



Right Hon Philip Hammond MP
Foreign Secretary
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For the urgent attention of: Right Hon Philip Hammond MP

15 February 2016

Dear Mr. Hammond,

Re: Israeli authorities significantly increased use of administrative detention, including against children

As lawyers committed to the protection and promotion of Palestinian human rights, we write to express our deep concern at data showing that Israeli authorities have significantly increased their already excessive use of administrative detention of Palestinians in recent months. This includes the use of administrative detention against children for the first time since December 2011. We accordingly urge the British government to make urgent representations to the Israeli government emphasising that administrative detainees should either be immediately charged or released, and that administrative detention should not be used against children.

Significant increase in use of administrative detention

The Israeli human rights organisation B'Tselem has released figures showing that at the end of December 2015, 584 Palestinians were being held in administrative detention. This amounts to the largest end of month figure since 2008. Of additional concern is the use of administrative detention against children; since October 2015 Israeli authorities have detained four Palestinian teenagers from East Jerusalem and two children from the West Bank under administrative detention powers.

In Jerusalem, Israeli authorities rely on Israel's Emergency Powers Law to authorise the use of administrative detention. According to Defence for Children International Palestine documentation dating back to 2000, Jerusalem children have not previously been subject to administrative detention. In the occupied West Bank, Israeli Military Order 1651 permits administrative detention for a period of up to six months, subject to indefinite renewals. Prior to October 2015, the last time a Palestinian child from the West Bank was held under administrative detention was in December 2011.



Administrative detention is lawful only under exceptionally extreme circumstances

Administrative detention is a procedure under which detainees are held without charge or trial. No criminal charges are filed and there is no intention of bringing the detainee to trial. Israeli military law allows for the right to a review of every detention order, initially before a military judge and ultimately to the Supreme Court. However, in practice, this does not amount to the right, enshrined in international standards, to challenge the lawfulness of the decision to detain. In the vast majority of cases, neither the lawyer nor the detainee is informed of the details of the evidence against him/her since the court is authorised to choose how much information to disclose on grounds of security.

Although administrative detention is permitted under international human rights law and international humanitarian law, it is recognised by the UN Human Rights Committee ('UNHRC') as posing 'severe risks of arbitrary deprivation of liberty.' As such, it can only be used if it is necessary for reasons of security in exceptional cases of emergency, and when there is no other possibility to prevent the danger posed by the detainee. International law sets a very high threshold for the use of administrative detention, in recognition that it is an extreme measure that violates the basic right to liberty and fundamental due process rights.

It is against this legal context that LPHR has long had serious concerns that Israel is utilising administrative detention as a matter of routine practice in breach of international human rights standards, rather than as a permissible exceptional measure. Despite detention of this nature being nominally subject to review by the courts, Amnesty International has recently reported that they are aware of only one case of the High Court annulling a detention order, some 25 years ago in 1990, suggesting a lack of proper scrutiny in the review process. In this regard, we welcome your expression of "concern [over] Israel's extensive use of administrative detention" in your previous correspondence to LPHR dated 14 September 2015.

Relationship between administrative detention and hunger-strike protests

The prolific use of administrative detention by Israeli authorities against Palestinian detainees has previously resulted in the widespread use of hunger-strikes protest. At present, LPHR is monitoring the case of the hunger-strike protest of the Palestinian journalist, Mohammed Al-Qiq. Mr Al-Qiq was arrested by the Israeli authorities on 21 November 2015 and taken to interrogation. Almost a month later, on 17 December 2015, an administrative detention order was issued against him. Shortly after his arrest, Mr Al-Qiq launched a hunger strike in protest. He has now been on hunger strike for 78 days (as of 10 February 2016), during which time he has reportedly been subject to non-consensual medical treatment on two occasions. On Thursday 4 February 2016, he was visited by an independent physician on behalf of Physician for Human Rights-Israel, who gained the impression that Mr Al-Qiq's condition is extremely grave. On the same day, Israel's High Court of Justice decided to "suspend" the administrative detention order against journalist Mr Al-Qiq

B'Tselem has expressed its concern over the rationale and vagueness of the 'suspension' decision of the Israeli Supreme Court, stating:



“Administrative detention is intended as a preventative measure, not a punitive one. Clearly, a person in such a dire state of health has virtually no capacity to commit actions justifying this type of detention. Nevertheless, State representatives Attorney Yonatan Berman and Attorney Aner Hellman sought the Court’s approval for Al-Qiq’s ongoing detention.

“For reasons known only to themselves, the justices declined to rescind the administrative detention order and order Al-Qiq’s release. Instead, they gave instructions to “suspend” the detention order, and established that it “is no longer active”... [T]he meaning of the “suspension” of administrative detention remains unclear, since the justices have refrained from elucidating the legal significance and ramifications of this measure.”

The case of Mohammed al-Qiq is an extreme, but not unique, example of the consequences of Israel's policy of routine use of administrative detention. Last year, LPHR wrote to you to express our concern at plans by Israeli authorities to force-feed the hunger striking Palestinian administrative detainee, Mohammad Allan, under a new “force-feeding” law. This manifestly dangerous law was enacted by Israel specifically for Palestinian detainees who have resorted to hunger strikes to protest their conditions, including their prolonged detention on administrative orders without charge. It must be emphasised that hunger strikes are a non-violent form of protest used by individuals who have exhausted other methods to highlight the seriousness of their situation.

Urgent intervention required by the British government

In view of the above significant concerns over the recent amplified use of administrative detention against Palestinians, including its re-introduction against children, we would be grateful if you could consider making the following urgent representations to the Israeli government:

1. Release all administrative detainees or prosecute them in accordance with the standards of due process for the offences allegedly committed;.
2. Urgently end the use of administrative detention against children;
3. Withdraw any possible plans to force-feed or impose non-consensual medical treatment on Mr Al-Qiq, and any other hunger-striking detainee; and
4. Repeal their recent force-feeding law which is clearly incompatible with fundamental human rights standards guaranteed by international law.

We should be grateful for your careful consideration of this urgent matter and for your reply.

Yours sincerely,

Tareq Shrourou (Director) and Natalie Sedacca
Lawyers for Palestinian Human Rights