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## Isolation

### **ISOLATION AND SOLITARY CONFINEMENT OF PALESTINIAN PRISONERS**

July 2017

Every year, dozens of Palestinian prisoners and detainees are held in solitary confinement, as a disciplinary measure, or in isolation, for reasons of state, prison or prisoner's security. An unknown number of detainees who pass through interrogation facilities are held at any given time in isolation. With regards to persons in prison custody, at the end of July 2017, there were approximately 15 prisoners held in isolation located in different Israeli prisons. A major demand of Palestinian prisoners' mass hunger strike in April 2017 was for Israel to end its policy of long-term isolation for "security" reasons. Although rules exist under Israeli and international law to closely govern the use of solitary confinement and isolation, both measures are often used impermissibly and at great cost to Palestinian prisoners and detainees.

### **DIFFERENCES BETWEEN 'SOLITARY CONFINEMENT' AND 'ISOLATION'**

#### **Solitary confinement**

Solitary confinement and isolation are both measures imposed during a prisoner's detention or prison sentence. Solitary confinement is facially used by Israel as a disciplinary measure and is also common practice during interrogation, typically employed immediately following arrest. Solitary confinement combined with a monetary fine is the most common punishment taken against Palestinians held in Israeli prisons.

Detainees and prisoners held in solitary confinement are completely cut off from the world. They are held in an empty cell containing only a mattress and a blanket. Other than their clothes, they are not allowed to take anything with them into solitary confinement, including reading materials, a television or radio set. The detainee or prisoner is held in their solitary confinement cell, which does not contain a toilet, 24 hours a day. When the detainee or prisoner wishes to use the toilet he or she must call out for a guard and wait until one agrees to take the prisoner out.

**Article 56 of the Israeli Prisons Ordinance (New Version), 1971** (Ordinance), lists 41 disciplinary offenses for which solitary confinement may be imposed on prisoners and detainees, and establishes who among the prison officials may order such measures. According to the Ordinance, the

Commissioner, the Prison Director, and prison officers of the rank of Captain or higher who have been so authorized by the Commissioner each has the power to take disciplinary action against a prisoner by imposing a punishment of up to seven days in solitary confinement. The Prison Director is authorized to sentence a prisoner to a maximum of 14 days in solitary confinement; each successive confinement period may not exceed 7 days.

Article 56 also includes a number of broadly-defined offenses that may engender solitary confinement, such as “made noise unnecessarily” or “any action, behavior, disorder or neglect that disrupts good order or discipline, even if not detailed in the preceding clauses”. These open provisions establish no restrictions on what may be considered 'disruption of order', and therefore leave the imposition of solitary confinement vulnerable to abuse.

## **ISOLATION**

By comparison, the Israel Prison Service (IPS) uses, or claims to use, isolation as a preventive measure. The Ordinance provides five general categories that warrant the isolation of a prisoner:

- State security;
- Prison security;
- Protecting the well-being and health of the prisoner or other prisoners;
- Preventing significant harm to discipline and the proper prison routine; and,
- Preventing violent offenses, offenses included in the Law to Combat Organized Crime, or drug transaction offenses.

As with solitary confinement, broad definitions of “harm” to state security, prison security, discipline, or proper prison routine leave considerable liberty for authorities to claim that there are grounds for isolation.

Prisoners held in isolation are held in a cell alone or with one other prisoner for 23 hours a day. They are allowed to leave their cell for a daily one hour solitary walk; on the way to their walk, the prisoners' hands and feet are typically shackled. Handcuffs may sometimes be removed, but prisoners report that, in many cases, they remained handcuffed and sometimes even leg shackled during the walk. During every transfer from the isolation cell, including for attorney visits, the prisoner's hands and feet are shackled, and he or she is accompanied by a prison officer.

Isolation cells in the various Israeli prisons are similar in size – typically from 1.5 by 2 meters to 3 by 3.5 meters. Each cell usually has one window measuring about 50cm by 100cm, which in most cases does not allow in sufficient light or air from the outside. Isolation cells also include a toilet and shower; prisoners typically hang a curtain to separate the toilet and shower area from the rest of the cell. The cell usually has an iron door, which includes an opening at its lower part, through which guards insert food trays. Prisoners held in these cells are thus prevented from having any eye contact with other prisoners in the isolation wing or even with guards. In a few prisons only, the doors of isolation cells are made of iron grid, allowing eye contact to be maintained.

Isolated prisoners are generally allowed to keep a television set, radio, electric hotplate, and electric kettle in their cells. These appliances may be bought at the prisoners' own expense in the canteen and are sometimes taken away as a punitive measure. Isolated Palestinian prisoners may receive books from the ICRC and their families during visits, but the prisons impose restrictions as to the kinds and number of books prisoners are allowed to receive. Prisoners also receive newspapers in

Arabic free of charge, such as the Jerusalem Arabic daily Al Quds, but other newspapers in Hebrew or English are distributed only to those holding a subscription. The newspapers are always distributed after a delay and are typically not current. Although Palestinian prisoners in Israeli prisons are allowed to study via correspondence at the Open University of Israel, prisoners who are held in isolation are not allowed to do so. (1)

Prisoners and detainees are typically reliant on canteens for food, clothes, personal hygiene items and most cleaning products, as the IPS does not provide many essential items. Sometimes, prison authorities close an isolated prisoner's canteen account, as has occurred to dozens of prisoners, especially those who have been associated with Hamas. When this occurs, the prisoners receive from prison authorities essential personal hygiene products and cleaning products for their cells, but may be forced to go without other basic items.

Isolation can be ordered by the courts, and by security authorities such as the Israeli Security Agency (ISA), but is most frequently levied by prison officials. The length of time in isolation that prison officials may order depends entirely on their rank, and can extend from 12 hours to longer periods of six to 12 months, with approval of the court. The courts may order that a prisoner be isolated for up to 12 month renewable periods, and the ISA may order isolation for similar long periods as well when citing security concerns.

Under Article 19D of the Ordinance, prisoners subjected to isolation have the right to a court hearing if the duration of isolation exceeds 96 hours (2). The hearing must be conducted in the presence of the prisoner and his or her attorney though broad provisions disable any protections engendered for the prisoner by enabling the courts to use confidential material not disclosed to the prisoner or his or her counsel. The court's decision at this hearing may be challenged on appeal to the Israeli High Court.

## **LACK OF LEGAL CHALLENGES TO ISOLATION ORDERS**

### **Difficulties inherent in legal challenges to isolation orders**

Both the Prisons Ordinance (New Version), 1971, and the Commissions Ordinance provide isolated prisoners with the right to a hearing. However, most Palestinian prisoners do not receive legal representation during court proceedings on isolation. The proceedings are conducted in Hebrew with poor or ineffective translation. Isolation orders on state security grounds are typically based on undisclosed information to which neither the prisoner nor his attorney is privy. Thus, prisoners and detainees subjected to isolation have no effective recourse to challenge the conditions of their detention under the law.

### **DEGENERATING ISRAELI LAWS REGARDING THE IMPOSITION OF ISOLATION**

In 2000, the **Knesset passed an amendment to the Ordinance**, which established internal and external mechanisms for review of isolation. The amendment stipulated that isolation be employed as a last resort only, that a judge's ruling be required in order to extend individual isolation beyond six months and joint isolation beyond twelve months, and that prisoners had a right to a hearing during isolation proceedings. This amendment resulted in a significant decline in the number of prisoners held in isolation.

**In 2006, however, the law was amended again**, producing many of the provisions detailed above.

The criteria for isolating a prisoner were expanded, as were the powers of those authorized to order isolation, and additional controlling mechanisms were canceled. The amendment also broadens the ability of the detaining authorities to use confidential material in justifying isolation, critically limiting the prisoner's ability to challenge their detention conditions and nullifying the effectiveness of court proceedings.

## **EFFECTS OF ISOLATION ON PALESTINIAN PRISONERS AND DETAINEES**

Any use of solitary confinement or isolation exacerbates underlying structural isolation. The use of solitary confinement and isolation against Palestinian prisoners and detainees further exacerbates the underlying structural isolation imposed on all Palestinian prisoners resulting from their illegal imprisonment inside Israel. In 1995, Israel transferred all Palestinian prisoners from the OPT to facilities inside Israel, in direct violation of Article 76 of the Fourth Geneva Convention, which states that an Occupying Power must detain residents of occupied territory in prisons inside the occupied territory. This violation of international humanitarian law effectively isolates prisoners from their families, community and the outside world. This isolation is only exacerbated by additional restrictions imposed by the IPS and other security authorities such as: the prohibition of telephone communication between prisoners and their families and friends; restrictions on the receipt of letters, newspapers, and books; the requirement to coordinate attorney visits, and most importantly the requirement to coordinate family visits.

## **SOLITARY CONFINEMENT AND ISOLATION DURING INTERROGATION**

Following the September 1999 Israeli High Court of Justice decision in *The Public Committee Against Torture v. The Government of Israel*, in which the Court ruled that some of the interrogation methods used by the General Security Service against Palestinian detainees were illegal, alternative, non-physical methods of interrogation – not necessarily in accordance with the Court's decision –, began to be used more frequently. One of such methods is solitary confinement.

According to Israeli military law, security authorities may hold a detainee for interrogation without charge for up to 188 days, and may prohibit a detainee from meeting with a lawyer for up to 90 days. Delayed access may also apply to meetings with ICRC representatives, who are authorized by international agreements to visit Palestinian detainees who are under interrogation. The detainee is thus completely disconnected from the outside world for a prolonged duration. Solitary confinement is thus often used as a means of pressure and coercion into forced confessions.

## **ISOLATION OF POLITICAL LEADERS**

In addition to the use of isolation as a punishment for offence in prison, for health considerations typically in cases of mental illness and, occasionally, at the detainee or prisoner's request, isolation is also used to silence prominent Palestinian political figures, as a form of punishment, as a method to push prisoners to collaborate and as a means of vindictive long-term treatment. The reason behind the isolation of prominent political detainees and prisoners is to keep them from contributing to internal facility and external community political discourse. At the same time, isolation is almost often applied against Palestinian prisoners who act as leaders in organizing hunger strikes. Most recently, the Israeli Prison Service commonly used isolation as a way to break up unity in the general hunger strike of 2004 which was joined by approximately 2,900 prisoners and supported by all Palestinian political factions. The strike lasted from 15 August until 31 August 2004, a total of seventeen days. The case of Ahmad Sa'adat, the former Secretary-General of the Popular Front for

the Liberation of Palestine (PFLP), and an elected Palestinian Legislative Council member, also illustrates the trend of isolation as a means to silence prominent political figures. Now serving a 30-year prison sentence following his conviction in December 2008 for offenses arising from his leadership of the PFLP, Sa'adat has been moved repeatedly, from Hadarim prison to Nafha and back, then to Ashkelon and finally Rimonim, where he remains at present. Beginning with his abduction by Israeli authorities from Jericho jail on 14 March 2006, he has been held in solitary confinement or isolation for long periods. On 16 March 2009, Sa'adat was ordered into isolation until June 2009; this isolation was consistently renewed until he was removed from isolation in May 2012 as a result of Palestinian prisoners' mass hunger strike. Sa'adat's isolation extended further than his confinement to a particular cell: he suffers from cervical neck pain, high blood pressure and asthma and has reportedly not been examined by a medical doctor. For the first seven months of his detention, he received no family visits. When Sa'adat went on a nine-day hunger strike in June 2009 in protest of his ongoing isolation, Ashkelon prison administration imposed further restrictions on him, including denial of family visits, a ban on visits to the prison canteen and on smoking, a fine of 200 shekels and an order to serve an additional week in isolation.

## **THE HEALTH CONDITION OF THOSE SUBJECTED TO ISOLATION**

Research demonstrates that the use of long-term isolation and solitary confinement can lead to severe mental damages ranging from sleep disturbances, through depression and anxiety, to psychotic reactions, such as visual and auditory hallucinations, paranoid states, disorientation with regards to time and space, states of acute confusion, and thought disorders. While confinement is difficult enough for mentally healthy detainees and prisoners, it can create further damage to those that suffer from mental illnesses. This becomes a complicated problem, as mental health services in Israeli prisons are wholly inadequate. Services are typically limited to medication only and do not include accompanying supportive therapy sessions, and, in most cases, prison psychiatrists do not speak Arabic but rather must interact with patients through a prison staff translator. Prison mental health personnel are generally unfamiliar with the culture and social codes of the Palestinian population, which creates additional barriers to the provision of optimal mental health treatment. In addition, research has also shown that prolonged isolation can have physiological effects such as intestinal problems, cardiovascular, and genito-urinary symptoms.

## **SOLITARY CONFINEMENT AND ISOLATION UNDER INTERNATIONAL LAW**

Treaties and international agreements that address prisoners' rights prohibit the use of solitary confinement as a punitive measure or attempt to limit its use significantly. For example, article 10 of the International Covenant on Civil and Political Rights (ICCPR) provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Standard Minimum Rules for the Treatment of Prisoners clearly express that solitary confinement, as a form of punishment, should be used infrequently and exceptionally. It also stipulates in article 31 that corporal punishment or punishment by holding a prisoner in a dark cell and any other cruel, inhuman or degrading punishment are prohibited as a disciplinary measure.

The Basic Principles for the Treatment of Prisoners (1990), a UN General Assembly resolution, encourages the restriction or abolition of solitary confinement as a punishment. In addition, in certain cases and in specific circumstances, solitary confinement and isolation can rise to the level of torture and ill-treatment and are therefore prohibited by international law.

The European Committee for the Prevention of Torture has stated that "[s]olitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of

solitary confinement should be as short as possible.” Similarly, in its general comment on article 7 of the ICCPR, the Human Rights Committee stated that, “[e]ven such a measure as solitary confinement may, according to circumstances and especially when the person is kept incommunicado, be contrary to this article.” It therefore, becomes a question of fact whether a particular form or incident of solitary confinement or isolation amounts to torture or ill-treatment in violation of article 7 of the ICCPR. Factors to be considered in this assessment may include: the duration of the solitary or isolated confinement; whether the use of solitary confinement or isolation is more extreme than necessary to achieve reasonable disciplinary objectives or the protection of the prisoner from other inmates; and, whether the decision to institute solitary confinement or isolation was made following a controlled decision-making process or whether it was the result of arbitrary or vindictive behavior by the prison administration.

## **Relevant Addameer Publications:**

• [\*\*The Sounds of Silence: Isolation and Solitary Confinement of Palestinians in Israeli Detention\*\*](#), July 2010

(1) Palestinian prisoners in Israeli prisons are allowed to study only at the Open University of Israel, and may not continue their studies at any other institution, even if they were enrolled there prior to their incarceration or if the university so approves. The IPS claims that prisoners are barred from participating in study programs in conjunction with Arab universities for security reasons.

(2) Commission Ordinance 04.03.00, Article 6, states that extending individual or joint isolation beyond the initial 96 hours requires holding an oral hearing before the person who made the decision. Article 7 of the Commission Ordinance indicates that the hearing is to take place only prior to the first extension; subsequently the prisoner may make his or her arguments in writing against the decision to extend isolation. Article 7E stipulates that the IPS has the authority to order isolation even after the court has denied the IPS’s request to isolate, if grounds for isolation continue to exist after the decision.

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