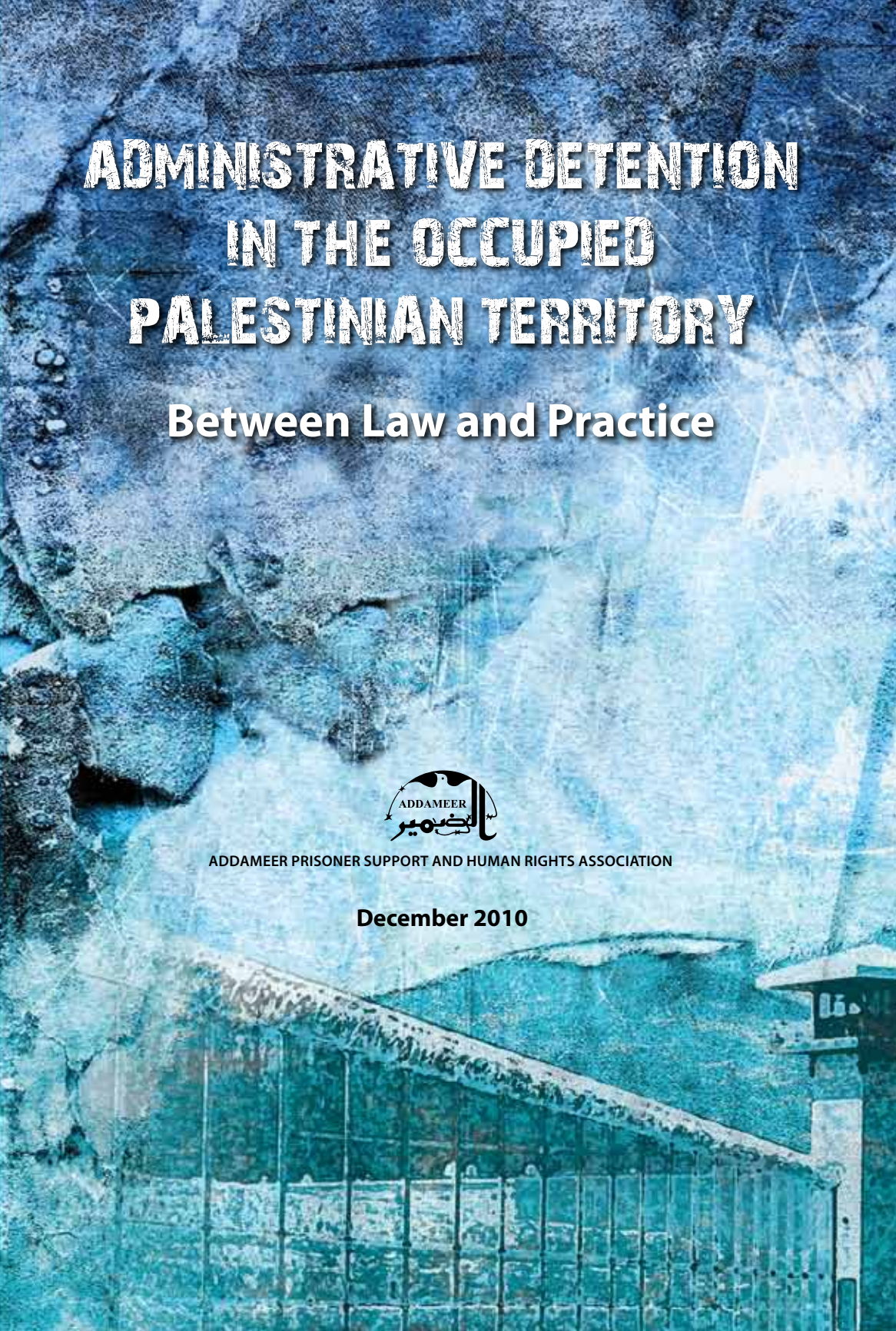
ADMINISTRATIVE DETENTION IN THE OCCUPIED PALESTINIAN TERRITORY

Between Law and Practice



ADDAMEER PRISONER SUPPORT AND HUMAN RIGHTS ASSOCIATION

December 2010

Stop Administrative Detention

Administrative Detention in the Occupied Palestinian Territory

Between Law and Practice

Addameer Prisoner Support and Human Rights Association

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Preface

The defense and promotion of the rights of administrative detainees has been a central focus of Addameer Prisoner Support and Human Rights Association's (Addameer) legal activities. Addameer has also sought to expose the ways in which Israel's use of administrative detention, as a means of collective punishment and of exacting revenge on Palestinians in retaliation for exercising their political and civil rights, contravenes the permitted uses of administrative detention in international law. In March 2009, Addameer notably launched an international advocacy and lobbying campaign to stop administrative detention and highlight Israel's illegal practices in this regard.

This research paper outlines the general principles and procedural safeguards governing administrative detention in international law with the aim of revealing the ways in which the Israeli Occupying Forces' (IOF) use of administrative detention in the occupied Palestinian territory (oPt) violates these provisions. It is a follow up to a legal study conducted by Addameer in November 2008 on Israel's policy of administrative detention.[1] While the legal study focused on the basic safeguards governing administrative detention in international law and Israel's violations thereof, this research paper sheds light on the procedural safeguards available to administrative detainees under international law and in the regulations of the Israeli Prison Service (IPS),[2] in particular IPS Order No. 04/02/00 on "Holding Conditions for Administrative Detainees". After comparing international standards with the regulations of the IPS, it reviews the IPS procedures by which these safeguards are to be implemented and analyzes the IPS's application of these regulations in practice.

[1] See Addameer, Administrative Detention in the Occupied Palestinian Territory—A Legal Analysis Report, November 2008 (available at http://addameer.info/wp-content/images/administrative-detention-analysis-report-final.pdf).

[2] In 2005 the responsibility for the detention of prisoners was transferred from the IOF to the IPS under the Ministry of Public Security.

Introduction

Administrative detention is defined as the deprivation of liberty of a person at the request not of the judiciary but of the executive branch.[3] Under administration detention, no criminal charges are brought against the detainee and there is no intention of bringing him or her to trial.

Due to the lack of due process and the risk of abuse in detaining a person without charge or trial, strict restrictions have been placed on administrative detention in international law. While international humanitarian law does allow an Occupying Power to use administrative detention, it can only do so under explicit and exceptional circumstances. Article 78 of the Fourth Geneva Convention of 1949[4] gives an Occupying Power the authority to take safety measures concerning protected persons (according to the Convention, inhabitants of the occupied territories are considered to be "protected persons"), including internment, only for "imperative reasons of security" and not as a means of punishment. The Israeli authorities, however, have, as a matter of policy, used administrative detention indiscriminately and as a means of punishment.

Administrative detention has been an integral part of Israel's military legal system throughout the 43 years of occupation of Palestinian territory and there are no signs that the practice will be discontinued in the near or distant future. According to testimonies collected by Addameer, detainees have been held in administrative detention for periods ranging from one month to as much as six years. The frequency of the use of administrative detention has fluctuated throughout Israel's occupation and has been steadily rising since the outbreak of the Second Intifada in September 2000, when it has specifically been used as a means of collective punishment against Palestinians opposing the occupation.

Administrative detention in the oPt is ordered by a military commander

[3] Jelena Pejic, "Procedural principles and safeguards for internment/administrative detention in armed conflict and other situations of violence" International Review of the Red Cross, Vol. 87, No. 858, June 2005, p. 375. The author is a Legal Advisor at the International Committee of the Red Cross and Head of the ICRC Project on the Reaffirmation and Development of International Humanitarian Law.

[4] Convention (IV) Relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

and based on "security reasons". The security reasons are broad enough to include non-violent political subversion and virtually any act of resistance against the Israeli occupation. Detainees are held without trial and neither they nor their attorneys are allowed to see the "secret evidence" against them. While detainees may appeal the detention, such a right is rendered meaningless without access to the information on which the detention order is based. Israel has therefore made a mockery out of the system of procedural safeguards in both domestic and international law regarding the right to freedom and due process.

Statistics

In 2009, 1,307 administrative detention orders were issued according to the reports of the military courts in Ofer and Ketziot. This represents a 41 percent decline compared to 2008, when 2,222 orders were issued.

Administrative Detention Orders in 2009 (Source: 2009 Report of the Military Courts)

		Court of Administrative Detainees in Ofer	Court of Administrative Detainees in Ketziot	Total	
Orders issued in 2009		464	843	1,307	
Cases opened in 2009		13	41	54	
Orders confirmed by the military judge's decision	Confirmed as drafted	140	484	624	715
	Confirmed partially	21	70	91	
Orders shortened by the military judge's decision	Shortened without any conditions	104	262	366	633
	Shortened with the condition that no further renewal will be imposed	20	88	108	
	Shortened by days only	153	6	159	
Orders cancelled by the military judge		20	27	47	
Orders cancelled by the military commander		10	4	14	
Number of judicial review hearings		1,053	582	1,635	

Number of Administrative Detainees, 2008 – 2009 (Source: Addameer)

Year	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec
2008	813	788	776	790	776	738	692	738	604	583	569	546
2009	564	549	540	506	500	440	392	440	335	324	291	278

Administrative Detention in Numbers, 2005 – 2009 (Source: 2009 Report of the Military Courts)

	2005	2006	2007	2008	2009
New administrative detention orders	2,573	2,934	3,059	2,222	1,307
Confirmed orders	715	949	1,204	960	1,054
Orders cancelled by the military judge	1,312	1,818	1,652	1,154	633
Orders cancelled by the military commander	202	72	28	20	14

Distribution of Administrative Detainees, 31/12/2009 (Source: Israeli Prison Service)

Eshel	Nafha	Ketziot	Shikma	Ayalon	Hadarim	Nitzan	Ofer	Kishon	Megiddo	HaSharon (women)	Total
1	4	203	2	1	1	1	40	1	20	3	277

General Principles Governing Administrative Detention

The following principles form the general principles governing administrative detention in international law:[5]

1. Administrative detention is an exceptional measure

The Fourth Geneva Convention holds that administrative detention is the most severe form of detention that an Occupying Power can use against protected persons against whom no criminal proceedings have been initiated. Recourse to administrative detention is only permissible if the security of the state makes it "absolutely necessary" (Article 42) or for "imperative reasons of security" (Article 78).

The exceptional nature of administrative detention lies in the fact that it allows an authority to deprive persons of their freedom without initiating criminal proceedings against them, on the basis that they pose a real threat to the security of the state. Nonetheless, the Convention does not define the concept of "state security", leaving it to the Occupying Power to determine what kind of threat can be considered severe enough to justify administrative detention. However, there are clear cases in which administrative detention cannot be applied. For example, detention for the sole purpose of gathering intelligence cannot be justified as long as the person in question does not pose a real threat to the security of the state. Additionally, internment or administrative detention for the purpose of using the detainee as a bargaining chip is not justifiable and amounts to hostage-taking.

2. Administrative detention is not a substitute for criminal prosecution

Administrative detention cannot be used as a substitute for a criminal prosecution where there is insufficient evidence to obtain a conviction. A person suspected of committing a criminal offence has the right to enjoy the additional judicial guarantees provided for both in international

[5] For the purposes of this research paper, the basic safeguards will only be listed and described briefly. For more information about the basic safeguards provided in international law and Israel's violations thereof, refer to Addameer's study, supra, note 1. The general principles and procedural safeguards listed below are taken from the list provided in Pejic, supra, note 2.

humanitarian and human rights law, including the right to trial before an independent, impartial tribunal established by law.[6]

3. Administrative detention must be ordered on an individual basis

According to international humanitarian law, collective administrative detention, regardless of the emergency conditions in which it may occur, is illegal. Furthermore, collective administrative detention of enemy nationals in a state's own territory is considered to be a form of collective punishment, which is prohibited under article 75 (2) (d) of Additional Protocol I to the Geneva Conventions.[7] This does not mean that the occupying power cannot detain a large number of people, but that the decision on internment and any review thereof must be considered individually.

4. Administrative detention must cease as soon as the reasons for it cease to exist

Because of its exceptional nature, administrative detention should only be used in extreme cases to eliminate a present or future threat to state security. The reason and justification for detention therefore expire as soon as this "danger" ends, as stated in article 132 of the Fourth Geneva Convention and article 75 (3) of the Additional Protocol I. Indeed, a person who poses a danger today might not pose a danger after conditions on the ground change. The rationale behind this principle is that no one should be deprived of their freedom indefinitely and the safeguard therefore facilitates the release of detainees as soon as the circumstances justifying the detention expire.

5. Administrative detention must conform with the principle of legality

The principle of legality means that a person may be deprived of liberty only for reasons (substantive aspect) and in accordance with procedures (procedural aspect) that are provided for by local and international law.

The Geneva Conventions and their Additional Protocols provide the international legal standards that are to be applied to administrative detention in armed conflict and other situations of violence. The Fourth

[6] Pejic, supra, note 2, p. 381.

[7] 6 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977.

Geneva Convention specifies that a protected person may be interned only if "the security of the Detaining Power makes it absolutely necessary" (Article 42) or for "imperative reasons of security" (Article 78). The Fourth Geneva Convention also articulates the procedures that must be followed for internment to be lawful. Article 78, for example, stipulates that decisions regarding internment "shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention." Deprivation of liberty that is not in conformity with the various rules provided for in the Convention may constitute "unlawful confinement" (Article 147).

Procedural Safeguards for Administrative Detention

1. The right to know the reasons for administrative detention

Any person who is administratively detained must be informed promptly of the reasons for the detention. The information provided must be sufficiently detailed and must be conveyed in a language he or she understands so as to enable him or her to challenge the legality of the detention. Where an initial detention decision is upheld after being reviewed, the reasons for continued detention must also be provided. This right can be considered as part of the obligation to treat detainees humanely, as a person's uncertainty about the reasons for his or her detention can constitute a source of severe psychological stress.

Although this procedural safeguard is not included in the Fourth Geneva Convention, it is one of the "Fundamental Guarantees" provided for in Article 75 (3) of Additional Protocol I. Additionally, it is also enshrined in most of the relevant human rights treaties, including in Article 9 (2) of the International Covenant on Civil and Political Rights and in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.[8]

The detention of Palestinians by the IOF is carried out on the basis of article 78 (a-d) of Military Order No. 378 of 1970 on "Security regulations" (Judea and Samaria), as well as subsequent military orders amending that order. Based on these orders, any Palestinian can be held for eight days without being informed of the reason for his or her arrest and without being brought before a judge on the basis of secret information that neither the detainees nor their lawyers have access to. The detainee can also be prevented from meeting with his or her lawyer for two days and the IOF is not required to notify the family of the detainee of the reasons for, or the location of, his or her detention. Thus, it can be concluded that the IOF violate the right of Palestinian detainees to be informed of the reasons for their detention, as provided for in international humanitarian and human rights law.

[8] Principles 10; 11 (2); 12 (1) (a) and (2)

2. The right to be registered and held in a recognized place of detention

Any person administratively detained must be registered and held in an officially recognized place of administrative detention. Humanitarian law applicable to international armed conflicts contains several provisions and extensive requirements concerning the registration of protected persons deprived of their liberty and notification of their own authorities (Article 136 of the Fourth Geneva Convention), visits to places of detention (Article 143), and transmission of information about such persons to their next of kin (Articles 106, 107, 137 and 138).

Article 1 of IPS Order No. 04/02/00 "Holding Conditions for Administrative Detainees" holds that an "administrative detainee can only be detained in the place specified in the administrative detention order issued against him". Additionally, Military Order No. 1226 of 1988, as amended by Military Order No. 1591, states that any transfer of the detainee from his or her place of detention must be conditional on the amendment of the administrative detention order by the Minister of Defense,[9] and any amendment should clearly specify the new place of detention. Yet in 2002 during the Israeli invasion of the West Bank, the provision requiring that the place of detention be listed in administrative detention orders was abolished and has yet to be reinstated. Furthermore, the IPS regularly transfers administrative detainees from one prison to another without notifying the Palestinian National Authority. Administrative detainees are usually informed of their transfer only the night before their transfer and are therefore unable to inform their families.

3. The right to be detained separately from sentenced and pre-trial prisoners

In contradiction to the provisions of Article 84 of the Fourth Geneva Convention and Article 2 (a) of IPS Order No. 04/02/00, which require that administrative detainees be held separately from sentenced and pre-trial prisoners, the IPS continues to detain administrative detainees in the same sections and wards as sentenced and pre-trial prisoners.

In some wards in Negev Prison, for example, administrative detainees are held in wards for sentenced prisoners and are subjected to IPS regulations designed for security prisoners instead of the regulations applicable to

[9] The Minister of Defense is responsible for issuing administrative detention orders. In the case of the West Bank, the military commander of the area is responsible for issuing the orders, as stated in Military Order No. 1226, Article 2.

administrative detainees. In Ofer Prison, the IPS even punished detainees after they demanded to be placed in special sections for administrative detainees. Fawzi Qawariq, a 28-year-old administrative detainee, was placed in solitary confinement after making such a request.

4. The right to challenge the lawfulness of detention

This procedural guarantee is related to the administrative detainee's right to know the reasons for his or her detention. Administrative detention orders in the oPt are issued by the military commander of the area based on a classified evidence that is not accessible to the detainee or his or her lawyer, thereby undermining the chances of a successful right to appeal the detention order.

Nonetheless, it is important to review the provisions of international humanitarian and human rights law as a measure against which to assess the provisions of Israeli Military Order No. 1226 and its amendments, as well as of the regulations of the IPS, so as to better understand the Israeli military judiciary's attempts to legitimize its work.

Article 43 of the Fourth Geneva Convention, applicable to international armed conflicts, stipulates that an "appropriate court or administrative board" shall be charged with reviewing the initial decision to intern a civilian in the territory of a party to the conflict. Under Article 78 of the Fourth Geneva Convention, applicable in occupied territory, decisions on internment must be made "according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay". Article 78 also adds that if the decision is upheld, it should be periodically reviewed, if possible every six months, by a "competent body set up" by the Occupying Power.

Article 5 (a) of Military Order No. 1226 establishes an Appeals Board charged with reviewing every appeal and to submit its recommendations on the appeal to the military commander of the area. Although this appears to conform to international humanitarian law, in practice, reviews of appeals are carried out in contravention of these standards and the relevant military orders. Appeals are reviewed by a military judge and not by an administrative board or a court as called for in Article 43 of the Fourth Geneva Convention. Additionally, these reviews lack the legal procedures that would enable

them to achieve their official purpose, which is to decide whether the administrative detainee has been deprived of his or her freedom on proper grounds, and whether he or she should be released.[10]

In practice, the military judge responsible for the judicial review of the administrative detention order does not actually review the detainee's full classified file, but only a short summary thereof. Furthermore, the judge is not given the opportunity to verify the allegations of the Israeli Security Agency (ISA) officers responsible for preparing the detainee's file or ask how the data was obtained. These practices continue despite a ruling of the Israeli High Court of Justice (HCJ) in the case *HCJ 7015/02—Ajuri and others v. Military Commander in the West Bank*,[11] which affirmed that Article 78 of Fourth Geneva Convention provides the legal framework for the question of administrative detention.

Furthermore, the authority that initially issued the administrative detention order and deprived the person of his or her freedom and the body charged with reviewing the appeal should not be the same if the right to petition or appeal is to be effective. Indeed, the characteristics of the party carrying out the review and the existence of other procedural safeguards are crucial. In Israel, however, such distinctions are not enforced. Both military judges and military prosecutors serve in the army and work in the same legal unit within the army. They are also appointed according to the same hierarchical process and, in many cases, move between these positions, with many prosecutors having worked as judges and vice versa.

It is therefore evident that appeals in the Israeli military judicial system lose their significance and cannot play the role laid out for them in international humanitarian law. However, by providing for basic procedural safeguards in principle, including the right to appeal, and by referring to the provisions of international law, Israel's military legal regime, seeks to legitimize its illegal use of administrative detention and cover up its policy of collective punishment.

5. The right to have the lawfulness of detention reviewed by an independent and impartial body

The provisions of international humanitarian law, particularly the Fourth Geneva Convention, allow the Occupying Power to use administrative

[10] The fact that review hearings rarely result in the release of detainees can be seen in the statistics obtained from the military courts.

[11] Available at elyon1.court.gov.il/files_eng/02/150/070/a15/02070150.a15.pdf.

detention against local residents in accordance with the provisions of the Convention. Although Israel refuses to accept the applicability of the Fourth Geneva Convention to the oPt, it still tries to legitimize its policies by referring to the rights of the Occupying Power provided for in the Convention.

As discussed above, according to Article 78 applicable in occupied territory, a decision on internment must be made pursuant to a "regular procedure" prescribed by the Occupying Power in accordance with the Convention. Article 78 adds that the periodic review of such a decision must be undertaken by a "competent body set up" by the Occupying Power. Article 43 on the other hand stipulates that an "appropriate court or administrative board" shall be in charge of reviewing the initial internment decision. Despite the difference in language, the International Committee of the Red Cross (ICRC) commentary on Article 78 states that the Occupying Power "must observe the stipulations in Article 43" and that it is up to the Occupying Power "to entrust the consideration of appeals either to a 'court' or a 'board'."[12]

A state's freedom to choose between a "court or administrative board" is explained in the commentary as allowing "sufficient flexibility to take into account the usage in different States". The commentary adds that "where the decision is an administrative one, it must not be made by one official but by an administrative board offering the necessary guarantees of independence and impartiality."[13]

6. The right to the necessary medical care and attention

The right to medical care and attention is a component of the essential obligation that all persons deprived of their liberty must be treated humanely. The general rule laid down in Article 81 of the Fourth Geneva Convention stipulates that: "Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health." More specific rules on hygiene and medical attention are included in Articles 91 and 92.[14]

[12] See Commentary on Article 78 of the Fourth Geneva Convention.

[13] See Commentary on Article 43 of the Fourth Geneva Convention.

[14] These include providing a suitable clinic in every prison run by a qualified doctor and where detainees can receive the medical care that they need and follow a suitable diet; special treatment for maternity cases and detainees with serious diseases requiring special treatment, surgery or hospitalization; where possible treatment should be administered by doctors of the same nationality as the detainee; detainees should not be prevented from visiting the competent medical authorities; detainees have the right to receive an official certificate stating the nature of their disease or injury, the period of treatment and care provided to them; treatment of detainees, along with any other vital surgery should be free of charge.

Some of these rules stated in Article 92 provide that detainees are entitled to a medical examination at least once a month in order to monitor their general state of health, nutrition and cleanliness, and to detect contagious diseases. Such inspections include a radioscopic examination at least once a year.

6.1 The right to medical care and treatment in the IPS regulations

Article 8 of IPS Order No. 04/02/00 recognizes the right of administrative detainees to medical care, but this right is limited to the following provisions:

a) An administrative detainee is examined by the prison doctor once a month, and at any time when the need arises for such an examination.

b) An administrative detainee is entitled to receive medical care and equipment based on his health condition and on the regulations applicable in the prison.

6.2 The right to medical care and treatment in practice

Like all other prisoners, administrative detainees suffer from unhealthy detention conditions. These conditions lead to a number of diseases that are exacerbated by the IPS's deliberate policy of medical negligence toward Palestinian prisoners, a policy that has led to the deaths of more than 196 prisoners over the years.

The location and architecture of the prisons are among the issues that the detaining authority should focus on to ensure that detainees are held in humane conditions. As previously mentioned, however, administration detention orders no longer specify the location of detention, leaving the decision up to the IPS, which often chooses to exacerbate the detainee's punishment by holding him or her far away from his or her area of residence. The IPS also ignores the health conditions of the detainees when deciding where to hold them.

Case Study 1

Name: Ali Abdul Rahman Mahmoud Jaradat

Date of birth: 3/7/1955

Marital status: Married and father of an 18-year old daughter named Saja and a 15-year old son named Basil.

Date of detention: 22/4/2008

Place of detention: Several prisons

Detention and health condition:
The writer and journalist Ali Jaradat spent a total of 11 years in administrative detention over several periods of time, a matter that led to the deterioration of his health. During his detention in Ofer prison on 5/3/2004, Jaradat suffered from an angina as a result of obstruction in his coronary arteries, following which he underwent a coronary catheterization to implant a stent in his coronary artery.

The latest detention and medical negligence:
During his most recent period of administrative detention in April 2008, Jaradat, in addition to the danger of experiencing another angina, suffered from several health conditions, including high blood pressure and diabetes. Despite the prison administration's prior knowledge of the prisoner's precarious health condition, it decided to detain him in prisons that were not located close to hospitals.

On 11/5/2009 Jaradat was transferred from Ofer prison, which is located near Ramallah, his hometown, to Ketziot Prison in the Negev Desert. After the prison doctor reviewed his medical file, he refused to admit him to the prison because of the long distance between the prison and the IPS's closest hospital.

After spending one night in Ketziot Prison, Jaradat was transferred to Eshel Prison near Beersheba hospital. After spending four months at Eshel Prison, the IPS decided, on 13/9/2009, to return Jaradat to Ketziot Prison, but the prison doctor again strongly objected to his admission because of concerns about the possible deterioration of his health and the difficulty of transporting him quickly to the nearest hospital in case of emergency.

Following a week-long detention at Ketziot Prison, Jaradat was transferred to

the Ohal Keidar prison for three weeks, before being returned to Eshel Prison; the circumstances reflect the IPS's willingness to worsen administrative detainees' suffering by adopting a policy of regular transfers that inevitably exacerbate their health condition.

Jaradat recounts: "Besides the harm caused by the transfer, especially in light of my health condition, the most dangerous thing is my detention in prisons that exacerbate my health condition, as diabetes, blood pressure and heart diseases require regular walking for long periods, which is what I could do in Ofer Prison, where ventilation is better and tents are open to the yard all the time, unlike other prisons like Eshel, Nafha, Ketziot and Ohal Keidar."

The policy of medical negligence adopted by the IPS against administrative detainees takes several forms. In the first 18 months of his detention, Jaradat was not allowed to receive the medical examination necessary to monitor his health condition, such as an echocardiogram and other cardiac tests, blood sugar tests, and regular examinations to check on the stent implant in his coronary.

Jaradat suffered difficult detention conditions as a result of the deterioration in his health and his repeated transfers between several prisons and courts. Furthermore, throughout his detention in Eshel and Ohal Keidar prisons, Jaradat did not enjoy the rights he was entitled to as an administrative detainee. His wife was not allowed to visit him, and he was prevented from practicing his work as a writer and journalist as he was not allowed to have books for reading or writing.

Case Study 2

Name: Isam Rashid Ashqar

Date and place of birth: 10/6/1958, Saida village in Tulkarem district.

Place of residence: Nablus

Profession: Physics Professor at the Najah National University

Date of detention: 17/3/2009

Place of detention: Megiddo prison

Health condition:
For two years, Dr. Ashqar has been suffering from high blood pressure, rapid heart rate and atherosclerosis in the kidneys. As a result, prison doctors recommended surgery for his atherosclerosis. Following such an operation and in order for the surgery to be successful, a patient needs time to recover. Since these conditions are not provided in prison, Dr. Ashqar refused to undergo the surgery preferring to regularly take medication and visit the prison doctor.

Prisoner transfer:
In light of his health condition, the prison doctor recommended that Dr. Ashqar be transported in a private car to avoid running the risk of increasing his blood pressure. Additionally, his health condition advises against confining him in an enclosed and crowded place full of cigarette smoke, which is the case in the prisoner transfer vehicles used by the Nahshon forces in charge of prisoner transfers.

The Nahshon forces refused to respect the prison doctor's recommendations and used a private car to transport Dr. Ashqar only from Megiddo Prison to Al Jalameh Detention Center. From there, he was transferred to the regular transfer vehicle.

Dr. Ashqar describes his tedious transfer journey, saying: "All the way, the Nahshon refused to allow me to use the toilet, which made the journey more difficult. The next morning, they took me to Ofer court before returning me to Ramleh Prison at 7 p.m. If the court session is scheduled in the middle of the week, we are transferred back to the prison where we are detained the day after our court hearing. If the session is on Thursday or Sunday, however,

the detainee has to spend up to three nights in the Ramleh transit prison, before being taken back to the prison where he or she is detained."

The return journey is not any better, says Dr. Ashqar, adding "The journey starts at 6 a.m., when we are subjected to a difficult body search. Our belongings are searched in detail and we face insults and degrading treatment by the Nahshon forces. The transfer vehicle first goes to Hadarim Prison, then Atlit Prison[15] before arriving at Damon prison and then Al Jalameh Prison, where the escort patrol is changed. Then, we continue our journey to Harmoun prison, Shatta Prison, and finally Gilboa Prison before returning to Megiddo Prison; that is because the transfer route makes Megiddo Prison the last stop. At each of the aforementioned prison stops, the waiting period ranges from half an hour to one hour, during which time they refuse to allow me or any of the other detainees to exit the vehicle to use the toilet, except in Al Jalameh Prison, where the Nahshon forces sometimes arbitrarily select 2-6 detainees from those who asked to go to the toilet, and other times prevent all detainees from using the toilet. That is the way they treat me when transferring me despite the doctor's medical recommendation. They endanger my life as they do not care for the detainees' rights enshrined in the regulations".

7. The right to submit complaints about the detainee's treatment and conditions of detention

Article 101 of the Fourth Geneva Convention provides for the right of administrative detainees to make submissions to the detaining authority regarding the treatment they receive and their detention conditions.

The purpose of this safeguard is to enable the detaining authority to prevent and stop possible violations against the rights of administrative detainees. It therefore requires the detaining authority to put in place a procedure that allows the submission and speedy and effective examination of complaints and petitions. The submission of such complaints must not have any adverse consequences for the petitioner.

[15] A prison for Israeli military personnel.

Procedures Governing Administrative Detention in the Regulations of the Israeli Prison Service

After reviewing the general principles governing administrative detention and the procedural safeguards provided in the Fourth Geneva Convention, it is important to review the procedures dictated by the IPS regulations regarding administrative detention, in particular IPS Order No. 04/02/00, as this can contribute to a better understanding of the IOF's practice and motivations.

1. Separation from other prisoners

Although Article 2 of IPS Order No. 04/02/00 stipulates that administrative detainees must be detained separately from other convicted and pre-trial prisoners, in practice this has not always been applied. The IPS recently stopped reserving specific prison sections for administrative detainees in Ketziot Prison and administrative detainees are now held in the same wards and conditions as other prisoners. Administrative detainees in Ofer Prison and female administrative detainees in HaSharon Prison are in the same situation.

2. Clothes

While the IPS distributes uniforms to convicted prisoners, Article 5 of IPS Order No. 04/02/00 establishes the right of administrative detainees to wear their own clothes as long as it does not harm their health or the good order of the prison. Testimonies from Ofer Prison, however, indicate that administrative detainees are made to wear prison uniforms when transferred between prisons, when transported to and from the military court, and sometimes even when meeting with their lawyers. These administrative detainees are therefore only allowed to wear their own clothes in their wards and cells.

The IPS is also known to prevent detainees' families from bringing clothes during visits. Despite the fact that, according to the IPS's regulations on security prisoners, detainees are allowed to receive clothes from their family

once every three months, the IPS regularly prevents the entry of clothes under such pretexts as their non-conformity with the IPS standards. Families, however, are never informed, whether in writing or verbally, of the standards in place regarding quality and color of clothes. In a testimony given to an Addameer lawyer, administrative detainee Majeda Fidda revealed that she and other detainees were prevented from receiving clothes from their families for a period of six months, without being given any explanation for the decision by the prison administration.

Based on prisoner testimonies that were commissioned for this paper, it is also evident that the IPS, with the aim of increasing the detainee's families' financial burden, does not allow administrative detainees to receive shoes from their families during visits, and instead requires them to buy them from the prison canteen at high prices ranging from NIS 250-500 (approximately US$ 70-130).

3. Special meals

Article 6 of IPS Order No. 04/02/00 explicitly states that administrative detainees must be provided food of an identical quality to that served to the prison guards. Nonetheless, the reality is different, not least because administrative detainees are not detained in special wards as required by IPS regulations.

At Ketziot Prison, administrative detainees are served meals similar to those served to convicted prisoners and not to those served to the prison guards. Prisoners' testimonies indicate that the meals are insufficient and do not provide the necessary nutritional balance as they lack proteins. This forces administrative detainees to buy approximately 85 percent of their food from the canteen. Furthermore, only civilian prisoners are now allowed to prepare their own food, with security and administrative detainees barred from such basic privileges.

In Ofer Prison, administrative detainees endure detention conditions not very different from those of administrative detainees in Ketziot Prison in terms of quality and quantity of meals, except that the prison administration allows them to prepare their own food.

Majeda Fidda explained that the prison administration prevents female administrative detainees from using metal or glass kitchenware to prepare or eat their food, forcing them to use plastic spoons that melt when cooking.

4. Personal items

Article 10 of IPS Order No. 04/02/00 establishes the right of administrative detainees to receive necessary personal items, as long as they are not prohibited by IPS Order 03/33/00. In reality, administrative detainees are prevented from receiving many necessary products from outside the prison, including those required for their medical needs, as discussed above in the section on the right to health.

Article 10 (b) further states that administrative detainees shall be provided with basic toiletries when entering prison. Nonetheless, administrative detainees in Ketziot, Ofer and Megiddo prisons are deprived of this right. Sometimes, detainees are unable to buy products to this end because they do not have canteen accounts, particularly during the first period of administrative detention.

As for detergents to clean the rooms and wards, administrative detainees have noted that prison administrations have drastically decreased the monthly allowances of detergents provided to them, forcing them to buy such products from the canteen.

Fathi al-Hayek, held in administrative detention since 28/11/2006, told an Addameer lawyer who visited him at Ketziot Prison on 27/10/2009, that when the Israeli army was responsible for the detention of prisoners, the prison administration used to supply all basic toiletries. The current prison administration, however, had stopped supplying hand soap, shaving cream and toothpaste four months before the lawyer's visit, although detergents were still available. Basic toiletries were therefore paid for by the detainees themselves, while products needed to clean the prison were provided by the prison administration, which supplied these products once a month in insufficient quality and quality (the amount provided covered only 20 percent of the detainees' needs and the rest had to be bought by the detainees themselves).

5. Access to books and newspapers

Article 10 (d) of IPS Order No. 04/05/00 on the rights of administrative detainees to access books, newspapers and recreational activities states that detainees have the right to receive newspapers and books. Administrative detainees in particular assign great significance to reading books and local and international newspapers so as to fully utilize their time in detention.

The IPS allows some detainees to receive the Jerusalemite Al Quds newspaper, "provided that they are not Hamas detainees".[16] Some detainees are allowed to subscribe to some Hebrew or English language Israeli newspapers based on the prison administration's evaluation of the prisoner's behavior. The prisoner is expected to pay for the annual subscription, which amounts to NIS 600 (approximately US$ 150) and even then, newspapers usually arrive two weeks late.

The IPS effectively wages a constant war on the detainees' right to read. Testimonies from Ketziot Prison indicate that the prison administration imposes tough restrictions on the entry of books, including on detainees' applications to receive books, under the usual pretext of security concerns.

Administrative detainee Abd Al-Jaber Al-Fuqaha, held since 7/5/2007, told an Addameer lawyer during his visit in Ketziot prison on 12/10/2009 that the prison administration refuses to allow books to enter 99 percent of the time, and that he personally was only able to receive four books throughout his period of detention, regardless of their content. This policy appears inconsistent with the provisions of IPS Order No. 04/05/00, which holds that the prison security officer or another prison official should decide on a set list of books that are allowed into the prison.

In Ofer Prison, administrative detainees were prevented from receiving books through family visits throughout 2009. The only way for the detainees to read and study was through the ICRC's initiative to bring 200 books into the prison in June 2009.

The IPS's policy in practice contradicts its own regulations on the rights of administrative detainees, including IPS Order No. 04/05/00. Article 2 (d) of that order states that detainees can buy books and magazines that are not prohibited in Article 2 (c), which bans pornography, anti-Semitic publications and publications opposing or insulting religions. Permitted publications must meet the following conditions:

- Books or magazines printed and published in Israel.
- Books or magazines printed and published abroad or in the "Judea, Samaria or Gaza areas", the circulation of which has not been prohibited by the prison security officer.

[16] After Palestinian factions captured Israeli soldier Gilad Shalit in the Gaza Strip in 2006, detainees belonging to Hamas have started to suffer additional harassment and deprivation of basic rights.

Article 1 of Order No. 04/05/00 allows for the establishment of libraries in the prisons to enable detainees to borrow books, and further provides for the detainees' right to buy books from outside the prison. Article 6 also allows the ICRC to provide books to the libraries of prisons where detainees from the oPt are held, after examination by the IPS.

6. Exemption from work

According to Article 11 of IPS Order No. 04/02/00, administrative detainees are exempted from doing any work except for keeping their beds and cells orderly. However, the IPS's disregard for the basic rights of administrative detainees, including the right to be detained separately from other prisoners, results in the violation this exemption. In practice, administrative detainees are forced to take part in the cleaning of the prison yards without any remuneration, just like other prisoners. Some also have to wash their own laundry, as some prisons like Ketziot Prison lack washing machines.

7. Correspondence

Article 16 of IPS Order No. 04/02/00 states that an administrative detainee has the right to send four letters and four postcards every month. Letters to state authorities and the detainee's lawyer are not included in this number.

The IPS regulations, however, give the prison director or prison security officer the right to prevent detainees from enjoying this right on "security" grounds, without elaborating on what these may be. Furthermore, the prison director may refuse to send or deliver the detainee's correspondence for reasons of national security without notifying the detainee of that decision. The IPS's policy therefore renders the right of detainees to communicate with the outside world meaningless.

Administrative detainee Majeda Fidda told an Addameer lawyer that the prison administration does not deliver solidarity letters written to her by activists in coordination with Addameer. Other testimonies indicate that detainees do not trust the IPS to respect the privacy of their correspondence and are even wary of taking advantage of their right to send and receive letters out of concern that Israeli intelligence might use any information in the correspondence to harm the detainees or their relatives. These concerns are not totally baseless as the IPS is entitled to examine any correspondence and prison guards have in the past read letters out loud in front of other detainees in order to humiliate the recipient or sender.

8. Telephone calls

Article 17 of IPS Order No. 04/02/00 provides for the right of administrative detainees to make telephone calls based on Order No. 03/02/00 "Regulations on Security Prisoners". According to Article 19 of that order, as a general rule, security prisoners are not allowed to use telephones, with the exception of prisoners meeting the conditions outlined in Article 4 (b) (1) and (b) (2), which address the need to hold security prisoners and detainees separately from other prisoners. These conditions state that:

- The detainee should not be a member of an enemy organization, have contributed to an offence committed by an enemy organization, or have already spent a third of his or her sentence (or ten years in prison, whichever comes first), subject to the Internal Security Service's (ISS) determination that the detainee has severed all direct and indirect contact with the enemy organization.
- The ISS has determined that the detainee does not pose a danger to national security even when the detainee is not detained in solitary confinement or when no special limitations are imposed on him or her.

Since security detainees are generally not allowed to make telephone calls, the inclusion of this right in the IPS regulations on administrative detainees can be seen as evidence that the regulations were devised to take into account the possibility of Israelis being held in administrative detention (which happens very rarely). Furthermore, it should be noted that conditioning permission for an administrative detainee to make telephone calls on an ISS evaluation can only further the interests of two groups: Israeli prisoners and security prisoners collaborating with ISS agents.

9. Pressure and bargaining

In 2009, the Megiddo Prison administration attempted to trick one of the detainees into ceding his rights as an administrative detainee. Ghassan Ibrahim Hamdan told an Addameer lawyer what happened:

"On 28/6/2009, they took me from Ofer to Megiddo Prison and immediately placed me in one of the cells for sentenced prisoners without telling me why. The officer told me that another officer named Mark would visit me the next day to explain the matter. On the fourth day in that cell, "Mark" came and told me that I was placed in that cell because there was no room

for me in the administrative detainees' section. He suggested that I go to the sentenced prisoners' section and sign a written commitment agreeing to receive the same treatment as other prisoners instead of the treatment reserved for administrative detainees. Although I refused to sign, they put me in ward 6 instead of ward 3, which is reserved for administrative detainees.

The following days, I continued to wear my personal clothes. When a security officer wearing the IPS uniform objected to this, I refused to change clothes and told him that I was an administrative detainee and they did not have the right to object. When I realized that they did not want to grant me my rights as an administrative detainee, I persisted. Following my return from a court session in Ofer, they placed me in ward 3 with other administrative detainees who had been transferred from Ketziot Prison as a punishment.

In ward 3, our detention conditions as administrative detainees were better, and we were less dependent on the canteen than in other wards and prisons. I only bought cigarettes between family visits. However, we were not allowed to communicate with the other administrative detainees on the ward."

10. Submitting complaints

IPS Order No. 04/02/00 does not address the issue of administrative detainees' right to submit complaints. However, the rights of administrative detainees in this regard can be inferred from the rights accorded to security prisoners in IPS regulations, which uphold the right to submit complaints.[17]

In practice, the IPS regularly violates administrative detainees' right to submit complaints, a policy that is in line with Israel's excessive use of administrative detention orders and its ultimate goal of breaking the detainees' will. A review of the IPS's regulations and of prisoner testimonies reveals the extent to which IPS policy in practice in this regard takes precedence over its regulations.

Administrative detainee Nawaf Sawarka, detained since 20/8/2008, told an Addameer lawyer during his visit on 18/11/2009 to Ketziot Prison that administrative detainees submit many complaints to the prison

[17] The relevant IPS regulations in this regard are Article 14 (a) of IPS Order No. 03/02/00 "Regulations on Security Prisoners"; Article 63 (a) of the (new version) of the prison law of 1971; Article 24 (b) of the prisons regulations of 1978; and Prison Directorate Order No. 04/31/00 on "Prisoners' Petitions".

administration, but these are in vain since the administration automatically refuses to respond to their complaints and objections. He added that the administration imposes restrictions on the procedural details of submitting complaints and objections. For instance, the administration requires that complaints be written in Hebrew. It then takes a long time to respond to the complaints and usually rejects them, with the aim of forcing detainees to give up their demands.

One of the channels that administrative detainees may use to submit grievances about their detention conditions or any deprivation of their rights as administrative detainees is a petition to the Israeli HCJ. The IPS, however, complicates the detainees' access to this channel by requiring petitioners to pay NIS 80 (US$ 23) in fees deducted from their personal canteen account.

Case Study 3

Name: Loai Sati Mohammad Ashqar

Residence before arrest: Saida, Tulkarem

Date of birth: 14/12/1976

Profession: Aluminum light-structures designer and maker

Marital status: Married with one child

Date of arrest: Sent to administrative detention on 9/4/2008

Place of detention: Megiddo Prison Section 9

Mr. Ashqar submitted an application to move to a room on the ground floor, which is reserved for convicted prisoners, where he would have easier access to the prison's facilities. Mr. Ashqar's left leg is completely paralyzed as a result of being tortured during interrogation in 2005 at Kishon Interrogation Center, and he is therefore wheelchair bound.

Mr. Ashqar, like all other detainees, endures difficult detention conditions, which are exacerbated by his injury and poor health condition. This has led him to write 16 complaints and objections to the prison director. "The ward officers told the detainees that they aren't afraid of petitions filed against them, but rather they encourage detainees to write them".

Of the 16 complaints and objections, the IPS has only reviewed one of them, a process that took five months (it was filed in May 2009 and only processed for investigation in November 2009). The petition was filed against a prison guard who beat Mr. Ashqar in an attempt to force him to use the stairs despite his paralysis.

The prison administration tried to use Mr. Ashqar's application to be moved to the ground floor as a bargaining chip to make him give up his rights as an administrative detainee. Mr. Ashqar, however, refused to bargain over his rights as an administrative detainee, including his right to receive humane treatment and to be held in conditions suitable to his health conditions, which were caused by Israeli military interrogators in the first place. As a result of Mr. Ashqar's refusal to compromise on his rights, the prison intelligence closed his canteen account in an attempt to prevent him from practicing his right to file a petition to the HCJ, as the prison regulations stipulate that the petitioner must pay the fees from his personal canteen account.

11. Punishments

Administrative detainees can be subject to several forms of disciplinary punishments, including:

- Fines ranging from NIS 200-450 (approximately US$ 50-120).
- Solitary confinement in cells.
- Deprivation of continuing their university education.
- Transfer from prison to prison.
- Deprivation of family visits.
- Deprivation of certain rights; such as closing the detainee's canteen account.

The IPS does not hesitate to impose a range of penalties against the detainee for one single violation, which contradicts the basic and procedural safeguards for the detainees and constitutes a violation of the provisions enshrined in the Fourth Geneva Convention.

Administrative detainee Salim Ayesh, held in Ketziot Prison, recounts: "The prison administration does not respect the rights of administrative detainees and does not treat them according to the provisions of international humanitarian law. On the contrary, it imposes a number of penalties on them just for being late at the roll call. Penalties include solitary confinement and fines ranging from NIS 200-400. This could happen more than once in one month for a single detainee, even though late arrival at the roll call may just be the result of the detainee's poor health."

12. Access to administrative detainees

Article 143 of the Fourth Geneva Convention stipulates that representatives of the ICRC have permission to visit detainees in their places of detention and shall have "access to all premises occupied by protected persons".

Although IPS Order No. 04/02/00 does not discuss the visits of ICRC representatives IPS Order No. 03/02/00 "Regulations on Security Prisoners" stipulates that ICRC representative visits are to be conducted based on IPS Order No. 03/11/00.

The testimonies of a number of administrative detainees, however, reveal that these detainees have not received any visits from ICRC representatives

throughout their detention. The continued difficult conditions faced by administrative detainees, as a result of the IPS's systematic violation of their rights, reveal that the decades-long ICRC representative visits have not succeeded in making the IPS take up its responsibilities as required by international humanitarian law and its own regulations.

As for lawyers' visits to administrative detainees, Article 15 of IPS Order No. 04/02/00, which is in line with IPS Order No. 00/34/04 regarding lawyers' visits to security prisoners, states that they may be conducted from behind a glass separation. Only in exceptional cases are lawyers allowed to visit detainees without a glass separation and to bring with them documents and stationary.

A number of restrictions prevent lawyers from carrying out their duties. The prison administration is notably reluctant to provide the required facilities for lawyers to take notes while meeting with their clients. Meetings are carried out from behind a glass separation and lawyers and detainees must talk to each other through a telephone. Lawyers only have a 15 cm-wide stone ledge as support for writing their notes.[18]

Prison directors have never used their prerogative to allow lawyers to meet with detainees without a glass separation. On the contrary, prison directors order their staff to be firm in dealing with the lawyers by preventing them from providing the detainee with any written documents, including documents relating to their own cases.

Additionally, administrative detainees are kept handcuffed when leaving their room to meet the lawyers and when they arrive in the meeting room, their legs are chained instead. During lawyers' visits, detainees are not allowed to use any stationary or paper, which prevents them from writing down any information and negatively affects the proceedings and purpose of the visit.

In an attempt to discourage detainees from contacting their lawyers, the Ketziot and Megiddo prison administrations, where a majority of administrative detainees are detained, make detainees wait for as much as four or even five hours before allowing them to meet with their lawyers, despite the fact that lawyers coordinate their visits and arrival times with the prison administration a few days in advance. Furthermore, detainees are not

[18] For additional details on harassment to lawyers see Addameer, Defending Palestinian Prisoners—A report on the Status of Defense Lawyers in the Israeli Military Courts, April 2008 (available at http://addameer.info/wp-content/images/defending-palestinian-prisoners.pdf).

allowed to return to their rooms until all other detainees have met with their lawyers. They therefore often spend more than eight hours in the waiting room. This constitutes a form of physical and psychological pressure, which is used to pressure detainees into ceding their rights.

13. Attending court hearings

An administrative detainee and his or her lawyer should be able to be present at the initial review of the lawfulness of detention, as well as at periodical reviews. The aim of this safeguard is to be able to present the administrative detainee's position and contest the claims made against him or her. Although the Fourth Geneva Convention does not explicitly provide for this right, its absence in practice often leads to a violation of the convention's goal of protecting detainees and preventing arbitrary detention.

In the Israeli military legal system, detainees and their lawyers can attend court hearings reviewing administrative detention orders, but their attendance is rendered meaningless because they are not permitted to see the secret evidence submitted to the judge by the ISA and on which the detention orders are based.

In most cases, the detainees' very attendance at the judicial review sessions can be a source of anguish because their families are not allowed to attend these hearings. Furthermore, detainees have to be transported from their prison several days before the hearing in inhuman conditions to attend the sessions, which are held at Ofer Prison near Ramallah.

Israel therefore not only renders the implementation of this safeguard meaningless but also manages to turn it into an additional burden that exacerbates the detainees' already harsh detention conditions, a situation that puts the necessity of the detainees' attendance at these hearings into question.

14. Contact with family members through correspondence and visits

14.1 Stipulations of the Fourth Geneva Convention

The preservation of family life is one of the basic aims of international humanitarian law and forms part of the broader commitment to treating persons humanely. In the case of detainees, the right to communicate

with family members and receive visits from them is aimed at ensuring proper conditions and treatment in detention.

Articles 106, 107 and 116 of the Fourth Geneva Convention contain provisions designed to facilitate communication between detainees and their families through correspondence and visits within a reasonable time frame, with exceptions provided only in very exceptional cases. In no case may the enjoyment of this right be contingent on the level of the detainee's cooperation with the detaining authority or be used as an incentive or reward for any other behavior.[19]

14.2 Stipulations in IPS Order No. 04/02/00

According to IPS Order No. 04/02/00, an administrative detainee is allowed to receive family visits once every two weeks for a half an hour. These visits are limited to immediate relatives: parents, grandparents, spouses, children, grandchildren, brothers and sisters. Although Article 13 (d) states that the number of visitors should not exceed three per visit, the regulation authorizes the prison director to increase the number of visitors, allow individuals other than immediate relatives to visit the administrative detainee and increase the duration of visits. It is also within the prison director's prerogative to require the presence of guards during visits for security reasons, and the prison guard, in turn, has the right to stop the visit, if he deems it necessary for security concerns. Administrative detainees have the right to appeal the guard's decision to the prison director in writing.

One of the administrative detainees interviewed for this paper says that he submitted a petition to the Ketziot Prison administration calling on them to allow him to receive 30-minute visits every week. The administration replied that although administrative detainees have the right to have 30-minute visits every week, the International Committee of the Red Cross (ICRC) cannot arrange for weekly visits, and thus, detainees are allowed 45-minute visits every two weeks. When contacted, the ICRC confirmed that it does not have the capacity to organize weekly bus transportation for the families of detainees and has therefore asked the prison administration to extend the family visits to one hour every two weeks. The administration refused however, and ultimately visits were extended only to 45 minutes every two weeks.

[19] Pejic, supra, note 2, p. 390.

14.3 Preventing visits in the IPS regulations

Article 14 (a) of IPS Order No. 04/02/00 gives the prison director the authority to refuse certain visits for national security reasons, but only in writing and on the condition of notifying the administrative detainee. Furthermore, the decision should be reviewed by the director every two months to ensure that the security reasons still apply. The administrative detainee has the right to appeal the decision to the Minister of Defense or someone appointed by the Minister.

14.4 Preventing visits in practice

In practice, most administrative detainees are allowed to receive family visits once every two weeks for 45 minutes. These visits are conducted simultaneously for large groups of approximately 40 detainees, causing problems of overcrowding. In the past, the detainee and the visitors were separated by iron bars during visits, but in 2004, the IPS replaced this with a glass window, with detainees having to use a phone to speak with their visitors. As a result of the noise and the overcrowding, it is difficult for the detainees and their families to hear each other.

In preparation for this research paper, a team of lawyers visited 20 administrative detainees in different prisons. The questionnaire used to evaluate the situation of the detainees revealed that 15 out of the 20 administrative detainees, or 75 percent of them, are prevented from receiving visits from their immediate relatives.

It is also worth mentioning that, contrary to the requirements of Article 14 of IPS Order No. 04/02/00, the decision to prohibit visits is not always ordered by the prison director, but also by the Israeli Civil Administration in the oPt.

The answers to the questionnaire indicate that the military apparatus prevent relatives, mainly wives and mothers, from visiting administrative detainees by denying them permission to enter the 1948 territories, where Israeli prisons are located, on the basis of "security concerns".

In addition, as is the case for all families of prisoners, the journey undertaken to visit relatives in administrative detention is long and difficult, with family members enduring insults and delays at the prison checkpoints and gates.

Conclusion

It is clear when reviewing the IPS regulations governing the detention conditions of administrative detainees and comparing them to the IPS's actual practice that Palestinian administrative detainees are systematically subjected to serious abuses and violations. Israel's use of administrative detention in the oPt is in line neither with the provisions of international humanitarian law nor with its own military orders. Furthermore, the IPS's practice of ignoring the rights of Palestinian administrative detainees enshrined in its own regulations appears to be a systematic and deliberate policy.

Administrative detention is distinctive from other forms of detention because it deprives detainees of the safeguards of a fair trial and is initiated by the executive and not the judicial branch. The fact that administrative detainees are also deprived of the special rights afforded to them during detention in the regulations of the IPS confirms that the security and military apparatuses of the occupation act within a complementary framework aimed at breaking the morale of the Palestinians and stripping them of their rights. Although administrative detainees' rights are not respected in practice, detainees sometimes succeed in demanding certain rights from the IPS or reach agreements with prison administrations on certain issues. When this is the case, however, the IPS regulations are not amended to incorporate those achievements and the IPS is therefore able to backtrack on its promises. This also makes it difficult for the legal organizations working on these issues to hold the IPS accountable for violations of such agreements.

In order to ensure the continued defense and promotion of the rights of administrative detainees:

- International humanitarian law, particularly the Fourth Geneva Convention, should be clearly recognized as the legal reference governing administrative detainees' rights.
- Copies of the IPS regulations in general, and IPS Order No. 04/02/00 in particular, should be made available to detainees and legal organizations to help them pressure the IPS into ensuring the conformity of its regulations with the provisions of the Fourth Geneva Convention on the one hand, and into treating administrative detainees according to the rights afforded to them in the IPS regulations on the other.

Annex

General Prison Administration

General Prison Directorate Order

Chief of Security and Prisoners Section

Chapter 03- Prisons Valid as of 11/02/2003

IPS Order No. 00/02/04

Holding Conditions for Administrative Detainees

1	a	An administrative detainee can only be detained in the place specified in the administrative detention order against him or her.	Place of detention
	b	An administrative detainee can be transferred from the prison where he is detained to another prison only after the Minister of Defense clearly changes the place of administrative detention specified in the administrative detention order.	
2	a	An administrative detainee shall be detained separately from convicted and pre-trial prisoners.	Separation from convicted and pre-trial prisoners
	b	Despite the aforementioned Article 2 (a), in special conditions, and for reasons related to the interests of the administrative detainee, it is possible to detain administrative detainees with convicted and pre-trial prisoners, based on the opinion of a doctor or a psychologist. This provision concerns administrative detainees with psychological or mental disorders, including different levels of retardation or epilepsy, as well as administrative detainees who need to be treated or protected.	
	c	Administrative detainees can be detained in one ward or one room.	

3	a	The prison director is authorized to order the detention of an administrative detainee separately from other administrative detainees if he is convinced that this is necessary for one of the following reasons: 1- State security. 2- Protecting order in the prison. 3- Protecting the safety or health of the administrative detainee. 4- Protecting the safety or health of the other administrative detainees.	Solitary confinement
	b	The prison director is authorized to order the detention of an administrative detainee in solitary confinement if the detainee has requested so himself or herself in writing.	
	c	The decision of the director to detain the detainee in solitary confinement shall be issued in writing and indicate the justifications for the decision, and the decision shall be filed in the administrative detainee's file.	
	d	1- The prison director shall review the solitary confinement detention order once every two months at least. 2- When reviewing the solitary confinement order, the prison director shall examine if the solitary confinement justifications are still valid, and review them again. 3- The prison director shall document the renewed discussion, including his justifications, and keep that documentation in the administrative detainee's personal file. 4- The prison director is competent to move the time of the solitary confinement order's review forward based on a request by the administrative detainee.	
	e	No administrative detainee shall be detained in solitary confinement for a period exceeding three continuous months, except with a detailed written decision of the Minister of Defense, which shall be kept in the personal file of the administrative detainee	

4		An administrative detainee who is detained in solitary confinement for more than three months can object the decision of the prison director to the Minister of Defense. The prison director is to convey this objection to the office of the Minister of Defense through the Judicial Advisor of the Prison Service, who attaches his opinion on the objection. This is done without any delay, and the continued detention of the administrative detainee in solitary detention shall be based on the decision of the Minister of Defense.	Objection to solitary confinement
5	a	An administrative detainee has the right to wear his or her own clothes as long as they do not harm his or her health or the general order in the prison.	Clothes
	b	An administrative detainee shall not wear the prison uniform unless he or she so requests and his or her request is accepted.	
	d	An administrative detainee shall not wear any decorations or emblems, whatsoever, except for symbols of religious nature, provided that they are made of a certain material and of an acceptable size.	
6	a	An administrative detainee shall be provided with meals similar to those served to the prison guards.	Food
	b	The prison director is authorized to allow the administrative detainee to receive food from external sources, according to the regulations in place for the prisoners detained in the same prison.	
7	a	The prison director is authorized to allow the administrative detainee to buy supplies from the prison canteen.	Canteen
	b	Withdrawing this benefit is done according to the rules of the General Prisons Law Order No. 04/17/00.	

8	a	An administrative detainee shall be examined by the prison doctor once a month, and at any other time whenever there is a need for this examination.	Medical treatment
	b	An administrative detainee is entitled to receive medical treatment and equipment based on his health condition, and according to the relevant regulations in place at the prison.	
	c	If an administrative detainee refuses to receive the treatment recommended by the prison director, and the doctor believes that there is a danger to the detainee's health or life, the use of moderate force shall be admissible, in the presence of the doctor, to give the detainee the necessary medicine. This use of force shall be subject to the IPS Order 02.04.00.	
9	a	An administrative detainee must spend two hours outside daily.	Daily recreation
	b	Following a written request by the administrative detainee, the prison director is authorized to exempt him of the daily recreation.	
	c	The prison director is authorized to curtail the administrative detainee's right to daily recreation for three continuous three months if he is convinced of the necessity of this measure to protect state security, or to protect the safety and health of the administrative detainee.	
10	a	An administrative detainee is entitled to receive necessary personal items if they were kept in the deposit section at the time of entering the administrative detention, and only if they are not prohibited in IPS Order No. 03.33.00	Personal belongings
	b	An administrative detainee shall be provided, upon his admission, with detergents and basic toiletries required for his or her personal use.	
	c	An administrative detainee is entitled to possess a copy of the Torah, Quran or the Bible depending on his or her religion, in addition to other sacred items required for prayer.	
	d	An administrative detainee is entitled to receive newspapers and books for reading according to the rules of Order No. 04.50.00	

11	a	An administrative detainee is exempted from all work, with the exception of making his or her bed and cleaning his or her room.	Work
	b	The prison director is authorized to allow the administrative detainee, based on his written request, to work in the prison in a work defined by the director. An administrative detainee is entitled to remuneration for doing that work according to the rules stipulated in Order No. 04.62.00	
12.	a	Administrative detainees who are smokers shall be provided with cigarettes of equal quality and quantity to those provided to the other prisoners in the same prison.	Cigarettes
	b	An administrative detainee is entitled to receive 400 cigarettes from outside every month.	
13	a	An administrative detainee is allowed to receive visits from his family members once every two weeks for half an hour. Family members include parents, grandparents, husband, wife, grandchildren, brothers or sisters, and children.	Visits
	b	The prison director is entitled to allow any other person, other than family members, to visit the administrative detainee.	
	c	A prison director is authorized to allow the members of the administrative detainee's family to visit the detainee in addition to the number of visits stipulated in paragraph (a). This privilege shall be withdrawn according to the provisions of Order No. 04.17.00	
	d	The number of visitors per visit shall not exceed three visitors in addition to the husband, wife or children of the administrative detainee, except with the permission of the prison director.	
	e	The prison director is authorized to order the presence of a guard during visits if he is convinced that the security of the state, public or prison so requires.	
	f	The guard, in whose presence the visit is conducted, is authorized to halt the visit on the aforementioned grounds, and the administrative detainee has the right to object in writing against this decision to the prison director.	

14	a	The prison director is authorized to prevent the visit of any visitor if he is convinced that it is necessary for state security. The decision of the director shall be written along with the justifications and documented in the personal file of the administrative detainee, who will be informed of the decision.	Preventing visits
	b	The prison director shall review the decision once every two months, and he is competent to move the time of the review forward. His decision shall be in writing and documented in the personal file of the administrative detainee.	
	c	The administrative detainee has the right to object to a decision to prevent visits for more than two months to the Minister of Defense or deputy minister of defense.	
15		Lawyers' visits to administrative detainees shall be carried out according to the provisions of Order No. 04.34.00	Lawyer's visits

16	a	An administrative detainee has the right to send four letters and four cards every month.	Letters
	b	The prison director is authorized to increase the quantity of letters and cards that the administrative detainee is allowed to send. Withdrawing this privilege shall be done in accordance with Order No. 04.17.00.	
	c	Letters sent by the administrative detainee to the state authorities or the lawyer shall not count among the letters he or she is allowed to send.	
	d	An administrative detainee has the right to receive the letters sent to him or her.	
	e	The prison director is authorized to monitor the letters and cards sent or received by the administrative detainee, and he is competent to intercept any correspondence for reasons of state security. The aforementioned prohibition can relate to parts of the letter or card, and the prison director is authorized not to inform the administrative detainee that the letter was not sent (except for the letter sent by the detainee to his family members), or delivered to the administrative detainee.	
	f	Based on the above paragraphs, the provisions of Order No. 04.43.00 apply to dealing with the letters sent to and by the administrative detainees.	
17		Telephone calls for administrative detainees shall be in accordance with the provisions of Order No. 03.02.00.	Telephone communication

18		A decision on the following subjects shall only be made after deliberating with the security services: a- Solitary confinement for reasons related to the state security. b- Preventing the daily recreation for reasons related to the state security. c- Giving permission to a non-family member to visit the administrative detainee. d- The presence of a guard during visits for reasons related to the state security. e- Preventing visits to the administrative detainee for reasons related to the state security, including review of such a decision. f- Preventing the sending or receipt a letter or a card for reasons that have to do with the state security. g- Telephone calls.	Duty of deliberation
19		An administrative detainee is not allowed to possess money, and any money on the detainee at the time of detention shall be deposited in the deposits section.	Money
20		Disciplinary rules stipulated in chapter (c) of Order No. 04.13.00 shall apply to administrative detainees.	Discipline
21		These regulations apply to administrative detainees who were arrested based on the security legislations in place in the oPt, with the following amendments: a- Article 1 does not apply. b- In Articles 4 and 14 (c) above, the Military Commander of the area shall replace the Minister of Defense. **Implementing agency**: Prison director.	Detainees from the oPt

Addameer Prisoner Support and Human Rights Association

Addameer is a Palestinian non-governmental, civil institution that focuses on human rights issues. Established in 1992 by a group of activists interested in human rights, the center offers support to Palestinian prisoners and detainees, advocates for the rights of political prisoners, and works to end torture through monitoring, legal procedures and solidarity campaigns.

Addameer is surrounded by a group of grassroots supporters and volunteers, Addama'er, who share Addameer's beliefs and goals, actively participate in its activities, and endeavor to support Addameer both financially and morally.

Addameer is a member of the Palestinian NGO Network, the Palestinian Coalition for the Defense of Civil Rights and Liberties, and the Regional and International Coalition to Abolish the Death Penalty. Addameer is also a member of the International Network against Torture.

Addameer (Arabic for conscience) believes in the importance of building a free and democratic Palestinian society based on justice, equality, rule of law and respect for human rights within the larger framework of the right to self-determination.

Addameer strives to:

- End torture and other forms of cruel, inhuman or degrading treatment or punishment
- Abolish the death penalty
- End arbitrary detention and arrests
- Guarantee fair, impartial, and public trials
- Support political prisoners by providing them with legal aid and social and moral assistance and undertaking advocacy on their behalf
- Push for legislation that guarantees human rights and basic freedoms and ensure its implementation on the ground
- Raise awareness of human rights and rule of law issues in the local community
- Ensure respect for democratic values in the local community, based on political diversity and freedom of opinion and expression
- Lobby for international support and solidarity for Palestinians' legitimate rights

Addameer's programs:

1. Legal Aid: Addameer provides free legal counseling and representation to Palestinian detainees and their families. Services include legal defense; regular visits to prisons, detention and interrogation centers; submission of petitions and complaints against cases of torture, ill-treatment and other violations.
2. Research and Documentation: Addameer documents violations committed against Palestinian detainees, monitors their detention conditions through regular lawyers' visits, and collects statistics and lists of detainees, providing the basis for the publication of research papers and reports.
3. Advocacy and Lobbying: Addameer publishes statements and urgent appeals on behalf of detainees, submits alternative reports and complaints to the United Nations and other international forums, and briefs international delegations as well as the media on the situation of Palestinian prisoners. The advocacy and lobbying unit also works towards building local, Arab and international solidarity campaigns to oppose torture and arbitrary detention while supporting the rights of Palestinian prisoners.
4. Training and Awareness: Addameer raises local awareness regarding prisoners' rights on three levels: by training Palestinian lawyers on the laws and procedures used in Israeli military courts to improve their efficiency; by increasing the prisoners' own knowledge; and by reviving grassroots human rights activism and volunteerism and working closely with community activists to increase their knowledge of civil and political rights from an international humanitarian law and international human rights perspective.

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