
amnesty international

PALESTINIAN AUTHORITY AND ISRAEL AND THE OCCUPIED TERRITORIES: Unfair trial of Shaher and Yusef al-Ra'i

PUBLIC

AI INDEX:
Action Ref.:
Date:MDE 02/08/98
EMRAN 02/98
November

1998

DISTR:

SC/CO/GR

Amnesty International's Concerns

Amnesty International (AI) is concerned that Shaher and Yusef al-Ra'i have been sentenced to 12 years' imprisonment after being given a trial which did not meet the requirements of a 'fair trial' as specified in international standards. Amnesty International is calling for Shaher and Yusef al-Ra'i to be retried in the ordinary courts in a trial which meets international fair trial standards.

On 3 September 1995 two cousins, Shaher and Yusef al-Ra'i, were arrested by the Palestinian General Intelligence in 'Ain al-Sultan refugee camp near Jericho. They were detained in the General Intelligence headquarters for 10 days without being questioned. Both are members of a leftist group, the Popular

**INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED
KINGDOM**

Front for the Liberation of Palestine (PFLP), which is opposed to the Oslo Accords signed by Israel and the Palestine Liberation Organization (PLO).

On 13 September the two men were ordered into a jeep and taken to *al-Muqata'a*, the Palestinian Authority's administrative headquarters in Jericho. There they

**INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED
KINGDOM**

were brought before the military prosecutor, who told them they had been detained in connection with the killing of two Israeli hikers. Their arrest was based on the confession of a Palestinian detainee held in an Israeli prison. This was the first time Shaher and Yusef al-Ra'i had heard why they had been arrested, and they told the military prosecutor that they knew nothing about the killing.

At 2am, without any warning, the cousins were brought before the State Security Court (SSC). The judge was a member of the security forces of the Palestinian Authority (PA), as was the prosecutor. The two men were represented by a court-appointed lawyer and had no chance to speak to him before the trial. They were given no chance to say anything in their own defence. The whole trial lasted between 10 and 15 minutes. They were sentenced to 12 years' imprisonment, on charges of "disturbing public security" and "opposing the peace process". They were not charged with offences linked to the killing of the two Israeli hikers in Wadi Qilt.

Shaher and Yusef al-Ra'i remain detained in Jericho Central Prison. However, Jamal al-Hindi, the detainee who implicated the cousins in the killing of the Israeli hikers, is now free. He claims that he made a false statement implicating himself and Shaher and Yusef al-Ra'i because he was being tortured by the Israeli authorities. Shaher and Yusef al-Ra'i are appealing for a retrial which meets international standards for fair trial. They have carried out several hunger strikes in protest at their detention.

The Israeli authorities are reported to be continuing to maintain pressure on the PA to ensure that Shaher and Yusef al-Ra'i remain in prison. In October 1998 the Israeli government and the Palestine Liberation Organization signed the Wye River Memorandum. The PA reaffirmed its commitment to cooperate with Israel in the field of security and the Israeli government undertook to transfer an additional area of land in the West Bank to Palestinian control. Amnesty International is concerned that the PA's commitment to cooperate with Israel in the field of security may result in additional persons being detained by the PA and either being sentenced to long terms of imprisonment after unfair trials or being held without charge or trial, with the encouragement of the international community, in particular Israel and the United States. After the Wye River negotiations, the Israeli government gave the PA a list of 30 persons whom it required to be detained on the grounds that they had killed Israeli citizens. The names of Shaher and Yusef al-Ra'i were on this list.

In a recent interview on 4 November 1998, published in the Israeli daily newspaper *Ha'Aretz*, the PA's Minister of Justice Freih Abu Meddein stated in relation to Shaher and Yusef al-Ra'i, "I am sure that they are innocent. Israel has released the suspect it arrested, while the other two are still in prison. This is ridiculous. We intend to release them, but Israel will make a lot of noise. When I

recommended their release, Israel automatically complained to the Americans that the Palestinians have started with the 'revolving door'."

Background

Amnesty International has had grave concerns about the PA's use of the SSC since it was first established by presidential decree in February 1995. Defendants have been members of Palestinian political groups opposed to policies of the Israeli and Palestinian authorities, and to the current peace process in particular.

Trials before the SSC are grossly unfair, violating minimum requirements of international law including: the right to a fair and public trial by a competent, independent, impartial court; the right to have adequate time to prepare one's defence; the right to be defended by a lawyer of one's choice; and the right to appeal to a higher court.

SSC trials are frequently held secretly in the middle of the night. Some have reportedly lasted only minutes. Those presiding are members of the PA's security forces who have often never before served as judges. The authorities usually give no advance notice of these trials. Most people tried by the court have said they did not know they were to be tried until they were taken from their cell at night, or even until they set foot in the courtroom. Families of those tried have usually been unaware of any charges or trial until they have heard afterwards that their relative has been convicted.

At the SSC, defendants have been represented by court-appointed lawyers rather than by independent lawyers of their choice. At least some of the court-appointed lawyers are reportedly employees of the security forces. The independent lawyer of one defendant was not aware that his client was being charged or tried until he heard on the radio that his client had been convicted the previous night and sentenced to seven years' imprisonment.

There is no doubt whatsoever that in 1995 trials in special courts with heavy sentences were demanded and encouraged by Israel and the United States (US), both of which had criticised the PA's previous policy of detaining and subsequently releasing without charge or trial members of certain opposition groups. In statements of Israeli and PA government spokespersons the bringing to trial of opponents of the peace process was closely linked to progress in the peace talks. For example, in March 1995 an Israeli Foreign Ministry official said that "*the implementation of empowerment will be clearly linked to very specific actions undertaken by the Palestinians against terror. We are talking about Palestinian moves to arrest and bring to trial those Palestinians suspected of terror*".

One of the first persons to be tried by the SSC was 'Umar Shallah. He was tried during the night of 10-11 April 1995 and convicted, after a flagrantly unfair trial, on charges of recruiting suicide bombers and assisting suicide bombers. The court sentenced him to 25 years' imprisonment. On 11 April 1995, soon after 'Umar Shallah's trial, US State Department spokesman Nicholas Burns said:

"As you know, we've called upon the PA to take concrete steps to effectively preempt and to prevent terrorist acts by arresting and trying and prosecuting those who advocate and practice violence. The PA obviously has taken action over the last 24 hours to do that. Chairman Arafat has expressed his commitment to addressing the security concerns of Israel, and we very much expect and hope that the PA will continue these efforts. I would just note that I think there have been over 150 arrests during the last 24 hours in Gaza. There have been two sentencings -- one yesterday for 15 years, one today to life -- for people convicted of having aided and abetted terrorism or directed it."

Amnesty International is calling on the PA to stop operating the SSC immediately and to provide fair retrials in the ordinary courts for those already convicted. The organization is reiterating its call to both Israeli and Palestinian authorities to ensure that human rights become an integral part of every stage of the peace process. Noting that representatives of the Israeli and US governments welcomed the first sentences handed down by Gaza's SSC in 1995, Amnesty International is calling on governments involved in the peace process to refrain from endorsing or encouraging trials which violate international human rights standards.