

LPHR/JFJFP SEMINAR: PALESTINIAN POLITICAL PRISONERS: THE INTERSECTION BETWEEN INTERNATIONAL LAW AND THE PALESTINIAN STRUGGLE

20 February 2013
Garden Court Chambers

Chair: Rachel Waller

SAHAR FRANCIS

Lawyer and General Director – Addameer Prisoner Support and Human Rights Association

The event commenced with a screening of *Alone: Palestinian children in the Israeli Military Detention System*. The short film produced by Defence for Children International documents the ill-treatment of Palestinian children during their arrest and detention. It focused on the use of military interrogation and torture to obtain illegal confessions. These are used to convict children and sentence them to prison.

Ms Francis then opened the seminar by discussing Israel's use of military law in the West Bank since 1967. The Geneva Conventions were followed for only a month and a half before Israel decided to implement a military court system. Over 1,700 military orders are still applicable in the West Bank. Over the years, Israeli military jurisdiction has expanded to include civil cases and even cases abroad. Palestinian students involved in human rights protests abroad have been charged under military law.

Military law is also directed at political activity, in violation of the 4th Geneva Convention. Article 66 states that the military court must not be political, yet members of the Palestinian Parliament are targeted by the military court. Ms Francis highlighted the use of law for political means; a parliamentarian was placed under administrative detention after taking an active role in reconciliation talks between Fatah and Hamas.

The arrest and abuse of children in detention was then addressed. Addameer and DCI have documented cases of torture and sexual assault. Children are not informed of their legal rights and often give false confessions through oppression. These confessions are also used to charge adult activists.

Ms Francis emphasized the discriminatory nature of Israel's use of military law against Palestinian children. Until recently, children were tried as adults from the age of 16, whereas children in Israel were not tried as adults until 18. In Israel, detention of children is a last resort. Yet this is not the case in the West Bank. Israel's defence is that human rights provisions under international law are not applicable as there is no occupation, despite their occupation of the West Bank being recognised by the International Court of Justice and the international community.

Ms Francis then spoke about Addameer's campaign against administrative detention. Administrative detention is only legal where there is a serious threat to national security, yet thousands of Palestinians are charged on this basis. Palestinians are arrested and held based on 'secret evidence' that neither they nor their lawyers can see. Lawyers face further battles as cases are documented in Hebrew with poor Arabic translations, and some have been banned from visiting their clients, based on 'secret information'. Several prisoners are currently on hunger strike in

protest against this system. While this has led to a reduction in administrative detainees, some have been re-arrested and on balance little progress has been made.

In addition to ill-treatment, Palestinian prisoners are prosecuted under a discriminatory legal system. There is a discrepancy in sentencing for Israelis and Palestinians charged with the same offences and unlike Palestinians, settlers in the West Bank are not subject to military law. Ms Francis also noted that the conviction rate is much higher in the military court.

Israel has also begun to target human rights groups defending prisoners. Addameer was recently raided before dawn and accused of links to terrorism based on 'secret evidence'. Ms Francis stressed the need for greater EU involvement, as special procedures apply for the protection of human rights defenders.

Finally, Ms Francis addressed several questions on the issue of legality. It is well-established that various aspects of the occupation and treatment of political prisoners are illegal or fall below minimum recognised standards, but the issue is enforcement of international law. The Palestinian Authority is under political pressure not to apply to accede to the International Criminal Court and the United Nations Security Council has not used its enforcement powers to take action against Israel. Israel's recent boycott of the United Nations Human Rights Council Universal Periodic Review demonstrates their own practice of failing to engage with international mechanisms seeking the enforcement of international law.

For further information on Addameer's campaigns against administrative detention see their website: www.addameer.org

DCI's short film, *Alone: Palestinian children in the Israeli Military Detention System* is available on youtube.