



**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION
POLICY DEPARTMENT**

ISRAEL'S POLICY OF ADMINISTRATIVE DETENTION

POLICY BRIEFING

Abstract

Administrative detention is a pre-emptive measure that allows authorities to detain suspects before the trial. While the procedure can be applied to anyone and exists in many countries, the issue has become particularly pressing in Israel. Israeli authorities use administrative detention principally to constrain Palestinian political activism and apply the procedure for an unlimited period of time without pressing charges. As of April 2012, there were 309 administrative detainees in Israeli prisons, contributing to the total tally of 5 000 Palestinians in Israeli jails, including 27 members of the Palestinian Legislative Council. A great many of these prisoners — some 2 000 — have been on a hunger strike since April 17, demanding better conditions of confinement and an end to detention without trial. The condition of two of the hunger strikers is critical. While international human rights organisations have recurrently condemned the Israeli practice of administrative detention as a violation of human rights, the issue has only recently attracted widespread international interest. The time is now ripe to place the issue on the agenda of European Union - Israel relations.

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1. INTRODUCTION

'Administrative detention' is a term that covers the arrest and detention of individuals without charge or trial, usually for security reasons. The detention is authorised by an administrative order rather than by a judicial decree. A large number of countries around the world use administrative detention as a means to combat terrorism, control illegal immigration or protect the ruling regime. Unlike imprisonment, which is a consequence of a conviction following a trial, administrative detention is a pre-emptive measure based on the presumption that the suspect is likely to pose a threat in the future. The practice is criticised by human rights organisations as a breach of civil and political rights. As explicitly proclaimed in Article 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights¹, the right to fair trial is an essential right in all countries that respect the rule of law. The majority of countries in the world are parties to the Covenant — including Israel, which signed the treaty in 1966 and ratified it in 1991. B'tselem, an Israeli human rights organisation, maintains that 'over the years, Israel has held thousands of Palestinians in administrative detention for variable periods of time'. More than 300 Palestinians are currently held in administrative detention, including one man who has been held for over five years and 24 Palestinian Legislative Council Members.

2. LEGAL BASIS

In Israel, the **Ministry of Defence** issues the administrative detention order, to be implemented by the Israeli executive power. Administrative detentions are usually secret orders for six months periods of incarceration, and can be renewed indefinitely. In some cases, prisoners have been held without charge or trial for several years. The practice is based on three pieces of legislation, each of which applies in a different area (the West Bank, the territory of Israeli and the Gaza Strip)²:

1. **Order Regarding Administrative Detention no. 1591 (5767-2007).**

This is part of the military legislation in the West Bank and the replacement of an order dating from 1988. Most administrative detainees are held under individual detention orders issued pursuant to this order. A similar order regarding the Gaza Strip was repealed upon implementation of the disengagement plan, in September 2005.

The Order empowers military commanders in the West Bank to detain a person for a maximum of six months when there is 'a reasonable basis for believing that the security of the region or public security' requires it'. Military commanders may extend the detention order for an additional period of up to six months. The Order does not specify a maximum cumulative period for administratively detaining a person, which means that detention may be extended repeatedly.

The Order establishes an apparatus for judicial review. Within eight days from the day the person is arrested, or from the day the detention order is extended, the detainee must be brought before a military judge who holds the rank of at least major to determine if the detention is justified. The judge may approve the order, cancel it, or shorten the period of detention specified in it. The judge's decision may be appealed to the Military Court of Appeals by the detainee or the military commander.

¹ <http://www2.ohchr.org/english/law/ccpr.htm>

² http://www.btselem.org/administrative_detention

Hearings in both the lower and the appellate court are held in camera. In these hearings, the judge is not bound by the regular rules of evidence; in particular, a judge may admit evidence when the detainee or his/her representative is not present, or without revealing the evidence to them if the judge is convinced that disclosure of the evidence is liable to 'harm the security of the region or public security'. The detainee and the military prosecution may appeal the decision of the Military Court of Appeals to the High Court of Justice.

2. **Emergency Powers ('Detentions') Law (5739-1979).**

This law applies to Israeli territory — in other words, not to the West Bank or Gaza. The law was instituted to replace the administrative detention arrangement originally established in the Emergency Regulations of the period of the British Mandate for Palestine, 1920-1948. It is rare for residents of the occupied Palestinian territory to be administratively detained under this law.

3. **Internment of Unlawful Combatants Law (5763-2002).**

This law came into force in 2002 and was originally intended to allow Lebanese citizens to be held in Israel as 'bargaining chips' in exchange for the return of captives and bodies. Today, Israel uses the law to detain Palestinian residents of the Gaza Strip without trial.

3. HISTORICAL OVERVIEW

The **highest number of administrative detainees was documented during the first intifada**, with 1 794 Palestinians placed under administrative detention on 5 November 1989. In the early- and mid-1990s, the number of administrative detainees ranged from 100 to 350, and by the end of the decade, no more than a few dozen detainees were held simultaneously. On 13 December 2000, two and a half months after the beginning of the second intifada, Israel held 12 Palestinians in administrative detention. In March 2002, the number increased to 44. In April 2002, during **Operation Defensive Shield**, Israel administratively detained hundreds of Palestinians; by the end of the year, the number had reached more than 1 000. The number declined in 2005-2007, averaging about 750 at any given moment, and has consistently fallen since November 2007. In August 2010, the number of administrative detainees stood at 189.

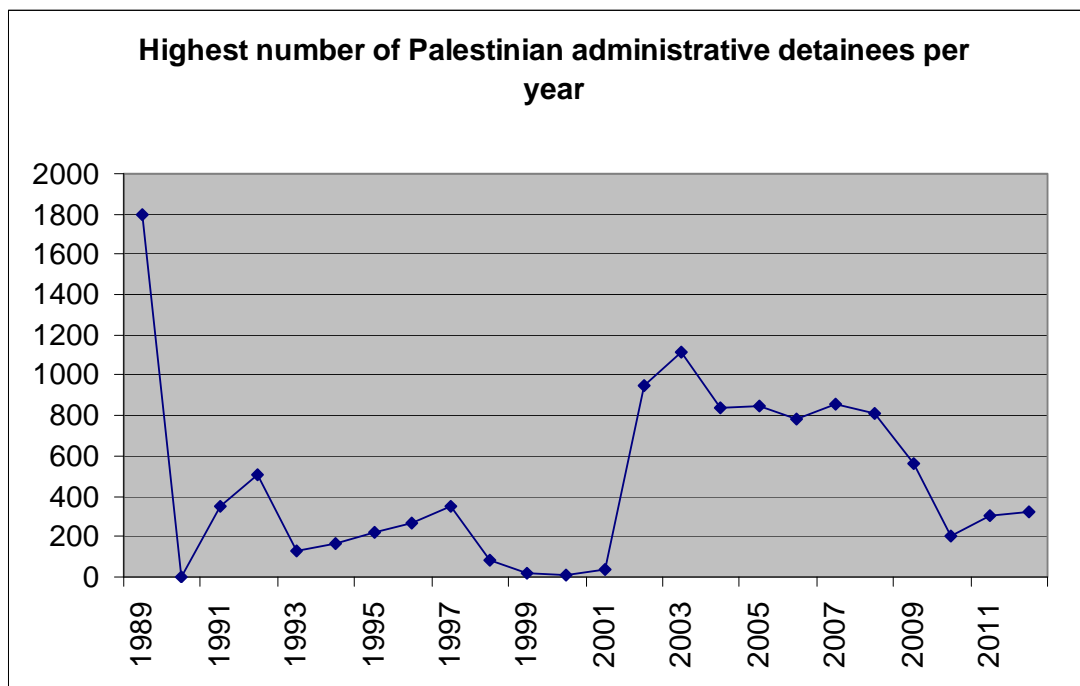
Over the years, Israel has also held a few Israeli citizens in administrative detention, including settlers. Only nine of these cases are reported, and most of the detainees were held for short periods³.

The table below provides the peak number of Palestinian administrative detainees in Israeli prisons in each year over the past 22 years⁴. In April 2012, Israel held 309 administrative detainees⁵.

³ <http://www.addameer.org/etemplate.php?id=293>

⁴ Data is collected by B'tselem. See: http://www.btselem.org/administrative_detention/statistics

⁵ http://arabic.news.cn/arabic/2012-04/04/c_131507234.htm & <http://www.hrw.org/world-report-2012/world-report-2012-israeloccupied-palestinian-territories>



4. ADMINISTRATIVE DETENTION IN THE INTERNATIONAL SPOTLIGHT

Although it has been practiced by Israel for many years, the issue of administrative detention has attracted increasing attention since December of last year. The first of a series of hunger strikes among detainees was launched that month, garnering wide international media and government attention.

In December 2011, Palestinian activist **Khader Adnan** was detained by the Israeli authorities. Adnan went on hunger strike for 66 days to protest against his detention. His strike sparked a number of public protests in Palestine, Israel and internationally. On 21 February 2012, an appeal was submitted to the Israeli Supreme Court against the Military Appeals Court's decision to approve his detention. Immediately before the hearing, Adnan's attorney and the State Prosecutor's Office issued a joint announcement, stating that so long as no new and significant material was added to Adnan's case, the administrative detention would not be extended beyond 17 April 2012. The Supreme Court did not hear the case or issue a decision, and Adnan ended his hunger strike.

But the case inspired other administrative detainees to follow suit: 29-year-old Hanan Shalabi went on hunger strike to protest her renewed administrative detention. Shalabi had spent more than two years in administrative detention, and had been freed in October 2011 as part of the prisoner exchange deal between Israel and Hamas following the release of the captive Israeli soldier Gilat Shalit. On 16 February, Shalabi was once again arrested by Israeli Defence Force at her home in the West Bank and placed under detention without charge or trial. After spending more than 40 days on a hunger strike, Shalabi was released by the Israeli authorities and exiled to Gaza in early April 2012. A few weeks before her release, the Euro-Mediterranean Human Rights Network (EMHRN), a network of human rights organisations, individuals and institutions, expressed its grave concern for Shalabi's life and well-being⁶.

⁶http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dplc/dv/2012-03administrativedetention/2012-03administrativedetentionen.pdf

Many other Palestinian prisoners took inspiration from the cases of Adnan and Shalabi. Requesting better conditions of confinement and the repeal of the so-called Shalit bills, some **2 000 Palestinian prisoners**⁷ went on hunger strike on 17 April 2012⁸.

'Shalit Bills'⁹

| Name the bill | Main Contents |
|---|--|
| The Preventing Visits Bill (P/18/735) of 2009 | imposes a blanket ban on prisoners who belong to an organization designated as a terror organization from receiving visits in prison. |
| The Restriction of Visitation for a Security Prisoner Bill (P/18/2396) of 2010 | stipulates that any prisoner who belongs to an organisation designated as a terror organisation that holds an Israeli captive should be denied visits in prison and the right to meeting a lawyer |
| The Release of Captives and Kidnapped Persons Bill (P/18/829) of 2009 | states that if an organisation designated as a terror organisation holds an Israeli captive and demands the release of a specific prisoner held in an Israeli jail, then this prisoner should be placed in 'absolute isolation and be prevented from contact with another human being.' |
| The Imprisonment of Requested Prisoners Bill (P/18/758) of 2009 | states that any prisoner whose release is conditioned on the release of an Israeli held captive by an organisation designated as a terror organisation should be denied any right that could be restricted on security reasoning, held in isolation indefinitely and not be entitled to early release or parole. Once such prisoners have served their sentence, they should be declared a detainee and continue to be held. |

The prisoners demand an end to solitary confinement, an end to administrative detentions and the reinstatement of family visits. On 5 May 2012, ten of the hunger strikers were transferred to prison hospital following deterioration in their health¹⁰. Two of the hunger strikers, Bilal Diab and Thaeir Halahleh, are today in critical condition. They appealed to Israeli Supreme Court on 3 May 2012 to end the administrative detention orders under which they are being held. However, the court rejected both appeals on 7 May 2012¹¹. 'On the same date, the Israel Prison Service agreed to return some privileges back to the prisoners. The Israeli authorities have not, however, accepted the detainees' pleas to end the policy of administrative detention¹². Instead, the Israeli authorities stress that all inmates are treated

⁷ <http://www.hrw.org/news/2012/05/02/israel-stop-jailing-people-without-charge-or-trial>

⁸ Palestinian Prisoners' day is held across the West Bank and Gaza to show solidarity with Palestinian inmates in Israeli prisons.

⁹ http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf contains links to the texts of the bills (in Hebrew)

¹⁰ <http://www.aljazeera.com/news/middleeast/2012/05/20125513625835742.html>

¹¹ <http://www.alarabiya.net/articles/2012/05/07/212659.html?PHPSESSID=9h3v045tsapm1ejuhhhmpk3355>

¹² <http://www.ynetnews.com/articles/0,7340,L-4225604,00.html>

according to the Fourth (1949) Geneva Convention on the Protection of Civilian Persons in Time of War¹³, and that inmates receive all the medical and other treatment they need.¹⁴

In the past, Palestinian children were also been placed under administrative detention by the Israeli courts. In 2008¹⁵ there were 13 Palestinian children detained without trial: The last such case ended in December 2011¹⁶.

5. PALESTINIAN LEGISLATIVE COUNCIL (PLC) MEMBERS HELD IN ISRAELI PRISONS

5.1 PLC Members in Administrative Detention

The fate of Palestinian Parliamentarians placed under administrative detention is of particular interest for the European Parliament.

The Palestinian Basic Law, which serves as the constitution in Palestine 'in the absence of a Palestinian state grants **immunity to PLC members** and prohibits attacks against them throughout their term of office. This immunity mirrors protection to parliamentarians provided in most other political systems. However, this immunity, granted by the Palestinian political system, is not recognised by the Israeli authorities. Palestinian parliamentarians have been recurrently subjected to arrest and administrative detention, particularly after the 2006 Palestinian parliamentary elections. Those elections provided Hamas — an organisation regarded as terrorist by Israel, the U.S. and the EU — with the majority of seats in the PLC.

Today, **24 parliamentarians have been placed under administrative detention**, all of them members of Hamas.

¹³ <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>

¹⁴ The Convention specifies that a civilian may only be interned or placed in assigned residence if 'the security of the Detaining Power makes it absolutely necessary' (Article 42) or, in occupied territory, for 'imperative reasons of security' (Article 78). http://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule99

¹⁵ http://www.dci-palestine.org/sites/default/files/detention_bulletin_mar_2012.pdf

¹⁶ The numbers do not include children under other forms of custody in Israeli prisons. By the end of 2011, 164 Palestinian children from the West Bank were held in Israeli custody. According to UNICEF, these children were either sentenced or are being detained, mainly for stone-throwing.

List of PLC members currently held under administrative detention¹⁷

| | Name of detained PLC member | Date of arrest/detention | Status |
|----|------------------------------------|--|---|
| 1. | Hassan Yousef | Arrested November 2011. | Yousef had been imprisoned for six years for being a 'member of a terrorist organisation'. Two months after being released, he was placed under AD ¹⁸ . His detention was renewed without charges in May 2012 for six more months |
| 2 | Abdul Jaber al-Foqaha' | Arrested 24 January 2012. | Al-Foqaha' was released in the beginning of February 2011 after spending two years in prison. Since his election in 2006, he has been imprisoned three times by Israel. No charges have been pressed against him. |
| 3 | Parliamentary speaker Aziz Dweik | Arrested 19 January, 2012 at Israeli checkpoint. | No charges have been filed. |
| 4 | Mohammad Abu Teir | Arrested on 16 September 2011. Detention extended on 5 March 2012. | Teir is originally from Jerusalem ¹⁹ . He was arrested with other elected Hamas legislators in 2006, then released in 2010. At that point, Israeli authorities revoked his resident permit for Jerusalem (as they did for two other PLC members from Jerusalem) and ordered his exile to the West Bank. Since then, Teir has refused to leave Jerusalem. He was rearrested on 30 June 2010 and imprisoned for six months. The Israeli Military Court at Ofer extended his AD in March 2012 for another six months. |
| 5 | Mohammad Jamal Al-Natsheh | Arrested on 31 January 2011. | Arrested four months after serving an 8.5-year sentence in Israeli prison. Placed in AD on the basis of secret information collected by Israeli authorities and |

¹⁷ The list is based on several sources: <http://news.xinhuanet.com/> <http://www.maannews.net/> <http://www.jpost.com/> <http://paltoday.ps/> <http://electronicintifada.net/blogs/adri-nieuwhof/israel-steps-its-persecution-palestinian-lawmakers> <http://www.imemc.org/article/63113> <http://addameer.org/etemplate.php?id=421>; <http://www.middleeastmonitor.org.uk/downloads/factsheets/detention-of-palestinian-political-prisoners.pdf>

¹⁸ AD: Administrative Detention.

¹⁹ There are concerns that PLC members from Jerusalem who had their residence permit revoked and are under Israeli administrative detention would meet the same fate of Ahmad Attoun. He is a PLC member from Jerusalem who was arrested by an Israeli undercover force from the ICRC in September 2011 where he was taking refuge after a decision by the Israeli ministry of Interior to revoke his Israeli residence permit and to deport him to the West Bank. He was placed under administrative detention until he was forcibly released to Ramallah on 6 December 2011.

| | | | |
|----|-----------------------------------|--|---|
| | | | available to the military judge but not to the detainee or his lawyer. |
| 6 | Mahmoud Ahmad Abdul Rahman Ramahi | Arrested on 10 November 2010, AD ruled on 16 November and renewed on 28 March 2012. | Ramahi's first AD order was for 6 months, ²⁰ then renewed for 4 additional months at the end of 2011. During the hearing to review the order on 21 November 2010, the military prosecutor alleged that Ramahi had returned to his work with Hamas since being released from his prior detention in March 2009, and was thus a threat to Israel's public security. No further evidence for this fact was provided. Ramahi's detention is based on secret information collected by the ISA and available to the military judge but not to the accused or his lawyer. |
| 7 | Ahmad Haj Ali | Arrested in June 2011. AD renewed on 10 April 2012. | Has been held without trial or charge; charges against him are said to be secret. |
| 8 | Hatem Qafeesha | Arrested on 17 December 2007. Was released on 21 April 2009 and rearrested on 7 June 2011. AD renewed in April 2012. | Initial AD decided by Israeli military court for six months, then renewed before the expiration of the first ruling. No charges have been specified. |
| 9 | Nayif Rjoub | Arrested on 1 December 2010. AD last renewed on 4 April 2012. | Considered a 'threat to Israel and the Jewish people'. |
| 10 | Mohammad Tel | Arrested on 27 December 2010. AD last renewed on 25 December 2011. | Accused of belonging to illegal organisations and associating with terrorist groups. |
| 11 | Azzam Salhab | Arrested on 3 February 2011. AD | No charges. |

²⁰ Ramahi's AD order was signed by Israeli Regional Commander Yair Kolam, despite the fact that Israeli military legislation authority requires it to be signed by a higher authority, the Head of the Central Military Commander.

| | | | |
|----|-----------------------|---|--|
| | | last renewed on 4 March 2012. | |
| 12 | Khaleel Raba'l | Arrested on 30 December 2010. AD last renewed on 31 March 2012. | No charges. |
| 13 | Mohammad Badir | Arrested on 31 March 2011. AD renewed several times. | No charges. |
| 14 | Mohammad Abu Jheisheh | Arrested on 21 August 2011. AD last renewed on 11 April 2012. | No charges. |
| 15 | Nizar Ramadan | Arrested on 30 May 2011. AD last renewed on 29 March 2012. | No charges. |
| 16 | Samir Qadi | Arrested on 16 June 2011. AD last renewed on 14 December 2011 | No charges. |
| 17 | Fadil Hamdan | Arrested on 15 September 2011. Administratively detained on 5 March 2012. | No charges. |
| 18 | Abdel Rahman Zeidan | Arrested on 2 June 2011. AD last renewed in December 2011. | No charges. |
| 19 | Omar Abdel Raziq | Arrested in January 2011. AD last extended in January 2012. | The military court claims to have a secret file against him that cannot be shared with him or with his lawyer. |

| | | | |
|----|--------------------|---|---|
| 20 | Nasser Abdel Jawad | Arrested on 28 June 2011 and placed under AD. AD has been renewed in February 2012. | No charges. |
| 21 | Mohammad Toutah | Arrested on 20 January 2012. | He was arrested with the former Minister of Jerusalem Affairs, Khaled Abu 'Arafa, at the office of the International Committee of the Red Cross (ICRC) in East Jerusalem on 23 January 2012. Toutah and Abu 'Arafa had taken refuge there along with other Palestinian figures and PLC members from East Jerusalem whose Jerusalem residence permit had been revoked by the Israeli Ministry of Interior in 2010 as a result of their affiliation with Hamas. The Israeli authorities ordered their Exile to the West Bank. |
| 22 | Anwar Zaboun | Arrested on 26 August 2011 AD last renewed in February 2012. | No charges. |
| 23 | Ayman Daraghmeh | Arrested on 14 December 2011. | After being rearrested in 2009, the Israeli military court extended his AD four times, keeping him in prison until late 2010. Rearrested on 14 December 2011 without charges. |
| 24 | Khaled Tafish | Arrested on 20 January 2012. | Had previously been arrested several times for being affiliated with Hamas and being a member of the PLC representing the change and reform bloc. When arrested and placed under AD in late January 2012, the court said it possessed a secret file indicated that Tafish represented a threat to the security of the state of Israel. |

5.2 PLC members convicted to imprisonment

Three other elected PLC Members are currently imprisoned after having been tried in Israeli military courts. These three represent the Fatah Party and the Popular Front for the Liberation of Palestine (PFLP) factions in the PLC. 'Although an extremely long period elapsed between the date of these Members' arrests and their trials, they were held under administrative detention throughout that time. The period ranged between two and four years.

Ahmad Sa'adat, the General Secretary of the PFLP, is the highest ranking Palestinian figure in Israeli prisons. Sa'adat had been serving time in a Palestinian jail in Jericho when he was kidnapped by the Israeli military on 14 March 2006 and charged with ordering the assassination of the Israeli tourism minister, Rahbaam Zaevi. After spending two and half years in administrative detention, Sa'adat was finally sentenced to 30 years in jail on 25 December 2008. However, his conviction was based on Sa'adat's activities in 1998 and 1999, rather than the assassination of Zaevi²¹.

Jamal Tirawi was arrested on 29 May 2007 and remained under administrative detention until he was sentenced to a term of 30 years on 30 November 2011. Tirawi's sentence was based on accusations that he had been involved in the military activities of the Fatah-affiliated al-Aqsa Martyrs' Brigades²².

Marwan Barghouti was arrested on 14 April 2002 and remained under administrative detention until his trial in 2004. Barghouti's was convicted on five counts of murder for the deaths of four Israelis and a Greek monk, as well as for attempted murder, conspiracy to murder, and membership of a terrorist organisation²³. He was given a sentence of 45 life sentences and 40 years. In 2006, while in prison, Barghouti was elected member of the PLC as a representative of Fatah.

6. RECENT REACTIONS

6.1 Domestic and regional reactions

The mass hunger strike launched by Palestinian prisoners was intended to increase pressure on Israel to improve the conditions of Palestinian prisoners and end the use of administrative detention. Despite the strike's intrinsically non-violent nature, it could easily lead to an escalation in the conflict — a concern that both Israeli decision-makers and Palestinian political activists share.

On 30 April 2012²⁴, Palestinian President Mahmud Abbas confirmed that his government intended to go to the UN with the case of a mass hunger strike by Palestinian prisoners in Israeli prisons: 'The Palestinian government is determined to again approach the U.N. General Assembly to obtain recognition of a Palestinian state ... and the freeing of prisoners, thousands of whom are on hunger strike.' He also stressed that no peace agreement would be signed with Israel before the release of all Palestinian prisoners. A few days later²⁵, Abbas asked Tony Blair, the Quartet Middle East envoy, to intervene on behalf of Palestinian prisoners. On 8 May President Abbas warned that the death of any one of the hundreds of Palestinian prisoners on hunger strike in Israel would be a 'disaster' and could trigger a reaction that might slip out of control.

Israel issued its first official conciliatory response on 3 May 2012, when Israeli Public Security Minister Yitzhak Aharonovitch admitted that the use of administrative detention should be limited and applied 'only if there is a need and not in all cases'²⁶.

The prisoners' appeals to Israeli courts to end administrative detention have all been rejected so far. However, the authorities are aware of the potential risks. On 7 May 2012²⁷ a spokesperson of the Israeli security authorities admitted that the authorities feared that a death resulting from the ongoing hunger strike could lead to renewed violence in the territories. His statement followed a warning, issued one

²¹ <http://www.maannews.net/arb/ViewDetails.aspx?ID=447890>

²² <http://www.maannews.net/arb/ViewDetails.aspx?ID=447890>

²³ <http://www.bbc.co.uk/news/world-middle-east-13628771>

²⁴ http://news.xinhuanet.com/english/world/2012-04/27/c_131556885.htm

²⁵ <http://www.jpost.com/Headlines/Article.aspx?id=268566>

²⁶ <http://blogs.jpost.com/content/israel-admits-administrative-detention-unnecessary>

²⁷ <http://www.alarabiya.net/articles/2012/05/07/212659.html?PHPSESSID=9h3v045tsapm1ejuhhhmpk3355>

day previously²⁸ by the **Palestinian Islamic Jihad** leader Mohammad Al-Hindi, that the death of a single hunger-striking prisoner would start the third intifada.

In a regional Arab context, on 30 April, Nabil al-Araby, Secretary-General of the **Arab League**, branded Israel prisoner isolation policy 'inhumane' and accused Israel of abusing international human rights agreements²⁹. On 6 May the Council of the Arab League called for a UN General Assembly emergency session to discuss the situation of Palestinian prisoners and to find a solution for the escalating crisis.

6.2 Reactions from further afield

6.2.1 United Nations

On 3 April 2012³⁰, **UN Secretary-General** Ban Ki-moon called for urgent attention to the plight of Palestinian prisoners held by Israel. The Secretary-General also expressed concern over the arrests and detention of elected members of the Palestinian Legislative Council. He stated that administrative detention should only occur in exceptional circumstances, for short periods and without prejudice to the rights guaranteed to prisoners. Ban called on Israel to respect its international obligations, including the Fourth Geneva Convention on Protection of Civilian Persons in Time of War. He said that the release of some Palestinian prisoners to the Palestinian Authority would be an important trust-building measure.

On 2 May 2012³¹, **UN human rights special rapporteur on the Palestinian Territories**, Richard Falk, said that he was 'appalled' by ongoing violations in Israeli prisons, and that 'Israel's wide use of administrative detention flies in the face of international fair trial standards'. Falk argued that detainees should be able to effectively challenge administrative detention orders, including by ensuring that lawyers have full access to the evidence on which the order was issued.'

Finally, Robert Serry, **the UN Special Coordinator for the Middle East Peace Process**, issued a statement on 3 May 2012 in Jerusalem³² in which he said he was deeply troubled by reports about the critical condition of at least two Palestinian prisoners³³ held in administrative detention who have been on hunger strike for more than two months. Serry called on Israel to abide by its legal obligations under international law and 'do everything in its power to preserve the health of the prisoners'. In support of Mr Serry's work UN Secretary-General Ban Ki-moon reiterated on 9 May³⁴ his 'concern' about the ongoing hunger strike by Palestinian prisoners in Israeli jails, in particular those held in administrative detention, and called for their trial or release.

6.2.2 Interparliamentary Union

On 25 January 2012³⁵, the IPU expressed its extreme concern about the detention of elected members of the PLC. The President of the Inter-Parliamentary Union, Abdelwahad Radi stated: 'Beyond and above the implications this has for the functioning of the Palestinian Parliament, I believe that this situation puts a serious strain on the peace process.' He urged the Israeli authorities to exercise restraint and

²⁸ <http://www.maannews.net/eng/ViewDetails.aspx?ID=483016>

²⁹ <http://english.alarabiya.net/views/2012/05/03/211863.html>

³⁰ <http://www.un.org/sg/statements/?nid=5973>

³¹ <http://www.un.org/apps/news/story.asp?NewsID=41901>

³² <http://www.un.org/apps/news/story.asp?NewsID=41913>

³³ Reference here is to Bilal Diab and Thaer Halahleh.

³⁴ <http://www.fananews.com/en/?p=98952>

³⁵ <http://www.ipu.org/press-e/gen357.htm>

respect for the parliamentary mandate and to release forthwith the members of the Palestinian Legislative Council in administrative detention.' The IPU reiterated its position on 5 April³⁶.

6.2.3 European Union

In December 2011³⁷, the **Palestinian Minister of Prisoners visited the European Parliament** in Strasbourg, where he explained the situation of the Palestinian prisoners in Israeli jails, the Israeli violations of the prisoners' basic human rights and the significance of European pressure on Israel to improve the situation of these prisoners. In reaction, on 1 February 2012, **several members of the European Parliament** — including Vice-Presidents of the Parliament, Presidents of Political Groups and chairs of Delegations — **launched an appeal** for the release of the 27 democratically elected members of the Palestinian Legislative Council who are detained in Israeli jails, contrary to international law³⁸.

The hunger strike also inspired the European Commission Vice President and High Representative for EU Foreign and Security Policy **Catherine Ashton** to say that she was 'following with great concern reports about the deteriorating health condition of Khader Adnan'. Ashton reiterated 'the EU's longstanding concern about the extensive use by Israel of administrative detention without formal charge'.

On 8 May 2012³⁹, the **EU missions** in Jerusalem and Ramallah issued a **local statement** to publicise their concern about the deteriorating health condition of the Palestinians hunger strikers in administrative detention. The missions requested the Israeli Government to make all necessary medical assistance available and to allow family visits as a matter of urgency. The EU reiterated its longstanding position on Israel's use of administrative detention without charge; detainees, the statement recalled, 'have the right to be informed of the reasons for their detention and be subject to a fair trial without undue delay.' The missions noted that the EU was closely following the ongoing hunger strike, and called for the full respect of international human rights obligations towards all prisoners.

7. POLICY OPTIONS

The situation of Palestinian prisoners in Israeli prisons and the use of administrative detention by Israeli authorities should be put on the EU agenda. While the problem has existed for many years, recent awareness of the issue — spurred by the prisoners' mass hunger-strike — offers an opportunity for the European Union to act. The following policy options could be considered:

- The EU should activate Article 2 of the EU-Israel Association Agreement, which provides that both sides must respect human rights as a precondition for cooperation between the two parties. Recent changes in the government coalition in Israel could provide a window of opportunity to start a constructive and serious political dialogue with Israel⁴⁰.
- The EU Council should follow up the statement issued by the EU Heads of Mission in Jerusalem and Ramallah and place the issue on the agenda of a forthcoming Foreign Affairs Council.

³⁶ <http://www.ipu.org/press-e/kamp1.htm>

³⁷ <http://www.prc.org.uk/newsite/en/latest-news/1934-European-Parliament-Adopts-Proposal-to-Release-Palestinian-Prisoners.html>

³⁸ http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dplc/dv/press_relea/press_release.pdf

³⁹ <http://english.wafa.ps/index.php?action=detail&id=19762>

⁴⁰ The next EU-Israel Association Council is scheduled for late 2012.

- The EU should urge Israel to abide by its obligations as a signatory to the International Covenant on Civil and Political Rights and review its legislation concerning administrative detention, solitary confinement, and the 'Shalit bills', which currently bar prisoners from receiving family visits and restrict their access to media, recreation and education. Israel should also allow retrials for prisoners who have not been convicted on solid evidence.
- The EU should also call Israel to respect the rules of the Fourth (1949) Geneva Convention ratified by Israel in 1951 according to which a civilian may only be interned or placed in assigned residence if 'the security of the Detaining Power makes it absolutely necessary' (Art. 42) or 'imperative reasons of security' (Art. 78) in occupied territory.
- The European Union should contact Israel to express its support of the efforts of the International Committee of the Red Cross to save the lives of prisoners/detainees who are in critical condition and to urge Israel to provide all hunger strikers with unrestricted access to adequate medical care.
- The European Parliament could consider sending a fact-finding mission to investigate the conditions of confinement in Israeli prisons and the use of administrative detention.

8. SOURCES

EU

- <http://www.europarl.europa.eu>
- <http://archive.greens-efa.eu>

UN

- <http://www.un.org>

HUMAN RIGHTS ORGANISATIONS

- www.btselem.org
- <http://www.prc.org.uk>
- <http://www.euromedrights.org>
- <http://www.dci-palestine.org>
- <http://addameer.org>

ISRAELI AUTHORITIES

- <http://www.israeldefense.com>

MEDIA

- www.bbc.co.uk
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