of civilians murdered during arrests in 2014:

#	Name	Place of Residence	Age	Notes
1	Ahmed Arafat Sabreen	Ramallah/ Jalozne Refugee camp	23	
2	Mohd Jihad Doden	Hebron/ Dura	13	
3	Ahmed Saeed Shno	Nablus/ AlAin Refugee Camp	27	
4	Mahmoud Atta Al Tarifi	Ramallah/Beitunia	30	
5	Mustafa Aslan	Jerusalem/ Qalandia Refugee Camp	24	
6	Yousef Abo Zagha	Jenin/ Jenin Refugee camp	16	
7	Muataz Washaha	Birzeit	26	
8	Zakaria Al Aqra'	Nablus/ Qabalan	23	
9	Issa Al Qatri	Ramallah/Al Amri Refugee Camp	22	
10	Jamil Ali Souf	Salfit/Haris	60	Heart attack during raid to his house during the arrest campaign
11	Fatima Ismail Rushdi	Hebron/Arroub refugee camp	78	Heart attack during a raid to her house during the arrest campaign

#### List of civilians murdered during arrests in 2013:

#	Name	Age	Place of Residence
1	Mohammed Lahlouh Abo Shahleh	21	Jenin/ Jenin Refugee Camp
2	Youssef Jahjouh	22	Jerusalem/ Qalandia Refugee Camp
3	Robin Fares	32	Jerusalem/ Qalandia Refugee Camp
4	Jihad Aslan	19	Jerusalem/ Qalandia Refugee Camp
5	Karim Subhi Abu Sbeih	22	Jenin/ Jenin Refugee Camp
6	Islam Tobassi	19	Jenin/ Jenin Refugee Camp
7	Mohammed Assi	28	Ramallah/ Kafr Ne'my
8	Nafei' Jamil Al Saadi	23	Jenin/ Jenin Refugee Camp

#### **APPENDIX 4: Daoud Abu Hayyeh profile - shot during arrest**

**Name:** Daoud Abdel Mahdi Hamada Abu Hayyeh

**Age:** 27 Years Old

**Residence:** Askar Refugee Camp, Nablus.

**Date of arrest:** 11 March 2014

**Prison:** Ramleh Prison Clinic

#### **Arrest**

On 11 March 2014 at 5:30AM, Abu Hayyeh heard heavy knocking on the main door of his building. He walked to a balcony upstairs in order to see who was knocking and as he was entering the balcony he was surprised to see a number of Israeli soldiers only few meters away from him, standing on a building adjacent to his. Although he didn't try to run, nor was he armed, they immediately started shooting at him. The soldiers were masked and wearing helmets, and fired three bullets, leading to injuries in both of his legs.



The soldiers that were present during the shooting started yelling and approached him along with other soldiers that were surrounding the house. They shackled his hands behind his back immediately, and pushed me towards the ground, hitting his head badly on the ground. Abu Hayyeh was laying on floor screaming in pain. They then unshackled his hands and instead tied a string with pieces of iron intertwined together around his waist in order to bring him down to the ground floor from outside the building. The iron pieces coming out of the string caused many cuts and scratches all over Abu Hayyeh's body, leaving him in great pain.

When they reached the main door of the building, they carried Abu Hayyeh on a stretcher down the staircase. Yet, because he was not laying on the stretcher steadily, he fell off it. One of the soldiers grabbed him by his shirt and started pulling him, while holding him upside-down, while the rest of the soldiers continued to carry the now empty stretcher.

During the process, Abu Hayyeh's legs kept hitting the stairs, and he felt that his right leg is was going to fall off from the knee (the knee was broken). After putting him back on the stretcher, they ran for about 500 meters with the stretcher moving causing severe pain to Abu Hayyeh, and then took him to military jeep, where he was then taken to Huwara interrogation center. An ambulance was waiting for him in Huwara, and he was taken to a hospital.

#### **Health Conditions**

Following his arrival to the hospital, Abu Hayyeh underwent surgery, where the doctors implanted platinum in both of his legs. Doctors explained to Abu Hayyeh that he has a severe injury in the knee and a ruptured tendon. They also informed him that they need six months to know if the surgery was successful or not, and whether he will be able to walk again, or even

require other surgeries. Abu Hayyeh continues to suffer from severe pain, especially during night.

### **Legal Status**

The day after the surgery, an interrogator came to Abu Hayyeh's room in the hospital, and told him that he is from the intelligence office. The interrogator sat with him for two hours, and asked him about weapon- related accusations, and told him that they have material on him since 2009. The interrogator mentioned one of Abu Hayyeh's neighbors' name, and said that Abu Hayyeh's neighbor confessed information about him, but Abu Hayyeh denied everything. A few days later, a soldier asked Abu Hayyeh to call his parents and tell them that he is going to be released and they should wait for him at Zatarah checkpoint. Nevertheless, a couple of hours later they informed him that he will not be released, without clarifying a reason. A week after his arrest he was transferred to Ramleh prison clinic, where he continues to remain.

He was later taken to Al-Jalameh military court in an ambulance, where his period of detention was extended. His lawyer requested that he doesn't attend his upcoming hearing due to the pain he goes through on his way to court.

### **Family**

Daoud Abu Hayyeh's brother was arrested two weeks before Daoud's arrest from his home and told his family that his brother will not be released unless Daoud surrenders.



## APPENDIX 5: Adnan Mohsin profile - disabled detainee

**Name:** Adnan Abdullah Muhsen  
**Date of birth:** 1 September 1973  
**Residence:** Beithlehem/ Za'tara  
**Date of arrest:** 19 June 2014  
**Marital Status:** Married with 3 children  
**Place of Detention:** Ramleh prison clinic  
**Legal Status:** Administrative detention

### Arrest

Adnan was arrested on 19 June 2014 at 1:30AM where a huge number of Israeli Occupying Forces (IOF) surrounded the area of his family house and raided the building they live in. After searching the entire building the intelligence officer ordered the soldiers to arrest Adnan, at which time Adnan was still lying in his bed. They had a gurney that they used to carry him on. Adnan's father tried to protest the use of this method of arrest and insisted that they should take Adnan in his wheelchair. After a long argument the IOF agreed and took him in the wheelchair to a military jeep. They immediately blindfolded and shackled him. Adnan's father objected to this saying: "why would you blindfold and shackle a person that can't walk or move... are you afraid that he might escape?!!", the officer answered that it was a security measure.



Adnan was immediately taken to Etzion detention center. One day later he was transferred to Ofer prison where he was handed a four month administrative detention order. He was transferred to Ramleh Prison Clinic as a result of his deteriorating health condition.

Adnan has previously been detained in 1990 and 1997 and both of these arrests lasted for several months.

### Legal analysis

During Adnan's administrative detention order confirmation hearing on 25 June 2014, the prosecution claimed that he is "a well known figure that is affiliated with Hamas and that he participated in the organization's activities." They also claimed that he is involved in "financing terrorism".

The defense replied that Adnan left the organization (Hamas) years ago (since his accident). They added that he is physically unable to move or participate in anything and that his administrative detention order was built on false accusations that are based on political measures. The defense also said that the order came as part of the collective punitive measures against

Palestinians in general and against Hamas in particular, especially after the disappearance of the three settlers in Hebron in June 2014.

At the court hearing Adnan told the judge that the prosecution's claims are all false and that he receives money as financial support (because he is unable to work) from different parties that are not affiliated with any political organization in any way.

The military judge confirmed that the information submitted by the prosecution was of quality and that he could not reveal the information fearing the exposure of the source. For the same reason, the judge said that the detainee cannot be transferred to interrogation. The judge also confirmed that according to the secret information the detainee is a threat to the security of the area, and that the information also proved the serious danger that the detainee could impose if he was released.

The judge added that part of the financial aid the detainee receives goes to his medical treatment, however the data submitted clearly shows that the detainee created a canal to transfer money to Hamas. The judge claimed that the information he has from the prosecution is detailed and very clear regarding that matter. The judge also stated that the military commander made the right choice by issuing an administrative detention order against the detainee. The judge confirmed the 4-month order which commenced on the 22 June 2014 and ends on 18 October 2014.

Adnan's administrative detention order clearly shows that Israel uses administrative detention as a means of political detention. His arrest came as part of a huge arrest campaign waged on the West Bank, Jerusalem and 1948 occupied territories after the disappearance of three settlers in Hebron on 12 June 2014. This campaign came as a collective punishment measure against all Palestinians and included leaders, activists and PLC members. Many of those detained during this mass wave of arrests have received administrative detention orders. In the same context, the occupation authorities ordered the Israeli Prison Services to implement collective punitive measures against all Palestinian prisoners and detainees including: banning family visits, reducing the period of their recreation time, reducing the amount of money that is sent to the prisoners by their families, limiting the television channels and radio stations they watch to Israeli stations only, as well as reducing the amount of food given to them.

Detaining Adnan who suffers from serious medical conditions is a violation of article 14 of the Convention on the Rights of Persons with Disabilities which states that persons with disabilities "Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law."

### **Health condition**

During an interview with the director of Palestinian Disabled Friends Society, Mr. Ahmad Dweib, confirmed that Adnan had an accident in 2001 while working in Jerusalem. He fell from a three meter height which led to him suffering from a broken spinal cord resulting in paraplegia (paralysis of the lower half of the body). Adnan cannot move his legs, uses a wheelchair and needs constant care, to the extent that he cannot use the bathroom normally and has to use urinary drains. Further to this Adnan also suffers from breathing problems and is in need of

continuous treatment. According to his family, he is on numerous medicines including: anti-clotting pills and anti-spasm pills. There is a copy of his medical file at Addameer.

### **Family**

Adnan is married and has three children: Aya (17 years old), Mujahed (16 years old), Abdullah (13 years old). All of Adnan's children are in school. When Adnan was arrested his son Mujahed was in the hospital getting treatment for appendicitis.

The family lives in constant concern due to the fact they have not seen Adnan since the moment of his arrest. They do not know his current health status and whether he is receiving the appropriate treatment and medicine or not.

Adnan's wife, children, mother and father have not been allowed to visit him as they are denied visit permits to the prison as part of the collective punishment that was imposed on all Palestinian political prisoners in June 2014.

## **APPENDIX 6: Statement on Muataz Washaha - executed during ‘arrest’**

### **The Case of Muataz Washaha**

Muataz Washaha, 26 years old, was murdered brutally on 27 February 2014 when his house was attacked by a large number of Israeli Occupation Forces (IOF), claiming that their purpose was to arrest Washaha, under the pretext that he opened fire at a military site two days previously. The Washaha family estimated the force that attacked their house to be of at least 200 soldiers, that were accompanied by two officers from the intelligence, and leaders of from the occupation’s army.

The Washaha family’s house in the West Bank town of Birzeit was unexpectedly attacked at 5:30AM. After being surrounded by a large force of occupation soldiers, the family was forced to leave their house. A couple of hours later, at around 7:30AM, two missiles were fired at the house. Following that, IOF entered with police dogs, that were equipped with a camera, into the house, in search for Muataz. Then, a military bulldozer began to tear the house open, followed by soldiers bombing the house, leading to an outbreak of fire all over the Washaha house, which required the intervention of the Palestinian civil defense to put the fire out.

A civil defense worker who was the last person to see him, while unarmed and still uninjured, quotes Muataz’s last words, “I will be free here. Leave and do not worry about me. I will stay here and not surrender. I will not return to prison.”

Soon after that, the IOF were able to locate Muataz and started shooting live bullets at him. They called on him to turn himself in but he refused. The unequal confrontation lasted for several hours before Muataz was killed.

After the withdrawal of the IOF, Mutaz’s body was found torn by dozens of live bullets and his head was hit by a rifle-fired Energa shell.

This crime is a huge violation of Article 147 of the Fourth Geneva Convention. It also constitute a crime against humanity according to Article 7 of the Rome Statute of the International Criminal Court and a war crime according to Article 8 of the same Statute.

This crime is part of a policy that is created by the occupation forces which allows the soldiers to kill Palestinians during arrest processes.

## **APPENDIX 7: Joint Statement by human rights organizations on the death of Arafat Jaradat**

### **14 Palestinian and Israeli Organisations Condemn Lack of Accountability for Torture of Palestinian Detainees**

*Occupied Ramallah, 3 March 2013* - The Palestinian Human Rights Organisations Council (PHROC), along with Adalah, Public Committee Against Torture in Israel and Physicians for Human Rights-Israel, express their outrage at the death of Arafat Jaradat, 30, which, according to the autopsy report of Dr Saber al-'Aloul, Director of the Palestinian Medico-legal Institute, was caused by torture and ill-treatment inflicted while in Israeli custody. The preliminary autopsy, to which there are links below, found that Arafat displayed severe bruising on his upper back, deep bruising along the spine, and significant bruising on both sides of the chest. The postmortem also discovered bruising on both arms and inside the mouth, blood around the nose and three fractured ribs. In addition, the examination discounted the claim by the Israeli authorities that Arafat died of a heart attack. His heart was completely healthy and there was no evidence of damage or weakness of any kind. The report concludes that all injuries were the result of very recent, severe and direct torture. The undersigned organisations reiterate the demands made by UN representatives for an immediate international investigation into the death of Arafat Jaradat with a view to holding those responsible for his death accountable.

Arafat Jaradat was arrested on 18 February on suspicion of throwing rocks and Molotov cocktails at settlers and was transferred to al-Jalameh prison where he confessed to throwing stones but denied any involvement with firebombs. On 21 February, his lawyer, Mr. Kamil Sabbagh, reported that Arafat was suffering from severe pain in his back and appeared to be psychologically and physically weak after three days under interrogation. According to Mr. Sabbagh, Arafat also expressed strong fear at the prospect of returning to interrogation when his detention order was extended by 12 days. After a request from Mr. Sabbagh, the Israeli military judge ordered that a full physical and psychological examination of Arafat be carried out, the results of which were to be presented to the Israeli Security Agency (ISA) and the court. It is unclear if this medical examination ever took place. If it did, the results of the exam should be disclosed. If it did not, the Israeli authorities must explain why this order was not complied with.

The absolute prohibition against torture is a peremptory norm of international law and “has now become one of the most fundamental standards of the international community”. Since 2001, there have been more than 750 complaints of torture and ill-treatment against the ISA. Not one complaint has resulted in a criminal investigation. Indeed, given that all complaints are reviewed by the Inspector of Interrogee Complaints, who is himself an ISA agent, it is a process that guarantees the absence of credible and impartial investigations. The fact that the Israeli Attorney General has ratified each recommendation not to investigate is further evidence of the institutional impunity which shields the ISA and those who commit torture in Israeli prisons.

Article 12 of UN Convention Against Torture, of which Israel is a State Party, obliges States to perform prompt and impartial investigations in all alleged incidents of torture. Torture is also

considered a grave breach of the Fourth Geneva Convention and is further listed as both a crime against humanity and a war crime under the Rome Statute of the International Criminal Court. In addition, torture has permissive universal jurisdiction according to customary international law, which allows any State to prosecute those accused of torture, regardless of their nationality.

However, in 1999, the Israeli High Court of Justice ruling in the *Public Committee Against Torture in Israel v The State of Israel* contributed significantly to the current climate of impunity, shielding those who commit torture. While the Court affirmed that the practice of torture was prohibited, it also held that such prohibition would not apply in cases of “necessity”, leaving room for the use of extreme measures in arbitrarily-defined situations, in blatant contradiction to the *jus cogens* status of the absolute prohibition of torture. The ruling effectively allowed for the continuing use of torture by affirming that an Israeli official charged with torture would not be criminally liable by virtue of the “necessity defence”, which can legitimise the use of “physical pressure” in certain circumstances.

In 2009, the UN Committee Against Torture reiterated its call on Israel to remove ‘necessity’ as a justification for the crime of torture as well as calling for all interrogations to be recorded on film. These demands have been ignored. In short, while torture is a crime that the international community maintains cannot be allowed to go unpunished, in Israel both the High Court of Justice and the Attorney General contribute to the lack of accountability that pervades the Israeli judicial system. Unless this culture of impunity is challenged, Palestinians in Israeli prisons will continue to be victims of torture and ill-treatment with regularity.

Arafat’s death is symptomatic of the utter disregard with which Israel holds the lives of Palestinian prisoners. Since the beginning of the occupation in 1967, 203 Palestinians have died in Israeli detention centres. At least 71 of these died as a direct result of torture. One hundred and seventy eight Palestinians are being held in administrative detention without charge or trial or any access to the information upon which their detention is based. Presently, ten Palestinians are engaged in hunger strikes in protest against their detention. Tarek Qa’adan and Jafar Azzidine, who spent more than 90 days on hunger strike and are in critical condition, have suspended their strikes for a week ahead of a court hearing on 6 March in the hope that their detention orders will be dismissed. Both men had their administrative detention orders renewed for another three months on Friday 22 February.

In light of the above, the undersigned organisations call for the following steps to be taken:

- An international investigation into all complaints of torture by Israeli forces must be carried out, followed by effective accountability for those responsible and redress for victims;
- All ISA interrogations of Palestinians must be subject to video recording, in line with the recommendations of the Turkel Commission;
- Given that Israel does not offer due process or a fair trial to Palestinian prisoners, all administrative detainees should be promptly released;
- The UN Committee Against Torture and Third States should pressure Israel to adopt adequate criminal legislation to define and penalise torture under domestic Israeli law;

- The European Parliament must promptly activate the parliamentary fact-finding mission that includes members of its Subcommittee on Human Rights to investigate the conditions of detention and interrogation of Palestinians detained by Israel;
- The EU parliamentary fact-finding mission must include an investigation into Israel's illegal practice of administrative detention and the use of the "Unlawful Combatant Law";
- All hunger strikers in advanced stages must be moved immediately to civilian hospitals where they can receive the appropriate standard of care without being shackled;
- Immediate intervention from the Israeli Prison Service to provide all hunger strikers with unrestricted access to independent doctors;
- All hunger strikers should be allowed family visits;
- UN Member States should urgently put pressure on Israel to end its policy of arbitrary detention and to abide by the standard rules for the treatment of prisoners adopted in 1955, which set out what is generally accepted as being decent principle and practice in the treatment of prisoners.

## APPENDIX 8: Administrative Detainee Abdul Farraj Prisoner Profile

### 92 months of detention without charge or trial

**Name:** Abdul Razeq Yasin Hasan Farraj

**Date of Birth:** 17 January 1963

**Date of arrest:** 25 February 2014

**Prison:** Isolation in Ramleh Prison

**Residence:** Ramallah, refugee from Lid

**Marital Status:** Married with two children

**Occupation:** Director of Finance & Administration at Union of Agricultural Work Committees

**Education:** BA in Economics from Birzeit University and a Diploma in Nonprofit Organization Management



### Previous Arrests

Abdul Razeq Farraj has been arrested by the Israeli Occupying Forces six times since 1985 and issued administrative detention orders in five of his six arrests.

**First detention:** 1985 – 1991 (charged, 6 years)

**Second detention:** 30 May 1994 - 1 February 1996 (Administrative detention, 20 months)

**Third detention:** 9 April 2002 – 28 July 2006 (Administrative detention, 52 months)

**Fourth detention:** 12 January 2009 – 9 October 2009 (Administrative detention, 9 months)

**Fifth detention:** 27 November 2011 – 20 July 2012 (Administrative detention, 8 months)

**Sixth detention:** 25 February 2014 – current (Administrative detention, 3 months)

Farraj has spent over seven years of his life in administrative detention, without charge or trial and over thirteen years in total in Israeli occupation's prisons.

### Current Detention

#### *Legal analysis*

Farraj first appeared before Ofer Military Court on 3 March 2014 for a hearing to confirm his administrative detention order that was issued by the Israeli intelligence upon his arrest on 25 February 2014. In the hearing, the military prosecution accused Farraj of being a member of the Popular Front for the Liberation of Palestine (PFLP), an organization deemed illegal by Israeli Military Order 101, one of 1,600 Israeli military orders that control and govern the West Bank.

The military prosecution continued to accuse him of “guiding and directing” members of the organization since his last release, and therefore re-issued his administrative detention to prevent his political activity. The prosecution did not specify the type of activities Farraj is accused of, nor what type of “guidance” he is providing to the alleged PFLP members. The military



prosecution answered all clarifying questions by the defense team by stating: “*All of the details are included in the secret file.*”

On 4 March 2014, military court judge Ron Delomi confirmed Farraj’s administrative detention order, claiming that “*the materials included in the [secret] file are true and are enough to hold Farraj in administrative detention...Farraj is a senior member in the PFLP and his connections and impact on society indicate that he is dangerous.*”

The military judge also stated in his decision that he considered the possibility of issuing charges, but the secret information and conditions did not allow it, so instead he issued a 6-month administrative detention order set to expire on 24 August 2014.

For 20 years the military prosecution has failed to charge Farraj; instead holding him for over 7 and a half years under administrative detention without charge or trial.

Farraj’s case also demonstrates that the military judicial system is based on decisions by the Israeli intelligence. The intelligence provided the information contained in the secret file, which was accepted without reservation by the Israeli military judge. The judge did not clarify how the information was obtained, nor did he validate it, creating a possibility that the information in the file is fabricated. Furthermore, the judge did not state the basis of his decision. This is a clear violation of Article 78 of the Fourth Geneva Convention, which prescribes that administrative detention can only be used in situations that are deemed absolutely necessary for the security of citizens, and practiced based on the regulation of the Conventions.

### **Hunger Strike**

On the 30 April 2014, Farraj joined the currently ongoing mass hunger strike launched by the administrative detainees to protest the policy of arbitrary arrest and detention without charge or trial, which is a clear violation of the Fourth Geneva Convention. Immediately after announcing his strike, Farraj was transferred to solitary confinement in Ayalon Prison in a cell unfit to hold a human being. For the first 14 days of the strike, he was not provided with any salt and denied family visits as part of the punitive measures against him. Farraj’s lawyer has only gained access to him once since the beginning of his hunger strike.

These punitive measures are part of an Israeli Prison Service (IPS) policy to isolate the hunger strikers from one another and the outside world. By isolating hunger strikers the IPS hopes to disrupt lines of communication between the hunger strikers and ultimately break the strike. The IPS also wants to isolate the hunger strikers from their communities and the world, to prevent them from gaining strength from solidarity campaigns launched by Palestinians and activists that support them in their battle against administrative detention.

### **Professional Life**

Farraj is the Director of the Finance & Administration at Union of Agricultural Work Committees (UAWC), a non-governmental human rights organization based in the occupied

West Bank. For 28 years, UAWC has worked to support, strengthen and empower Palestinian farmers and their rights. The continued arbitrary detention of Farraj hinders his work as a human rights defender and obstructs UAWC's work in strengthening civil society.

### **Family**

Farraj and his wife Lamis have two sons, Basil (23) and Wadi' (21), both of whom are attending university. Farraj was detained months before his eldest son's graduation from Earlham University on 10 May 2014 and was on hunger strike for 11 days on the day of Basil's graduation. Wadi' is in his fourth year at Birzeit University and is studying engineering. Farraj is also the main provider for his family, consequently denying them their main source of income. The Farraj family lives in Jalazon Refugee Camp on the outskirts of Ramallah.

### **Family Visits**

Since Farraj's arrest, the family has denied visits for "security reasons" as claimed by the IOF. His mother, who is 75 years old, has also been denied visitation rights, as the IPS has claimed that she and her son are not blood relatives. According to IPS regulations, only first-degree family members are allowed visitation rights, dependent on their ability to obtain permits both to enter Israel (where the majority of the prisons are located illegally) and the prison itself.

## APPENDIX 9: Unlawful Combatant detainee Mahmoud Sarsak Prisoner Profile

### MAHMOUD KAMEL MOHAMMAD SARSAK



**Date of Birth:** 20 January 1987

**Place of residence:** Rafah Refugee Camp, Gaza

**Occupation:** University student and member of the Palestinian national football team

**Date of arrest:** 22 July 2009

**Place of detention:** Ramleh prison medical center

**Date of release:** 10 July 2012

*On 18 June 2012, Mahmoud Sarsak ended his 92-day hunger strike upon reaching an agreement that he would be released on 10 July.*

### ARREST

Mahmoud Sarsak was arrested on 22 July 2009 by Israeli Occupying Forces (IOF) at Erez checkpoint while attempting to cross to the West Bank from Gaza in order to participate in a football match in Balata refugee camp. Mahmoud, who was 22 years old at the time, was a member of the Palestinian national football team and had obtained permission to travel through Erez checkpoint and enter the West Bank.

Following his arrest, Mahmoud was transferred to interrogation at Ashkelon. He was held in interrogation for a total of thirty days, during which he was questioned about alleged affiliation to the Islamic Jihad political party. No evidence was provided to elucidate these claims and Mahmoud rejects the allegations.

A recent Amnesty International report further notes:

“According to his lawyer, during interrogation Mahmoud Sarsak was tied to a chair and kept sitting for long hours at a time in a stress position with his arms tied behind his back and to a pole in the floor—a practice known as shabeh. Mahmoud Sarsak’s family were not notified of their son’s arrest and whereabouts until two days after his arrest. [...] Upon learning of his arrest, the family appointed a lawyer who was unable to see Mahmoud Sarsak for the first ten days because the Israeli Security Agency prevented him from doing so.”

### UNLAWFUL COMBATANTS LAW AND HUNGER STRIKE

On 23 August 2009, Mahmoud was given a detention order under Israel’s “Unlawful Combatants Law.” This law allows for Palestinians from the Gaza Strip to be detained for an unlimited amount of time without being charged or brought to trial. Under this law, detainees are issued a

permanent detention order and are then brought before an Israeli District Court only once every six months for judicial review of their order. In practice, the Unlawful Combatants Law contains fewer protections for detainees than even the few that are granted under administrative detention orders in the West Bank.

As per customary Israeli practice, Mahmoud would have obtained security-clearance from Israeli authorities prior to being granted permission to cross the Erez checkpoint. This raises serious questions about the validity of the alleged concern on the part of Israeli authorities that justifies his detention under the Unlawful Combatant Law. As in the case of administrative detainees, Mahmoud's detention is based on secret information collected by Israeli authorities and not available to Mahmoud or his lawyer. This practice violates international humanitarian law, which permits some limited use of internment in emergency situations, but requires that the authorities follow basic rules for detention, including a fair hearing at which the detainee can challenge the reasons for his or her detention. These minimum rules of due process have been clearly violated in Mahmoud's case, leaving him without any legitimate means to defend himself.

After nearly three years of detention without charge or trial, and as part of a growing movement among Palestinian political prisoners, Mahmoud launched a hunger strike on 19 March in protest against the latest extension of his detention. After launching his hunger strike, he was transferred to Ohalei Keidar prison on 8 April. He was then held in solitary confinement at Eshel prison until his transfer to Ramleh prison medical center on 16 April as a result of his deteriorating health.

At one point during his hunger strike, Mahmoud was promised that his detention would not be extended and he would be released on 1 July if he agreed to end his hunger strike. Since he insisted to have the agreement in writing, the offer was withdrawn. Mahmoud refused an Israeli proposal to deport him to Norway for three months and then return. He was not included in the final agreement that ended Palestinian prisoners' mass hunger strike on 14 May, either in its written or oral form. When he inquired as to the date of his release, Mahmoud was told that it will only be considered at the next date of judicial review for his detention, on 22 August.

During a visit with Addameer lawyer Mona Neddaf on 23 May, Mahmoud's health was in such grave condition that he could only speak with her for a matter of moments. Despite the urgency of his condition, the Israeli Prison Service (IPS) denied Mahmoud access to independent doctors from Physicians for Human Rights-Israel (PHR-Israel) until 6 June, his 80<sup>th</sup> day of hunger strike. This visit was only permitted after numerous petitions filed to the Israeli District Court. The IPS also refuses to transfer him to a civilian hospital for proper treatment.

Following the visit, the PHR-Israel doctor reported that Mahmoud had experienced extreme loss of muscle tissue and drastic weight loss. He had lost 33 percent of his body weight, from an original weight of 76 kilos down to his present weight of 51 kilos. He also suffered from frequent incidents of fainting and loss of consciousness, in addition to lapses in memory. The doctor further reported that Mahmoud was in danger of pulse disruptions (arrhythmias) that are endangering his life. PHR-Israel's independent doctor strongly recommended that Mahmoud be immediately transferred to a hospital, as he was at immediate risk of death.

## MAHMOUD AND HIS FAMILY

Mahmoud hails from an athletic family and joined the Rafah Sports Club when he was only 8 years old. Football quickly became his favorite hobby and he started playing with the adult team at 14 years of age, due to his outstanding skill. When he joined the Palestinian national football team as a center forward, he was its youngest player. Mahmoud also represented Palestine in football matches all around the world, including Norway, Turkey, Egypt, Qatar and Iraq. In addition to playing professional football, Mahmoud was also in his third year of university, concentrating in Information Technology Studies, before he was arrested.

Mahmoud's family consists of his father, who is 70 years old, his mother, who is 60 years old, his seven brothers and five sisters. None of his family members have seen him since the day he was arrested, as family visits for prisoners from Gaza have been denied since 2007. Mahmoud has been denied all requests for phone calls to his family.

This lack of contact has been particularly difficult for his family given that his father currently suffers from heart disease and is undergoing medical treatment in Egypt. Mahmoud has also not been allowed to receive any items from his family such as clothes and books, despite his family's continuous attempts to provide them to him through the International Committee of the Red Cross. Mahmoud's only means of communicating with his family has been through his lawyer and even these visits are not permitted on a consistent basis.

## APPENDIX 10: Muna Qa'adan Female Prisoner Profile

**Name:** Muna Husni Awad Qa'adan  
**Age:** 40 Years Old  
**Residence:** Araba, Jenin  
**Marital Status:** Engaged to prisoner Ibrahim Ighbaria  
**Date of arrest:** 13 November 2012  
**Legal Status:** Charged, not sentenced  
**Prison:** HaSharon Women's Prison



### Arrest

On 13 November 2012 an Israeli Occupying Forces (IOF) unit with female soldiers raided Muna's house in Jenin and searched it for three hours. During the raid, the family's home computer and Muna's laptop were confiscated. The IOF arrested Muna and took her to Al-Jalameh interrogation center.

Her arrest has received numerous extensions. While in Al-Jalameh, the IOF extended her detainment until 19 November 2012. The next day, her detention was once again extended for another 8 days. In total, she was detained and interrogated in Al-Jalameh interrogation center for nearly a month. She was eventually transferred to HaSharon women's prison, illegally located inside Israel.

As of 27 January 2014, Muna has been indicted but has yet to receive a sentence from the military courts. It is worth mentioning that Nawal Sa'di, another female prisoner who was arrested at the same time as Muna, was sentenced to 20 months imprisonment on 22 January 2014.

On 22 February 2013, Muna began a hunger strike in solidarity with her brother Tarek Qa'adan, a detainee who began a hunger strike in protest of his administrative detention. She concluded her strike on the same day as her brother on 27 February 2013, when it was guaranteed that his administrative detention would not be renewed.

Importantly, Muna Qa'adan was one of the prisoners released in the December 2011 prisoner's exchange deal. Since the exchange, at least nine of the exchanged detainees have been rearrested, including Muna. This practice of arbitrarily re-arresting prisoners that were released as part of negotiated deals is clearly demonstrative of Israel's lack of respect for agreements made with Palestinian parties.

## Previous Arrests

Muna was previously arrested on 15 December 1999. During the course of her detainment, the IOF subjected her to torture for 28 days. Several torture techniques were used against her, including what is infamously known as the “shabbih.” This act of torture involves tying the detainee’s arms and legs to a chair and completely blocking the person’s vision with a mask or cloth sack. Very loud music is played, causing sensory disorientation. The detainee will often be left in this position for very long periods of time, and may be subject to beatings.

Muna described to Addameer staff that she was physically beaten once, and that she was very regularly subjected to extreme sleep deprivation. Most interrogations occurred during the night, and her windowless isolation cell (only 5.1 cubic square meters small) was brightly illuminated around the clock, interrupting her natural sleep patterns. The IOF very often deprived her of showers, and would frequently forbid her from changing her clothes.

In protest of these conditions, Muna commenced an open hunger strike for 30 days, until she was released 40 days after her arrest.

Her second arrest was on 12 September 2004, and she was sentenced to a year imprisonment.

Her third arrest was on 2 August 2007. She was held under administrative detention until her release on 20 July 2008.

Her fourth arrest occurred on 31 May 2011. During this time she was held in solitary confinement until, to demand that she be placed in a communal cell, she went on hunger strike for a total of 16 days. It was during this detainment period that she learned of her mother’s death on 22 July 2011. She was released as part of the prisoner exchange deal on 18 December 2011.

## Health Conditions

Muna suffers from high blood pressure, chronic inflammation of her colon, a stomach ulcer, frequent nausea, and her feet swell painfully. Some of her ailments have been attributed to the long years of arrest and torture she has endured in Israeli prisons. She was receiving treatment for her ailments at the time of her most recent arrest, and although her brothers insisted that the IOF allow Muna to bring her medicines with her, it is unclear whether she has been permitted to use them. Although Muna had frequently used hunger strikes as a means of resistance in prison, her current health conditions prohibit her from doing so safely. Her family has expressed great concern that she is not receiving proper treatment.

## Family

Muna lives with her three brothers (Tarek, Mahmoud, and Muawia) and their families. Her brother Tarek was previously detained under an administrative detention order and held an open

hunger strike for 92 days. Mahmoud has been arrested 5 times over the course of his life, and Muawia twice.

The frequent raids have greatly affected the family. The 15 children living in the household have suffered from over 25 arrests and raids, the majority of which occurred in the middle of the night and were violent in nature.

### **Legal Status**

The IOF indicted Muna, with roughly the same charges that had been leveled against her before her release during the prisoner's exchange deal. Muna is currently being tried in Salem Military Court.



## **APPENDIX 11: Joint Statement of Palestinian Human Rights Organization Council on the death of prisoner Maysra Abu Hamdiya**

### **Joint Statement of the Palestinian Human Rights Organizations Council (PHROC) & the Arab Association for Human Rights on the Death of Prisoner Maysra Abu Hamdiya**

*Occupied Ramallah, 3 April 2013* - It is with a deep sense of mourning and outrage that the Palestinian Human Rights Organizations Council (PHROC) and the Arab Association for Human Rights greets the news of the death of Maysra Abu Hamdiya (64 years old). Maysra died yesterday morning in the intensive care unit of the Israeli Soroka Hospital as a result of the Israel Prison Service's (IPS) continuous policy of medical neglect vis-à-vis Palestinian detainees and prisoners. Maysra was married and had four children, all of whom live in Jordan.

Israeli Occupation Forces (IOF) held Maysra in administrative detention on several occasions in the late 1960s and mid-1970s, finally deporting him to Jordan in 1978. Maysra returned to his homeland in Palestine in 1998 and was re-arrested by the IOF in 2002. In 2005, Maysra was given a life sentence.

Since 2007, Maysra has suffered from a number of illnesses, including bleeding in the stomach, high blood pressure, and high cholesterol. He was not provided with the necessary treatment for these conditions, giving way to a severe deterioration of his health condition. As a result of this medical neglect, Maysra became emaciated, falling to a dangerously low weight and losing even the ability to speak.

The IPS has consistently refused to provide adequate medical care to Palestinians in its custody as mandated by the Fourth Geneva Convention, specifically Articles 91 and 92, which assert the detaining authority's responsibility to provide adequate food and medical care, including monthly and yearly medical examinations. Masyra Abu Hamdiya was never given the required medical examinations, except for when, at the beginning of 2013, a medical exam showed an outbreak of cancer in his glands and throat, which spread as a result of this late diagnosis.

Despite this dire diagnosis, the Occupying Power refused a request from the Palestinian Authority (PA) as well as pleas from Palestinian human rights organizations to immediately release Abu Hamdiya from prison for treatment. Instead, Maysra was transferred from Eshel prison to Soroka hospital on 30 March, a mere 48 hours before his death..

Maysra has joined a long list of prisoners who have died as a result of systematic medical neglect and torture at the hands of Israeli authorities. His passing raises the number of deaths in the Palestinian prisoners' movement to 207, including 52 who died as a result of deliberate and systematic medical neglect in prison, with five of these prisoners dying during the past two years alone.

Palestinian human rights organizations who work on prisoners' issues have documented more than 1000 prisoners and detainees in Israeli custody who suffer from a variety of illnesses. The

IPS also recently acknowledged that at least 25 Palestinian prisoners and detainees currently suffer from cancer.

The PHROC considers the death of Maysra Abu Hamdiya to be the latest in a long series of war crimes committed by Israel through its agents like the IPS against Palestinian prisoners and detainees.

The PHROC expresses its utmost concern for the lives of detainees currently on hunger strike – Samer Al-Issawi, Samer Al-Barq, and Younis Huroub – as well as for the lives of all sick prisoners in the custody of the Occupying Power, which has systematically shown its flagrant disregard for the most basic standards of human rights and dignity.

The PHROC therefore demands that the UN Secretary-General Ban Ki Moon immediately intervene and form an international committee charged with investigating the circumstances surrounding the health of and medical care provided to Palestinian prisoners and detainees in Israeli custody, as well as the circumstances of the Maysra Abu Hamdiya's death, and intervene to secure the release of all sick prisoners.

PHROC also reiterates its call for a European Union fact-finding mission to investigate the treatment of Palestinian political prisoners in Israeli prisons.

The PHROC further demands that the delegation of the ICRC operating in the occupied Palestinian territory respect its mission and obligations based on its international mandate as the guardian of international humanitarian law to guarantee that Palestinian detainees and prisoners receive adequate medical care.

Finally, the PHROC calls on the Palestinian people and all its factions to support the prisoners in order to honor the memory of Maysra Abu Hamdiya and all those who have died in the prisoner's movement, effectively restoring the prisoners' movement to the heart of the Palestinian struggle for liberation and human dignity.