

Attention Needed: Palestinian Prisoners Launch Boycott of Israeli Military Courts

Date: 04 Feb. 2022

To: Special Rapporteur on the Situation of Human Rights in the Palestinian Territory Occupied Since 1967, Mr. S. Michael Lynk;

Dear Prof. Michael Lynk,

Proceeding from their full awareness that the Israeli judicial system -starting from the initial hearings, to appeal hearings and finally the High Court- are but a façade to cover up for Israeli crimes, 500 Palestinian administrative detainees in Israeli prisons [decided](#), since the beginning of this year, to boycott the Israeli judicial system; including hiring lawyers or even appearing before the courts, until Israel provides guarantees that it would stop the illegal administrative detention policy and provide a fair trial.

This comes after dozens of individual hunger strikes carried out by administrative detainees over the past few years in protest against their administrative detention. Many of them reached a critical stage and were hospitalised for long periods until Israeli authorities agreed to release them on a fixed date. One of the last was [Hisham Abu Hawwash](#), forty-year-old father of five who was on hunger strike for 141 days. While the individual hunger strikes have brought about individual solutions, they are not getting results on a collective level – they are not impacting the policy as a policy. Administrative detention policy has expanded in recent years to include women, children and elderly people.

All this comes as a clear message from Palestinian administrative detainees: “this cannot go on, and this nightmare has got to end!”

We are writing to you with the hope that there could be some policy change where more pressure is exerted on Israeli authorities to protect those illegally detained prisoners.

Legal Background

Despite the international condemnation of the administrative detention policy, Israel continues to rely on it quite regularly based on Article 111 of the [1945 Defence \(Emergency\) Regulations](#) by the British Mandate in Palestine. In 1979, these provisions regarding administrative detention [were replaced](#) to incorporate into the Israeli Law on Authority in State of Emergency, and became part of Israeli statutory law. Israel justifies this law based on Article 42 and 78 of the Fourth Geneva Convention 1949. Article 78 clearly limits this sort of measures to “necessary... imperative reasons of security”. Ironically, Israel rejects the applicability of the very same Convention on the occupied Palestinian territories!

In the [ICRC commentary](#), it is emphasized that Article 78 and the measures of administrative detention “can only be ordered for real and imperative reasons of security; their exceptional character must be preserved”. On contrast to this, Israeli executive authority has been weaponizing administrative detention to achieve political agenda at the expense of international law and the human rights of those prisoners and suppress Palestinians without providing any evidence.

UN Human Rights Committee [stated](#) as well that Palestinians detained “do not have the same rights to judicial review as persons detained in Israel under ordinary law,” and some detainees were held as “bargaining chips” in negotiations with third parties. Saying that it “considers the present application of administrative detention to be incompatible with articles 7 and 16 of the covenant [on Civil and Political Rights], neither of which allow for derogation in times of public emergency,”.

Moreover, administrative detention contradicts the guarantees for a fair trial as presented in [Article 75](#) of the First Additional Protocol to Geneva Conventions; which are also a part of [customary international law](#). Therefore, this constitutes an illegal detention, which, according to [Article 147](#) of the Fourth Geneva Convention, is a grave breach of the Convention.

Recommendations

Dear Prof. Michael Lynk,

We can but try to imagine how flawed a judicial system would be when the military judge, ruling over the administrative detention verdicts, is assigned by the very same military ruler who issues the administrative detention verdicts! The result is that around 500, and accumulatively thousands since 1967, have been held illegally for months or even years without any fair trial or serious evaluation of the disclosed information that is used to put them behind bars

We hope that, in your capacity as the Special Rapporteur, you may call for the halt of this policy and the release of those prisoners kept illegally under administrative detention orders. An intensive work with the other UN instruments to bring up the topic to the attention of HRC member states is needed, in order to put pressure on Israel, leading to a real change in the whole policy of administrative detention.

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