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ISRAEL AND THE OCCUPIED TERRITORIES

@DR SARI NUSSEIBEH - PRISONER OF CONSCIENCE

HELD IN ADMINISTRATIVE DETENTION

Dr Sari Nusseibeh, professor of Philosophy at Bir Zeit University and a leading Palestinian figure in the Occupied Territories, was arrested late on 29 January 1991 at his home in Abu Dis (Jerusalem) and served with a six-month administrative detention order. The administrative detention order was later reduced to three months. He is currently held in Ramleh Prison in Israel.

Dr Nusseibeh was taken before a judge for a review of his detention order on 31 January. The Israeli authorities accused him of being a leader of al-Fatah, a faction of the Palestine Liberation Organization (PLO), and of having been involved in the drafting of literature inciting violence. They also accused him of having gathered intelligence since the beginning of the Gulf crisis for the benefit of the PLO and Iraq. Israeli security sources were quoted by the media as saying that he had passed on information on where Iraqi missiles recently launched on Israel had landed.

In a public statement given after his arrest, Dr Nusseibeh said: "I am and have always been clearly and unequivocally opposed to all forms of violence and in favour of a peaceful solution (of the Israeli/Palestinian conflict)". He also said he was against war and categorically denied having ever been engaged in "any intelligence gathering on behalf of any government or organization". He pointed out that since the outbreak of the war in the Gulf he had been confined at home under curfew, "with my only access to the outside world being the radio, television, and my well-watched telephone line".

At a hearing before the Jerusalem District Court on 3 February 1991, the administrative detention order issued against Dr Sari Nusseibeh was reduced from six to three months. The Israeli authorities took this decision following a recommendation by the reviewing judge on 31 January that they consider a substantial reduction of the period of his detention.

In his judgement, the President of the court said that on 31 January he had reviewed the "summary and conclusions" of the file containing the classified evidence and found that the summary

included enough material to justify the detention of Dr Nusseibeh, particularly in a situation of war. Recalling the preventive, not punitive, nature of administrative detention, the judge had then suggested that the authorities reconsider the duration of the detention order before issuing his final ruling. As both parties accepted the three-month reduction, he decided to confirm the order without looking further into the classified evidence or into the authorities' arguments for keeping it secret.

The judge also expressed understanding for the position of Dr Nusseibeh, who was supposed to defend himself against evidence which may not be shown to him. He pointed out that he was not in a position to say whether, if carefully checked, the full evidence against Dr Nusseibeh would be sufficient to justify his detention. He indicated that were it not for the war situation the outcome of the judicial review may have been different.

Dr Nusseibeh is known for his stand and public activities in favour of negotiations between Palestinians and Israelis aimed at a peaceful settlement of their conflict.

On the basis of all available evidence, Amnesty International believes that Dr Sari Nusseibeh is being detained solely on account of his non-violent political opinion and activities as a leading Palestinian figure with his community. It considers him to be a prisoner of conscience and is calling for his immediate and unconditional release.

ADMINISTRATIVE DETENTION IN ISRAEL AND THE OCCUPIED TERRITORIES

In Israel and the Occupied Territories, administrative detention orders can be issued by the Minister of Defence or a military commander if they believe that security reasons so require.

In Israel itself (ie excluding the Occupied Territories), administrative detention orders are issued by the Minister of Defence for up to six months, renewable. They must be reviewed within 48 hours by a District Court, which has the power to uphold, shorten or cancel the order. The detainee can petition the High Court against the decision of the District Court. The District Court is also required to automatically review the order no later than three months after the first judicial review.

In the Occupied Territories, administrative detention orders are issued by military commanders. Since March 1988 administrative detainees only appear before a military court judge if they decide to appeal against their detention order. The military court judge has the same powers regarding administrative detention as the District Court judge in Israel. Detainees can go on to petition the High Court against the decision of the military court judge.

Since August 1989 each order can be issued for a maximum period of 12 months, but can be renewed indefinitely thereafter for further periods of up to 12 months.

In August 1989 an automatic judicial review was introduced if the detainee did not appear before a military court judge for a period of six months.

Since the outbreak of the Palestinian uprising in December 1987, more than 14,000 Palestinians have spent some time in administrative detention. These have included students, labourers, human rights workers, journalists, trade unionists and teachers. The vast majority have been held in a military detention centre at Ketziot, in the desert of southern Israel where family visits do not take place and conditions are harsh.

AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International believes that the practice of administrative detention in Israel and the Occupied Territories violates fundamental human rights.

Administrative detention can and has been used by the Israeli authorities to detain prisoners of conscience, held for their non-violent exercise of the right to freedom of expression and association. This is facilitated by the broad formulation of the grounds for detention.

Existing procedural safeguards are insufficient to prevent abuse of the detainees' right to challenge their detention, particularly their right to be informed promptly and fully of the reasons for their detention. In many cases the first if not the only opportunity detainees have to find out why they are detained is at an appeal hearing which they have to initiate themselves. It takes place several weeks, sometimes months, after arrest. Even then in almost every case detainees and their lawyers are not given sufficient information to enable them to exercise effectively the right to challenge the detention order.

Amnesty International is urging that all administrative detainees held on account of their non-violent political opinions or activities be released immediately and unconditionally, and that the others should be given an adequate opportunity to exercise effectively their right to challenge their detention -- taking into account strict safeguards aimed at protecting detainees' internationally recognized rights -- or be released.

Amnesty International is also urging the Israeli authorities to review the appropriateness and necessity of maintaining the practice of administrative detention without charge or trial. It believes that administrative detention should not be used as a substitute for, and a means of avoiding the safeguards of, a criminal justice system.