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Suspended Graduation: The Targeting and Political Detention of Palestinian University Students



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Introduction

Since the establishment of the Palestinian Authority (PA) and the signing of the Oslo Accords, Political detention has become a phenomenon in Palestinians' reality. However, this policy has become more pervasive in the years following the political fragmentation, which resulted in the split of the PA in 2007. Despite the *de-facto* prevalence of this policy, no conclusive definition of political detention or what is sometimes referred to as 'arbitrary detention on the basis of political affiliation' by human rights organizations can be found in international and Palestinian laws. For the purposes of this article, we can define political detention as the detainment and restraint of a person's liberty on the basis of their political or party affiliation, their beliefs and opinions, or their criticism and opposition to the government responsible for their imprisonment. It is an exclusionary tactic that does neither recognize nor respect pluralism and constitutes at its core a grave violation of civil liberties and human rights.

Many challenges are facing Palestinian human rights organizations that seek to document and monitor cases

of political detention. Gleaning information on political detention cases is a daunting task given the absence of an official government body that researchers could turn to for credible information. Additionally, many political prisoners mention that they were threatened and forced to sign a non-disclosure agreement to prevent prisoners from giving a statement—especially to human rights organizations—of what they endured during their interrogation and detention. Several prisoners also refuse to disclose their experiences for fear of further persecution or a second arrest, especially in the absence of an independent and competent Palestinian judiciary system that would prosecute perpetrators of torture and arbitrary detention. Moreover, in many cases, it is difficult to prove that an arrest was made on political grounds. Many are the detainees who state that they were interrogated about their political and student union activities only to be later convicted of other charges. This practice indicates that all official records and trial transcripts show a criminal charge against the detainees despite being arrested on the basis of their political affiliation and participation in student activities at university. The nature of the persecution against political detainees and their repeated arrests, moreover, make it difficult for field researchers to reach and interview this group.

ADDAMEER Prisoner Support and Human Rights Association monitored many cases of political detention in the West Bank throughout 2019. Addameer also documented at least 100 cases of summoning and detaining Palestinians from Ramallah, Hebron, Nablus, Tubas, and Jenin.^[1] According to Addameer observations, we can conclude that the vast majority of these subpoenas and detentions—this year—were against university students, notably, students from Birzeit University, Kadoorie University, Palestine Polytechnic University, and Hebron University. We cannot claim that this is a new policy for the Palestinian people. A report issued by Human Rights Watch in 2018 documented more than 100 cases of political detention in the West Bank and Gaza Strip. Many of these cases were proven to be targeting university students on the basis of their political affiliation.^[2] This article, therefore, focuses on the targeted persecution of university students and its impact on society, given that this group is the one responsible for driving social change. This factsheet also discusses how the frequency of these arrests hinders the education of detained students and suppresses democratic expression at Palestinian universities.

Before diving into the details of political detention in the West Bank, it should be noted that on 2 April 2014, the State of Palestine has acceded to several international treaties. To name a few, the International Covenant on Civil and Political Rights (ICCPR),^[3] the International Covenant on Economic, Social and Cultural Rights (ICESCR),^[4] and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).^[5] Later, on 29 December 2017, Palestine acceded to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict (CRC-OPAC).^[6] Of note, Palestine has acceded to these human rights treaties without making a single reservation; this means it is bound to fulfil certain commitments especially if it did not comply with these treaties, which this article further explores.

Political Detention in International and National Law

In its essence, political detention is a violation of numerous international conventions especially the International Bill of Human Rights^[7] and Palestinian laws that safeguard the rights to political and party pluralism, freedom of opinion, belief, and expression, and individual liberties. For example, article 19 of the Universal Declaration of Human Rights states that 'everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers'.^[8] Political detention also disregards article 19 of the ICCPR which states that 'everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers'.^[9] Moreover, article 26 of the same Covenant provides, 'all persons are equal before the law . . . [T]he law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. According to article 40 of the aforementioned Covenant, Palestine is obligated to submit reports on the measures adopted to give effect to the rights recognized in ICCPR within year of the entry into force of the present Covenant. However, the PA has yet to submit one report on the measures it undertook to enhance the

promotion and protection of civil and political rights in Palestine, including the right to freedom of opinion and political belief and the right to form political parties and periodic elections. On the contrary, the Law by Decree No 10 of 2018 on Cybercrime was passed on 29 April 2018^[10] which has been wielded to encroach on civil liberties and hound writers, journalists, and activists. Also, it has been over 11 years since the last free elections were held— a flagrant violation of these civil and political rights.

At the local level, political detention violates the Palestinian Basic Law^[11] which states in article 19 that 'freedom of opinion may not be prejudiced. Every person shall have the right to express his opinion and to circulate it orally, in writing or in any form of expression or art, with due consideration to the provisions of the law'. Moreover, article 5 states, 'the governing system in Palestine shall be a democratic parliamentary system, based upon political and party pluralism' while article 9 guarantees that 'Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, color, religion, political views or disability'.

Despite all these articles that protect the rights of Palestinians to freedom of opinion and expression, Attorney Firas Karajah stated in an interview with Addameer that political detention in the West Bank, as it stands now, is weaponized against any activities that Palestinian citizens partake in including peaceful assembly, party affiliations, and any acts of resistance against the Israeli Occupation.^[12] The actions of the Palestinian Security Forces (PSF) show their flagrant disregard of the Palestinian Basic Law. For example, student A. Sh.^[13] reported regarding his arrest that as soon as his interrogation began, he was questioned about his political affiliation. After denying his association with any party, the detainee was beaten in the face and on the head. Also, A. Sh. reported that he was repeatedly questioned about any links he has to Hamas. After denying these claims, one interrogator said, 'You have to force him into a stress position first, and then you can begin the interrogation'. The detainee adds, 'They tied my hands behind my back using metal cuffs and then chained my handcuffs to the window bars above me using a rope. My head dangled in the front while I was forced to stand on my tiptoes^[14] from 9:00 pm until 2:00 am.'^[15] The numerous testimonies given by detained university students showcase that their persecution and interrogation were solely based on their political affiliation and their participation in student activities on campus. The detainees were questioned about the nature of the student activities they participated in, their colleagues in university, and in some cases were forced to sign agreements that prohibited them from partaking in any student activities after their release. These actions demonstrate the PA's blatant disregard of the Palestinian Basic Law and the principles outlined in the International Bill of Human Rights, which guarantee the right of individuals to freedom of opinion and political belief.

Torture and Ill-treatment

A majority of students reported in their interviews with Addameer that they had been subjected to torture and ill-treatment during their detainment. This includes— but not limited to— beatings, stress positions for prolonged periods of time, threatening with a long detainment until the end of the academic semester or that they would be arrested by the Israeli Occupation Forces (IOF) once they released from the PA prisons, solitary confinement for days. Not to mention the insults hurled at the detainees. Additionally, one detainee noted that he had been held inside a narrow and cramped metal locker for hours on end.^[16]

This practice violates international conventions, including CAT and the definition of torture as provided thereby. Such actions further violate article 2 of CAT, which stipulates that 'each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction'.^[17] No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. An order from a superior officer or a public authority may not be invoked as a justification of torture'.^[18]

On the other hand, the Jordanian Penal Code No. 16 of 1960, in force in the West Bank,^[19] does not define torture. Notwithstanding the foregoing, article 13 of the Palestinian Basic Amended Law of 2003 stands, 'No person shall be subject to any duress or torture. All accused and persons deprived of their freedom shall receive proper treatment'.^[20] In the absence of an applicable provision criminalizing torture and setting a

punishment for such an *actus reus*, the PA flatly violates article 4 of CAT. In the same vein, the PA is still failing to adapt the national laws to the anti-torture conventions it acceded to.

The Systematic Policy of Frequent Detentions and Subpoena and its Impact on the Students' Education

Systematic detention exerts an array of enormous impacts on the students. First and foremost, their education is struck with paralysis, as incarceration is often enforced simultaneously with the detainees' schedule of examinations. For example, PPS detained Student M. N. [21] and released him to be re-incarcerated two weeks later by the Palestinian Intelligence Service. M. N. reported that the interrogation, to which he was subjected, centred on his student activity at university. He also stressed that the detention prevented him from attending the first examinations. The second detention, by the same token, was carried during the schedule of the second examinations. As a result, M. N. was not permitted to complete the semester, and thus his graduation might be put off one whole semester. Th. H. [22] also communicated that he had been threatened not to be released before his schedule of examination is overdue.

The repeated detention and summoning of university students reveal a systematic policy the PA devises and whereby poses an obstacle to the educational journey of Palestinian students. T. A' [23] provides a case in point as he continues to struggle to earn his graduation. T. A', an accounting student, has been stuck in university for the seventh year in a row due to over four rounds of detention by the PSS. The student eventually staged a sit-in on campus to voice his protest against any further detention. [24] 'I will remain in a sit-in on campus until examinations are over'. T. A' said, 'I have been a university student for seven years. Every year at the time of exams, I am arrested and thus forced to repeat the entire semester.' Although T. A' together with two other students took refuge on campus; a special Israeli detention force broke into the campus and arrested them. This incident is not one of a kind; another two students have taken refuge on the Birzeit University campus and were supported by a group of other students for about 46-day sit-in.

The Palestinian judicial system and public prosecution do not pay serious attention to the violations related to torture. Many students highlighted their attempts to document the torment and ill-treatment, to which they were subjected under interrogation, before the prosecution and judges, yet they found deaf ears. None of their statements were documented in the hearing minutes. This indifference unearths grave failure in monitoring the PSF's violations against the detainees and flagrantly violates article 96(2) of the Palestinian Penal Procedure Law No. 3 of 2001 which stipulates that '[t]he statements of the accused must be established in the minutes of the interrogation.' [25] In the same spirit, article 99 of the said law provides, 'Before interrogating an accused, the deputy prosecutor must subject him to a physical examination and establish the visible injuries he sees and the reasons for their occurrence'.

The evidence on the ground demonstrates undeniable violations of the cited articles. M. N., for example, stated that during his interrogation an interrogator pressed an iron ruler against his neck and lashed him several times on the chest with the same ruler. The interrogator also used the ruler like a sword and run it on the detainee's neck several times, leaving a red rash. The next day the detainee appeared before a legal counsellor who asked him about the sign. M. N. explained the cause, yet the counsellor merely remarked that M. N. would be checked by the International Committee of the Red Cross and the Independent Commission for Human Rights.

The statements, which Addameer has gathered from students who were detained on the grounds of their political affiliation, point to a semi-systematic policy of excessive use of force during their detention operations. Students' A. 'A. [26] and M. H. [27] stated that their car was chased, and shooting was heard during the operation. They were severely beaten amid the arrest operation. In addition, some detention operations were punctuated by episodes of blackmailing. T. Kh. [28], a university student with diabetes, was blackmailed with his medication and threatened to be transferred to the Israeli occupation authorities. A few days after release, T. Kh. was, in fact, summoned by the Israeli occupation authorities.

Case in Point: Student B. F.

- *'My detention was extended for interrogation, yet I was left in confinement solitary without a single question!'*
B. F., formerly detained student. [29]

B. F. was arrested on 17 August 2019 on his way to Ramallah on a public bus. The vehicle was stopped by two other vehicles. Three men came down the vehicles, broke into the bus, and asked the student to step out. B. F. asked the three men about their capacity to know they were a PSF unit. Immediately he was led to a civilian vehicle and had his hands cuffed with iron shackles.

B. F. was transferred to the PSF headquarters. On the first day, the detainee was subjected to two interrogation sessions. One of the sessions centred on his union activities at university, detention history, and participation in university activities. On the next day, B. F. appeared before the court to extend his detention. At the hearing, the public prosecution argued that the interrogation with the detained student was based on weapon possession and funding related issues. The court, therefore, approved the extension another 48 hours under the pretext of further interrogation. The same night, B. F. was solely interrogated over his union activism, and not a single question was raised about the issues the extension was made for.

'After the 48-hour extension, I appeared again before the court, and the prosecution requested another 15-day extension.' B. F. narrated, 'the attorney explained that the interrogation was, in fact over, and any extension would lack cogent rationale.' The court, however, extended the detention for another day. In the following day, the prosecution seconded its request, and the court approved a five-day extension for interrogation purposes. 'I was transferred back to the PSF headquarters and was never interrogated. I was confined in solitary throughout the five days without any questioning or access to anyone.' B. F. continues, 'I was brought again to court before the same judge, the prosecution requested another 15-day extension, and the judge approved the request.'

This case proves that detention is often rock-bedded on student activism—most, if not all the questions B. F. was bombarded with, centred on his student activism and participation in student activities. Notwithstanding, the reasons why his detention was extended were covert by alleged criminal accusations. Besides, the 15-day extension policy renewable thrice to an aggregate maximum of 45 days [30] does not provide that the renewal must be solely for interrogation purposes. B. F. and many other detainees reported that they were left in solitary confinement for days without interrogation. Therefore, it is safe to say that such measures are aimed at heralding the educational journey of students and denying them their right to pursue their education.

Conclusions and Recommendations

In a nutshell, political detention is not a newly embraced policy by the PSF. The frequency of devising such a tool has increased over the past two years. This policy, moreover, has focused on a specific group, namely university students. The latter stood for the lion's share of the cases of detention over political affiliation or student activism, especially in Birzeit University, Palestine Technical University – Kadoorie, Palestine Polytechnic University, and Hebron University. The PSF frequently detained and summoned students, hindering their education. Taking due account of the above, this paper arrives at a set of results and recommendations as follows:

Results:

- Political detention is a clear violation of Palestinian laws and international conventions the State of Palestine has ratified;
- A large number of political detainees are subjected to torture and/or ill-treatment, including beating, threats, stress positions, or other similar tactics;
- Frequent detention and summoning have recently targeted university students for their political affiliation and student activism, frustrating the educational life of the affected students;

· Although the State of Palestine has acceded to several international conventions that safeguard the freedom of opinion and expression and the right to free political life and criminalize torture, the PSF still violates such liberties and rights.

Recommendations

- Addameer recommends that arbitrary political detention, torture, and ill-treatment be categorically brought to an end across the POT; this recommendation gains further significance as torture is absolutely prohibited by international conventions regardless of the grounds or justifications. Moreover, such safeguards have banned the use of wars or states of emergency to justify torture;
- Addameer recommends that the Palestinian legislature act to adapt the national laws and regulations to the international conventions the PA has ratified;
- Addameer further recommends that perpetrators of the crime of torture be pursued and effectively punished; in parallel, a material and moral redress mechanism be in place for the victims.

^[1] This number only reflects the number of cases documented by Addameer and doesn't include many other cases of political detention in 2019 according to the statistics of other human rights organisations and the Committee of Political Prisoners' Families.

^[2] From the report 'Two Authorities, One Way, Zero Dissent: Arbitrary Arrest and Torture Under the Palestinian Authority and Hamas', (The United States: Human Rights Watch, 2018). Last accessed Jan 16, 2020. Available at: https://www.hrw.org/sites/default/files/report_pdf/palestine1018_web4.pdf.

^[3] Status of treaties, United Nations Treaty Collection, last accessed Nov 22, 2019. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en.

^[4] Status of treaties, United Nations Treaty Collection, last accessed Nov 20, 2019. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en.

^[5] Status of treaties, United Nations Treaty Collection, last accessed Nov 20, 2019. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=en

^[6] Status of treaties, United Nations Treaty Collection, last accessed Nov 25, 2019. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&clang=en

^[7] The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights which together constitute basic human rights.

^[8] Adopted and proclaimed by UN General Assembly Resolution 217 A (III) of 10 December 1948, published in *Human Rights: A Compilation of International Instruments of the United Nations*, Volume 1, the UN, New

York, 1993, Sales No A.94.XIV–Vol.1, Part 1, Page 1.

^{[[9]]}Adopted and opened for signature, ratification and accession by UN General Assembly Resolution 2200A (XXI) of 16 December 1966. Entry into force 23 March 1976, in accordance with Article 49, published in *Human Rights: A Compilation of International Instruments of the United Nations*, Volume 1, the UN, New York, 1993, Sales No A.94.XIV–Vol.1, Part 1, Page 28.

^{[[10]]} Law by Decree No 10 of 2018 on Cybercrime, published in the Palestine Official Gazette, (Special Issue Number 16), Page 8, on May 3, 2018.

^{[[11]]} The 2003 Amended Basic Law, published in the Palestine Official Gazette (Special Issue Number 0), Page 5, on March 19, 2003.

^{[[12]]} From an interview with attorney Faris Karajah conducted by members of the Documentation and Research Unit at Addameer on August 17, 2017.

^{[[13]]} From an interview with the detainee A. Sh on April 30, 2019.

^{[[14]]} The detainee informed the field researcher that the scars left by the handcuffs still marred his hands— the researcher checked the detainee’s hands and confirmed his statement. The detainee was arrested on March 27, 2019 and was released on April 30, 2019.

^{[[15]]} Many of the students who were detained reported being forced into similar backward stress positions that are also called suspension for varying periods of time that reached 10 consecutive hours in some cases.

^{[[16]]} The full names of all detainees who gave their testimonies and are mentioned in this article are kept by Addameer Association. We have refrained from disclosing the full names at the behest of the detainees and to ensure confidentiality given the sensitive nature of the information.

^[17] CAT defines torture as ‘any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed...’ Article 2(1) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987, in accordance with article 27 (1), Treaty Series, United Nations, New York, 1993, No. A.94.XIV–Vol.1, Part 1, page 409.

^[18] Article 4(1) of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

^[19] The Jordanian Penal Code No. 16 of 1960, the Jordan Official Gazette, issue 1484, page 374, 1 May 1960.

^[20] Article 13(1) of the Palestinian Amended Basic Law of 2003.

[21] M. N. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 12 November 2019.

[22] Th. H. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 12 November 2019.

[23] T. A'. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 10 March 2019.

[24] The sit-in took place early in 2019.

[25] The Palestinian Penal Procedure Law No. 3 of 2001, The Palestine Official Gazette, Issue 38, page 94, 5 September 2001.

[26] 'A. 'A. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 28 September 2019.

[27] M. H. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 11 November 2019.

[28] T. Kh. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 10 March 2019.

[29] B. F. (former detainee at the PSF) interview with Addameer Prisoner Support and Human Rights Association, 15 September 2019.

[30] Article 120 of the Palestinian Penal Procedure Law No. 3 of 2001 states, 'The conciliation judge may, after hearing the statements of the representative of the Public Prosecution and the accused, release or detain the accused for a period of not more than fifteen days. He may renew his detention for other periods to an aggregate maximum of forty-five days.'
