

Solitary Confinement and Isolation

Introduction:

In 2017, a massive hunger strike was organized by Palestinian prisoners to denounce the cruel policies imposed on them by the Israeli Prison System (IPS). The hunger striking prisoners' demands included the end of isolation and solitary confinement, notably long-term isolation for "security" reasons. However, the IPS continues to use isolation towards Palestinian prisoners and, each year, tens of prisoners are held in solitary confinement and isolation. As of October 2019, 4 prisoners are still held in isolation, including A., who has been in isolation for 4 years.

Fares Baroud was held in isolation from 1995 until 2012. He died in February 2019 due to medical neglect from the Israeli Prison System. During isolation, he was not provided with proper medical treatment.

Differentiating isolation and solitary confinement.

Solitary confinement can be imposed on prisoners, including minors, as a punitive measure for 41 disciplinary offenses¹. It includes a number of broadly-defined offenses 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 might be considered 'disruption of order', and therefore leave the imposition of solitary confinement vulnerable to abuse. Prisoners held in solitary confinement are completely cut off from the world for a maximum duration of 14 days, based on an administrative decision made by an IPS official. According to IPS law 04.13.00 article 6(4)(a) solitary confinement is for 24 hours a day and a maximum of 7 continuous days that are then renewed. Prisoners in solidarity confinement have worse detention conditions than in isolation.

Isolation is a preventive measure which can be taken on 5 different grounds, including state, prison or prisoners' security. As with solitary confinement, broad definitions of "harm" to state or prison security, or to prison routine, leave considerable liberty for authorities to claim that there are grounds for isolation. A prisoner held in isolation might be held with another prisoner (joint isolation), but the majority are held alone (individual isolation). The duration of isolation is not limited by law, however an authorization from a district court is required to exceed 6 months of individual isolation and 12 months of joint isolation. Isolation can be extended indefinitely.

Most Palestinian prisoners do not receive legal representation during court proceedings on isolation. The proceedings are held in Hebrew and, when the ground for the isolation is state or prison security, the proofs are not provided to the defense lawyer, violating the prisoners' rights to a fair trial. Most requests to isolate prisoners are made on security grounds. Thus, prisoners and detainees subjected to isolation have no effective recourse to challenge the conditions of their detention under the law. Many cases of long term isolations have been noticed, including a man who was held in isolation for 17 years.

Both solitary confinement and isolation are methods which are likely to damage prisoners' mental and physical health. Along with a monetary fine, solitary confinement is the most common punishment taken

¹ Article 56 of the 1971 Prison Ordinance

against Palestinian prisoners, even though it constitutes an extreme form of punishment. Moreover, both solitary confinement and isolation are commonly used during interrogation sessions, as a means of pressure and coercion into forced confessions. It can last for the entire interrogation period of 75 days.

The Practice of isolation and solitary confinement in the Israeli Prison System

- Conditions of imprisonment

Prisoners held in solitary confinement are completely cut off from the world. They are held in empty cells, consisting only of a mattress, 24 hours a day. When a prisoner wishes to use the bathroom, he/she must call out for a guard and wait until one agrees to take him/her out. Besides their clothes, prisoners are not allowed to take anything with them into confinement.

In isolation, prisoners stay in their cell 23 hours a day. Their cells are between 1.5 x 2 and 3 x 3.5 meters, and include a toilet and a shower. They are allowed to have a one hour walk, but without the presence of other prisoners. In many cases, they remain handcuffed for the entire duration of the walk.

In the cells there is usually a window measuring 50X100 cm, which does not allow in sufficient light and air from the outside. Sometimes, cells are lit only by artificial lights for months. Most prisoners report that insects and sometimes mice inhabit the cells².

- Visits and access to education

Israel imposes many restrictions on the visits of Palestinian prisoners. Visits for Palestinian prisoners from the West Bank take place once every two weeks for 30 to 45 minutes. Prisoners from Gaza can only receive visits once every two months. Only immediate family members are allowed to visit and a glass window separates the visitor and the prisoner. Moreover, because the majority of the Palestinian prisoners are moved in prisons inside Israel, in complete breach of international humanitarian law³, families who want to visit prisoners need to ask for permits for each visit. Criteria for receiving entry permits to Israel gravely restrict the ability of Palestinians to visit: anyone who has been arrested for criminal or security offenses is automatically prohibited from visiting prisons, most 16 to 45 years old men do not receive permits, and hundreds of families may not receive permits on undisclosed security grounds. Authorities can also forbid a prisoner from receiving visits for security reasons. E., who has been held in isolation for about three and a half years, was denied visits for about three years. A., who suffers from mental health problems, was denied visits for five months⁴. The obstacles on family visits have an even greater impact on prisoners held in isolation as they are already isolated from other prisoners.

Since 2012, all prisoners held in isolation, including children, are banned from receiving higher education. This ban includes the "Tawjihee" (or "injaz") exam, Palestinian high school's final exam which is mandatory to pursue higher education. They are also forbidden from receiving informal education.

- Consequences on mental health

² Addameer and Physicians for Human Rights, *The Sounds of Silence*, 2008 p.12

³ Article 76 of the IVth Geneva convention stipulates that "Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein"

⁴ Addameer and Physicians for Human Rights, *The Sounds of Silence*, 2008 p.16

Isolation causes mental and physical damages, both among mentally healthy prisoners and among prisoners with a history of mental illness: sleep disturbances, depression and anxiety, psychotic reactions. Solitary confinement may also aggravate psychotic states or arouse mental problems that were previously dormant.

While confinement is difficult for people who do not suffer from mental illnesses, it may be intolerable for those who suffer from these and who make up a significant proportion of the prisoner population. Moreover, according to Addameer's findings, some Palestinian prisoners are isolated because they suffer from mental health issues.

While some of the mental damage caused by confinement may diminish after confinement ends, some do not, and damage may be permanent to the point of amounting to an inability to function in society after their release from prison.

Furthermore, mental health services in Israeli prisons are inadequate and deficient. In Addameer's report, *The sound of silence*, all the prisoners in isolation who were treated by a psychiatrist reported that it was limited to administering medication. Mental health services do not include therapy sessions, and most psychiatrists only speak Hebrew. One prisoner testified: "*The treatment consists of prescribing pills only; no psychiatrist talks with you or listens to you. The appointment with the psychiatrist is only a few minutes long. During the appointment, the psychiatrist re-prescribes the medication.*"⁵

- **Destroying the spirit of prisoners: punishing the hunger strikers and political prisoners**

In addition to the use of isolation as a punishment for "offences", or for cases of mental illness, isolation is also used to silence prominent Palestinian political figures, both as a form of punishment and as a way to destroy the spirit of prisoners and their ability to organize. Since 1967, 800 000 Palestinians have been the victim of some form of detention by Israel, which represents 40% of the adult male population. Prisoners, throughout the years have been able to mobilize and galvanize to request their rights and shine the light on the injustice of occupation and its justice system: "*It is well-known that the Palestinian prisoners' movement constitutes a unique experiment. It has succeeded in creating an internal structure that upholds the prisoners' militant spirit while forging links of solidarity, brotherhood, cooperation, and partnership between them, and supporting their readiness to make the sacrifices necessary to counter the occupation.*"⁶ Thus, isolating key political figures has allowed the IPS to keep them from organizing the prisoners and from participating to the external political discourse. The best illustration of this practice is the almost systematic isolation of prisoners leading the organization of hunger strikes. 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. According to the Palestinian Committee of Prisoners' Affairs, in 2017, Israeli Prison Service (IPS) officials forcibly moved hunger-striking prisoners to different sections of Israeli jails, confiscated clothes and personal belongings and placed leading figures in solitary confinement.⁷ This hunger strike was launched by an estimated 1 500 prisoners.

For individual hunger strikes, every hunger striking prisoner is systematically put in solitary confinement or individual isolation as a punitive measure. The best illustration of this practice are the 8 current hunger

⁵ Addameer and Physicians for Human Rights, *The Sounds of Silence*, 2008 p.29

⁶ Marwan Barghouti, *Journal of Palestine Studies*, Vol. 43, No. 4

⁷ <https://www.aljazeera.com/news/2017/04/israel-punishes-hunger-striking-palestinian-prisoners-170418085139953.html>

strikers (as of October 2019), which were all put in solitary confinement and forbidden from receiving family visit.

Solitary confinement and Isolation under International Law

Treaties, international agreements, and other non-binding instruments that address prisoners' rights attempt to limit its use significantly or prohibit it under certain circumstances.

International Law and other non-binding international instruments

Article 10(1) of the **International Covenant on Civil and Political Rights (ICCPR)**, which Israel has ratified, provides that *"all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"* and article Article 10(3) stipulates that *"The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation...."*

The **Standard Minimum Rules for the Treatment of Prisoners** stipulates in article 31 that *"Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences"*. These rules are not binding under international law but are widely recognized as standards every nation should abide to.

In certain circumstances (reasons for its application, length, effects...), solitary confinement and isolation can amount to torture and thus *"to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture"*⁸, both ratified by Israel.

In its 2011 interim report, **the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**, Juan E. Méndez stated that *"the longer the duration of solitary confinement or the greater the uncertainty regarding the length of time, the greater the risk of serious and irreparable harm to the inmate that may constitute cruel, inhuman or degrading treatment or punishment or even torture."*⁹. Moreover, according to him, using solitary confinement for purposes such as punishment or obtaining information, and if the resulting pain or suffering are severe, can amount to torture¹⁰. In his 2015 report, the Special Rapporteur stated that *"the imposition of solitary confinement, of any duration, on children constitutes cruel, inhuman or degrading treatment or punishment or even torture"*¹¹. One has to remind that torture is prohibited in all circumstances under international law, and can constitute a war crime.

⁸ U.N. Doc. A/66/268, Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez, 2011. <https://undocs.org/A/66/268>

⁹ Ibid

¹⁰ U.N. Doc A/68/295, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez, 2013. <https://undocs.org/A/68/295>

¹¹ U.N. Doc A/HRC/28/68, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez, 2015 <https://undocs.org/A/HRC/28/68>