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Israel/OPT: Palestinian detained without charge on day of release from 14 year prison sentence

The Israeli authorities must charge or release Bilal Kayed, who they placed under administrative detention on the day he was due to be released after serving a 14 and a half year sentence in prison, Amnesty International said today. Kayed went on hunger strike on 15 June 2016 in protest at his detention without charge or trial, and since then has taken only water and some minerals; he is now in poor health.

Bilal Kayed, 34, was convicted of participation in attacks and association with the armed wing of the Popular Front for the Liberation of Palestine (PFLP), a banned political party. Israeli forces arrested him on 14 December 2001, from his home in Asira al Shamaliya, in the occupied West Bank. He was sentenced by Salem military court in 2002 to 14 and a half years in prison. The Israeli Prison Service moved Kayed to Ramon prison, Israel and placed him in solitary confinement in September 2015. The authorities cited unspecified “security reasons” for his solitary confinement.

Kayed was due to be released on 13 June 2016. As his family waited for him at an Israeli checkpoint in the occupied West Bank, however, they were told that he had been given a six-month administrative detention order. This order was confirmed at a hearing at Ofer military court on 5 July. Kayed did not attend the hearing. The order is based on secret evidence to which neither Kayed nor his lawyers have access. His lawyers appealed against his administrative detention to the Military Court of Appeals at a hearing on 14 July. This appeal was rejected by the military judge on 27 July. Bilal Kayed’s lawyers are planning to appeal to the Israeli High Court of Justice, but a date for the hearing has not yet been set.

Mahmoud Kayed, his brother, told Amnesty International that on the day he was due to be released, “we had called all Bilal’s siblings, friends, and relatives all to come and spend the time with Bilal that they had lost while he had been in prison. When we heard that he had been given an administrative detention order, we were all in a state of shock and sadness. We feel it is an act of revenge.”

On 15 June 2016, Bilal Kayed launched a hunger strike in protest at his detention without charge. Since the beginning of his hunger strike he has only taken only water and some minerals. After his health deteriorated, the Israeli Prison Service moved Kayed to the Barzilai medical centre on 17 July. In the hospital, there are two or three Israeli guards on duty in Kayed’s hospital room at all times. Kayed was initially shackled to the bed by one hand and both of his legs. Following a letter sent to the Israel Prison Service by an Israeli NGO, Physicians for Human Rights, one of his legs was unshackled. At a court hearing on 22 July the Israeli Prison Service refused to unshackle him further. Kayed is physically weak and under constant guard, and shackling him constitutes cruel, inhuman or degrading treatment, and is effectively a means of punishing him for his hunger strike; the shackles must be removed immediately.

Although a doctor from the International Committee of the Red Cross has visited Kayed, he has not been allowed treatment from an independent doctor of his choice. Physicians for Human Rights also filed an appeal in the Beersheva District Court on 31 July, requesting he be

allowed access to an independent doctor. There was a hearing in the case on 4 August, but as yet there has been no decision.

Kayed informed his lawyer who visited him on 8 August that the doctor assigned to his case by the hospital in which he is being detained had told him that he was entering into a critical stage of illness due to a loss of fluids and salt in the body. Kayed has reportedly been refusing all medical treatment – including vitamins – since 1 August. The Israeli authorities have so far not allowed Kayed’s family to visit him in the hospital. Kayed, like most other Palestinian detainees from the Occupied Palestinian Territories, is being detained inside Israel, in violation of the Fourth Geneva Convention, which prohibits prisoners from an occupied territory being held outside that territory. Accordingly, his family cannot visit him without a permit issued by the Israeli military. The Israeli authorities must allow him to consult with an independent doctor of his choice, and allow him to receive visits from his family, without further delay.

Administrative detention is not prohibited outright under international law but if used, it must be exceptional and subject to strict safeguards. However, Israel has for decades used it as an alternative to prosecuting Palestinians suspected of offences, and in some cases to arbitrarily detain people who have committed no crime, including prisoners of conscience. Administrative detention orders are renewable an unlimited number of times, and some Palestinians have been held without charge or trial for years. The use of secret evidence denies detainees the ability to effectively challenge their detention in court and the right to a fair hearing. As detainees cannot mount a proper defence against the accusations they face, and are uncertain as to when they will be released, Amnesty International considers that Israel’s use of administrative detention itself may amount to cruel, inhuman or degrading treatment.

The Israeli authorities’ use of administrative detention to continue to hold a person who has completed a long custodial sentence appears particularly cruel. The Israeli authorities must release Kayed, or, if they have evidence that he has committed a crime, then he should be promptly charged with a recognizable criminal offence and tried in proceedings which comply with international law and standards on fair trial.

Hunger strikes are a legitimate form of protest and, in recent years, many Palestinians held as administrative detainees have engaged in prolonged hunger strikes, seeing them as their only means of demanding their rights under international law. The Israeli authorities have consistently responded to such detainees with punitive measures aimed at pressing them to break their hunger strikes, in some cases amounting to torture or other ill-treatment. Addameer, an NGO working for Palestinian prisoners’ rights states that there are currently around 80 Palestinian prisoners and detainees on hunger strike. Israel must not punish hunger strikers for their legitimate protests, must allow them adequate access to independent doctors, lawyers, and family members.

There has been a significant increase in violence since October 2015 in Israel & the Occupied Palestinian Territories. As during other periods of heightened tension in the OPT, the Israeli authorities have carried out mass arrests, and markedly increased their use of administrative detention. There were 692 Palestinian administrative detainees at the end of April 2016, according to statistics provided by the Israeli authorities to Israeli human rights organization B’Tselem. It is a practice that cannot be justified and must end; the Israeli authorities should release all administrative detainees unless they are to be promptly charged with recognizable criminal offences and tried in accordance with international law and standards on fair trial.

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