

## Ten Facts on Administrative Detention



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### **First: Introduction to Administrative Detention**

Administrative detention (AD) is a procedure that allows Israeli occupation forces to hold prisoners indefinitely on **secret information without charging them or allowing them to stand trial**. The secret information or evidence cannot be accessed by the detainee nor his lawyer, and can according to Israeli military orders, an administrative detention order can be renewed for an unlimited time. The court issues an administrative detention order for a maximum period of six months, subject to renewal.

### **Second: Administrative Detention in the Occupation's Legal System**

The Israeli occupation authority uses three separate laws to hold individuals without trial:

- Article 285 of Military Order 1651, which is part of the military legislation applying in the West Bank;
- Internment of Unlawful Combatants Law (Unlawful Combatants Law), which has been used against

residents of the Gaza Strip since 2005;

- Emergency Powers (Detentions) Law, which applies to Israeli citizens.

In the occupied Palestinian West Bank, the Israeli army is authorized to issue administrative detention orders against Palestinian civilians on the basis of article 285 of **Military Order 1651**. This article empowers military commanders to detain an individual for up to six-month renewable periods if they have “reasonable grounds to presume that the security of the area or public security requires the detention”. No definition of “security of the area” or “public security” is given.

In the Gaza Strip, Israel uses the Unlawful Combatants Law to hold Palestinians for an unlimited period of time, without effective judicial review. Detainees under the law may be held for 96 hours before the issuance of a permanent detention order, or up to seven days if the government declares the “existence of wide-scale hostilities”. Judicial review of an order in a closed hearing must take place within 14 days of its issuance; if it is approved, the detainee must be brought before a judge once every six months. If the court finds that his release will not harm state security, the judge shall cancel the order.

### **Third: Administrative Detainees in Numbers**

Since 1967 the Israeli occupation authority issued over 50.000 administrative detention orders. On the eve of the second intifada, Israel held 12 Palestinians in administrative detention. Only two years later, in late 2002 - early 2003, there were over 1000 Palestinians in administrative detention. Between 2005 and 2017, the average monthly number of Palestinian administrative detainees held by Israel remained stable at approximately 700 - 400. As of July 2017, there were at least 449 administrative detainees in Israeli prisons, who are being held without charge or trial for an indefinite period of time, nine of whom are members of the Palestinian Legislative Council.

### **Fourth: Violations Against Administrative Detainees**

Israeli occupation authorities systematically arrest Palestinians after the middle of the night. During arrest, they mistreat Palestinians, whether detained persons or their families. Furthermore, administrative detainees just like most of the other detainees are arrested without knowing the reason behind their arrest. They would also be taken to detention/interrogation centers without knowing to where they are taken. Just as most Palestinian prisoners, also administrative detainees are interrogated with, tortured and mistreated.

### **Fifth: Administrative Detention under International Law**

Although **international human rights law** permits some limited use of administrative detention in emergency situations, the authorities are required to follow basic rules for detention, including a fair hearing at which the detainee can challenge the reasons for his or her detention. Moreover, to use such detention, there must be 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. (International Covenant on Civil and Political Rights, Article 9).

Administrative detention is the most extreme measure that international humanitarian law allows an occupying power to use against residents of occupied territory. As such, states are not allowed to use it in a sweeping manner. To the contrary, administrative detention may be used against protected persons in occupied territory only for “imperative reasons of security” (Fourth Geneva Convention, Art.78). Israeli authorities claim that under Article 78 of the Fourth Geneva Convention related to the Protection of Civilians in Time of War (1949), the occupying power has the right to detain persons

subject to its authority under administrative detention. Article 78 states that “If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.” Thus, the ways in which the administrative detention carried out by the occupation authorities differ in form and substance from those in the Geneva Convention. The conditions and procedures that the occupation authority is using in administrative detention violate International Conventions and other international standards for the right to a fair trial.

### **Sixth: Israeli Occupation Authority Violates International Law**

In practice, Israel routinely uses administrative detention in violation of the strict parameters established by international law. Tellingly, Israel has claimed to be under a continuous state of emergency sufficient to justify the use of administrative detention since its inception in 1948. In addition, administrative detention is frequently used – in direct contravention of international law – for collective and criminal punishment rather than for the prevention of future threat. For example, administrative detention orders are regularly issued against individuals suspected of committing an offense after an unsuccessful criminal investigation or a failure to obtain a confession in interrogation.

### **Seventh: Detention Conditions**

Palestinians in Israeli administrative detention are now held under the jurisdiction of the Israeli Prison Service (IPS) and not the Israeli army, as was the case up to 2005. Administrative detainees in Israeli prisons are not separated from the rest of the prison population, without arrangements for food appropriate to their culture and/or religion and to allow them to practice their faiths. Prison personnel in most of the cases do not receive specific training on how to deal with administrative detainees and on international law regarding administrative detainees. Administrative detainees in Israel must endure severe restrictions on their right to education, rights to communicate with families and receive visits, and right to adequate medical treatment.

### **Eighth: Detention Centers**

At present, administrative detainees are primarily held in three Israeli prison facilities, all but one of which is located in 1967 territory:

1. Ofer Prison (located inside Ofer Military Base, south of Ramallah)
2. Ketziot Prison (also known as Ansar or Negev Prison; located in the Negev Desert, five kilometers from the border with Egypt)
3. Megiddo Prison (located inside a military base on the main Jenin-Haifa road)

### **Ninth: Administrative Detainees Resist Administrative Detention**

Palestinian administrative detainees have fought this policy for a long time and using different tools. This resistance included boycotting Israeli military courts between the years 2011 and 2014. Several administrative detainees went on open hunger strikes as an expression of a refusal to administrative detention. Also, in 26 April 2014 over 130 administrative detainees started a collective hunger strike that went on for 62 days. Israeli Prison Services punished those detainees by forcing them to pay fines, preventing them from family visits and solitary confinement. Furthermore, in 2015, Israeli Knesset approved a new law that allowed IPS to force-feed prisoners under hunger strikes.

Administrative detainees will start boycotting Israeli military courts again on Thursday 15 February 2018, this boycott will start with confirmation and appeal hearings.

### **Tenth: Join Addameer in its Campaign Against Administrative Detention**

Addameer started a campaign against administrative detention in 2009, #stop-administrative-detention to call for the end of administrative detention which is used against hundreds of Palestinian civilians without charges or trial.

Addameer calls all activists and supports to join this campaign as we call for:

- The government of Israel should release all administrative detainees;
  - In the meantime, administrative detainees must be granted their rights in accordance with international law;
  - The government of Israel should immediately cease using the Incarceration of Unlawful Combatants Law and take action to repeal it;
  - EU member states should raise cases of administrative detainees with the Israeli government under the EU-Israel political dialogue.
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