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# ISRAEL AND THE OCCUPIED TERRITORIES

## Administrative detention: Despair, uncertainty and lack of due process

### INTRODUCTION

Thousands of people have been detained under administrative detention orders in Israel and the Occupied Territories. In practice, this means the detainee spends months and sometimes years in prison without having been tried and without knowing the details of the charges against him. It means shattered hopes as detention orders come up to their expiry date, but are then renewed for another term. Families and detainees alike despair, never knowing when release will occur. This procedure causes such suffering that the use of administrative detention has been referred to by one administrative detainee as "another form of torture".

This report will concentrate primarily on case histories and statements from administrative detainees, quoting extensively from letters written by them. A short background on the practice of administrative detention in Israel and the Occupied Territories is provided, but for a more detailed legal history see the report *Israel and the Occupied Territories: Administrative detention during the Palestinian intifada* (AI Index: MDE 15/06/89) published by Amnesty International in June 1989.

### BACKGROUND

Administrative detention is a procedure under which detainees are held without charge or trial. No criminal charges are filed and there is no intention of bringing the detainee to trial. In Israel and East Jerusalem administrative detention orders are issued by the Minister of Defence; in the Occupied Territories (except for East Jerusalem, annexed by Israel in 1967) they are issued by military commanders. By the detention order, a detainee is given a specific term of detention, which in February 1995 was prolonged to allow a maximum period of one year. On or before the expiry of the term, the detention order is frequently renewed. This process can be continued indefinitely.

In the Occupied Territories, the detainee is not given a judicial hearing unless the individual detention order is for longer than six months, in which case there is a judicial review after six months have elapsed. Detention orders of six months or less are renewed without a judicial hearing.

## Administrative detention: Despair, uncertainty and lack of due process

Administrative detainees have the right to appeal every detention order, initially before a military judge and ultimately to the Supreme Court sitting as the High Court of Justice. The detainees are entitled to legal counsel of their choice. However, in the vast majority of cases, neither the lawyer nor the detainee is informed of the details of the evidence against him since the court is authorized to choose how much information to disclose based on grounds of security. There is therefore no possibility for the defence lawyer to cross-examine witnesses or even to inquire about their existence. As a result of these ineffective procedures for the reviewing of administrative detention orders, Palestinian detainees have been boycotting court hearings since August 1996.

Some Palestinians are served with an administrative detention order directly upon arrest. Many have alleged that they suffered torture or ill-treatment during interrogation and were afterwards given an administrative detention order rather than being charged and tried. Amnesty International fears that in those cases administrative detention orders allowing the possibility of indefinite political detention may reflect a failure of the General Security Service (GSS or *Shabak*) to obtain evidence or confessions which would make possible the conviction of suspects by a Military Tribunal. Others who were charged, tried and served prison terms have been placed in administrative detention immediately or very shortly after the expiry of the sentence. Others have been taken for interrogation by the GSS during the time that they were serving an administrative detention order, and were returned to administrative detention afterwards. Some have reportedly been tortured during the time in interrogation.

Administrative detention is allowed under Israeli law<sup>1</sup> and according to the Israeli Government: "Administrative detention is resorted to only in cases where there is corroborating evidence that an individual is engaged in illegal acts which involved danger to state security and to the lives of civilians, regardless of whether the person involved is an Arab or a Jew."<sup>2</sup> In practice, however, the broad formulation of the grounds for detention means that administrative detention has at times been used by the Israeli authorities to detain prisoners of conscience, held for their non-violent exercise of the right to

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<sup>1</sup>Administrative detention as applied in Israel and the Occupied Territories is based on Articles 108 and 111 of the Defence (Emergency) Regulations enacted in September 1945 by the British authorities governing the Mandate of Palestine. In March 1979 the Emergency Powers (Detention) Law was enacted which introduced greater administrative and judicial safeguards to administrative detention in Israel. In 1980 similar provisions were extended to the Occupied Territories.

<sup>2</sup>From *Israel's Comments on the 1996 Amnesty Report* received from the Israeli Ministry of Justice, November 1996.

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freedom of expression and association. Some administrative detainees have been held for years at a time.

During the Palestinian uprising (*intifada*) which started in December 1987, the overall number of Palestinians who were administratively detained was well over 5,000. These included students, labourers, human rights workers, journalists, trade unionists and teachers. The vast majority were held in a military detention centre at Ketziot (Ansar III, now closed), in the desert of southern Israel.

Following the peace agreements between Israel and the PLO in 1993 and 1994 many administrative detainees were released. However between 200 and 250 remained in administrative detention. After four suicide bomb attacks in Israel in February and March 1996 which caused the death of 63 people (including the suicide bombers), this number increased. At the beginning of 1997 at least 270 detainees are being held under administrative detention orders, mostly in Megiddo Prison<sup>3</sup>.

Although the vast majority of administrative detainees are Palestinian, a recent trend has also seen Jews placed under administrative detention orders. Five Jewish men were administratively detained in 1996; all have now been released.

### **AMNESTY INTERNATIONAL'S CONCERNS**

Amnesty International believes that the practice of administrative detention in Israel and the Occupied Territories violates fundamental human rights. The organization considers that all political prisoners, including those held in administrative detention, must be charged with a recognizable criminal offence and given a fair trial within a reasonable time, or else released. Article 9 of the International Covenant on Civil and Political Rights (ICCPR) makes clear that no-one should be subjected to arbitrary detention and that deprivation of liberty must be based on grounds and procedures established by law (para 1). Detainees must be informed at the time of arrest of the reasons for their arrest (para 2). They must also have access to a court empowered to rule without delay on the lawfulness of their detention and order their release if the detention is unlawful (para 4). All these requirements apply to "anyone who is deprived of his liberty by arrest or detention" and therefore apply fully to

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<sup>3</sup>Detainees held at Megiddo Prison are kept under poor conditions: they live in tents that allow exposure to extreme heat and cold and are reportedly given little food of low nutritional value. In February 1997 a petition was submitted to the Israeli High Court demanding heating for the detainees held in Megiddo. The Court ruled that although there were legitimate security reasons for not providing heat in the tents, the State must propose alternative options for the detainees, including transferring them into buildings.

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administrative detainees.

Although Israel ratified the ICCPR in 1991, it has derogated from its obligations under Article 9. The authorities cite the fact that the country has been in a declared state of emergency since its formation in 1948 as the reason for this. In the context of both internal and international armed conflict, the ultimate crisis a nation can face, the right to a fair trial is non-derogable under the Geneva Conventions, as well as under the Additional Protocols to those Conventions. Although the ICCPR allows derogation from provisions of Articles 9 and 14 when governments face a "public emergency which threatens the life of the nation", Amnesty International considers the right to a fair trial to be fundamental; it should therefore be guaranteed at all times, even in an emergency.

Also, a state of emergency is by definition a temporary legal response to an exceptional and grave threat to the nation. A perpetual state of emergency is a contradiction in terms<sup>4</sup>. It is, therefore, disturbing when a state of emergency becomes virtually permanent, or when special measures become entrenched in law which survives after the emergency ends. In such situations human rights violations may also become a permanent state of affairs. Unfortunately Israel has often used "security" as a justification to compromise the rights of the people under its jurisdiction. Although Amnesty International does not dispute the duty of a government to safeguard the security of those under its jurisdiction, this must be done in a way that does not compromise the fundamental rights of any person.

In addition, Amnesty International has for some years been concerned that administrative detention in Israel and the Occupied Territories is at times used to detain prisoners of conscience, held solely for the non-violent exercise of their right to freedom of expression and association. This has been facilitated by the fact that the grounds for administrative detention, as laid down in Israeli law, are broadly worded and liable to wide interpretation. Administrative detention law--ostensibly introduced as an exceptional measure to detain people who pose an extreme and imminent danger to security--is being used to detain a much wider range of people who should have been arrested, charged and tried in accordance with the normal laws of penal procedure, or against individuals who should not have been arrested at

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<sup>4</sup>General Comment 5, Article 4 (13th session, 1981) of the United Nations Human Rights Committee states in paragraph 3: "The Committee holds the view that measures taken under article 4 [relating to State of Emergency] are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that, in time of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogations can be made."

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all.

Existing procedural safeguards are insufficient to prevent abuse of the detainees' rights, among them 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 concerning the grounds for arrest to enable them to effectively exercise the right to challenge the detention order.

Amnesty International does not regard the judicial reviews or the appeals as constituting a fair trial and believes that administrative detention should not be used as a means of circumventing the criminal justice system and avoiding the due process safeguards it provides.

The Israeli authorities have said that administrative detention is used "where information against an individual cannot be revealed in court and where the protection of witnesses and sensitive sources of information is the reason for not putting the individual on trial."<sup>5</sup> However, Amnesty International believes it is the duty of a government to find ways to deal with confidential or sensitive information in a way which does not compromise an individual's right to a fair trial. No individual should have to pay with his/her liberty for a government's inability to deal appropriately with evidence.

United Nations bodies and representatives have also condemned the use of administrative detention in the Occupied Territories. For example, the United Nations Working Group on Arbitrary Detention, when considering the case of administrative detainee Sha'wan Jabarin, stated that "individual liberty cannot be sacrificed for the government's inability either to collect evidence or to present it in an appropriate form". The group concluded that administrative detention without trial was a form of punitive rather than preventative detention, and in this case contravened Articles 9 and 10 of the Universal Declaration of Human Rights and Articles 9 and 14 of the International Covenant on Civil and Political Rights<sup>6</sup>. This decision would appear to apply to the other cases of administrative detention.

*The Report on the situation of human rights in the Palestinian*

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<sup>5</sup>From a letter to Amnesty International from the Israeli Ministry of Justice, March 1995.

<sup>6</sup>Decision number 16/1994 addressed to the Government of Israel on 18 July 1994.  
AI Index: MDE 15/03/97 Amnesty International 30 April 1997

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*territories occupied since 1967, submitted by Hannu Halinen, Special Rapporteur pursuant to Commission on Human Rights resolution 1993/2 A, dated 19 February 1997, states in paragraph 40:*

"A large number of persons remain in administrative detention where they have been placed by the Government of Israel. In some cases, detention has been extended for years. All such detainees should be brought to a fair trial or released."

#### **CASE HISTORIES**

The lives of thousands of people--both administrative detainees and their families--have been affected by administrative detention. The following case histories show poignantly what it is like to live under the jurisdiction of these laws.

### **Wissam Rafeedie**

Wissam Rafeedie was first placed under administrative detention in August 1994, when he was arrested from his home around midnight. He was blindfolded and hand-cuffed and led to a military car parked outside his house. His first administrative detention order was for five months, until 10 January 1995. On 19 December 1994, an extension order was signed for another six months, from 9 January 1995 until 8 July 1995. Subsequently, another extension was imposed for a further six months, until 7 November 1995. This was then again extended for three months until 13 February 1996. The order was extended yet again, although at an appeal hearing on 27 May 1996, the judge shortened the order by one and a half months, bringing the new release date to 21 July 1996. A new extension order was issued for four months, bringing the release date to 20 November 1996. This order was extended for six months, which means that currently his prospective date of release is 20 May 1997.

Previous to his administrative detention, Wissam Rafeedie had, in December 1982, run a clandestine publishing house for the Popular Front for the Liberation of Palestine (PFLP). He worked there for nine years as an editor, writer and printer. He was arrested for this activity in August 1991, detained, allegedly interrogated under torture and sentenced to 34 months' imprisonment. The main charge was having run an underground publishing house for the PFLP. He was not charged with any violent activity. His first administrative detention order was issued two months after his release from prison after having served his 34 month prison sentence.

The administrative detention order said that he was being held "for being a PFLP activist". In a letter written from Ashkelon Central Prison on 5 December 1996, Wissam Rafeedie writes of his arrest:

"When I was arrested on the morning of 15 August 1994 the officer said to me, 'Why do you oppose the peace plan?' i.e. the Oslo Agreement. I said, 'That's not your concern, I am free to hold my opinion.' He replied, 'For that reason, we are free to hold you in prison.'

"Do those in the intelligence service, the army and the Ministry of Internal Security then still wish to convince me that I am held for security and not for political reasons! I therefore add my voice to those of my colleagues in Ashkelon and Megiddo behind the slogan that Amnesty adopted in its solidarity campaign with me: 'Release the administrative detainees or bring them to trial.' For this reason also, we are boycotting the appeal courts as the decision and power there lies with the *Shabak* officer and not with the judge."

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During his appeal hearing in October 1994, the GSS member who was a witness at the hearing refused to answer any questions addressed to him by Wissam Rafeedie's lawyer. Thus the information on which the detention was allegedly based remained secret, giving the lawyer no chance to refute the claims. The judge wrote: "It is true that so far the appellant has not managed to carry out any real activity, but this was so only because the security forces managed to put their hand on him...".

Wissam Rafeedie's lawyer, Tamar Pelleg, is convinced that he is detained due to his opinions. She says: "I...believe that in the case of Mr Rafeedie the detention has been politically motivated in violation of the freedom of speech.... Mr Rafeedie is, as I deeply believe, an intellectual politically involved with the opposition to the currently attempted solution of the Palestinian problem. He pays for this with his freedom."<sup>7</sup>

In his letter, Wissam Rafeedie also writes of his experience of being an administrative detainee:

"It is clear that I, like all administrative detainees, am not the only one who is 'punished' (not 'detained') but my family is also. Likewise, I have not been punished just once but endure a whole series of punishments: when I am stuffed inside an airless room, with fifteen other detainees with one toilet and one bath; when I cannot find suitable conditions to read and write; when I cannot visit family and friends; when I cannot reassure myself as to the health of my mother and brothers and sisters. Thus the title of the law should be changed from the Law of Administrative Detention to the Law of Punishments of the Administrative Detainee! Once again I'm back to sarcasm! Like other administrative detainees, I use it as a response to the hardships of life, the repressiveness of administrative detention and the inhumanity of the conditions of detention.

"If my sarcasm becomes a spur for more Israeli acts against administrative detention and a spur for more and more effort to bring down this unjust policy..., then my sarcasm will have fulfilled an additional task other than expressing my own inner resentment."

Amnesty International believes that Wissam Rafeedie is a prisoner of conscience and that he should be released immediately.

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<sup>7</sup>From a letter to the United Nations Working Group on Arbitrary Detention, July 1995.

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**Imad Sabi**

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Imad Faisal Sabi has been in administrative detention since December 1995. He was served with a six month administrative detention order, which was renewed for a further four months on its expiry. In October 1996 the order against him was again renewed, bringing the latest expiry date to April 1997.

Imad Sabi worked as the Executive Director of Programs at Bisan Research Centre, a Palestinian non-governmental organization based in Ramallah which works on issues of community and social development. He was also active in the Bir Zeit University Women's Studies Program, working as a translator for their publications and participating in seminars and workshops.

When he was first arrested, Imad Sabi was held in Beit El military camp. From there he wrote a letter and, among other things, speculated as to the reasons of his imprisonment:

"The situation in the West Bank and Gaza has become Kafkaesque during the past year. But just as in a Kafka novel, one is able to see the grotesque and twisted logic behind the absurd, surrealistic characters and events. Dissent and disagreement is not tolerated. I know that I'm in prison because of the views that I hold. I am one of many Palestinians who does not believe that the Oslo Accords and subsequent agreements are a basis for a just settlement.

"We are entitled to our views; it is a basic human right to think and express ourselves freely.... Using nothing more than words, I argue my case. If this act of self-expression is punishable by arbitrary imprisonment--without charge, without due legal process, the right to defend myself denied--then the future is very grim indeed."

Later, Imad Sabi was transferred to Megiddo Prison and in August 1996 wrote again about his experience as an administrative detainee:

"...my motive for writing, and my ultimate intention, are to try to draw attention to what administrative detention *really* means.

"I have to confess that I am just as guilty as the next person when it comes to the confusion that I am burdened with in the face of the myriad of wrongs, violations of human dignity, and abuses of human rights that take place every day. I am shocked, angered, shaken, enraged and saddened by them. Yet to this gamut of emotions, a sense of helplessness is an invariable accompaniment. The moral indignation

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I feel turns to guilt because I realise that my mobility, my capacity for action, and my personal means, are all impaired. I am simply overwhelmed; my life goes on, and no one individual can change the world, even if he wanted to. Resigned to the bitter reality, we carry on, even thankful at times for the petty affairs that make up our daily, personal lives. I am like that. Sometimes....

"I hate to say it, but after six months in the prison with a view [Megiddo], I was not cured. The military commander's diagnosis (he is the doctor of security diseases, you see) was that I still carried the germ (the microbe, the virus) within me. So he prescribed four more months' rest. I am resting now, waiting for the next physical in October."

Imad Sabi is married to Reem Joudeh who works in continuing education at Bir Zeit University; they have a daughter Deena who was born on 9 June 1995. In the letter he wrote from prison, he talks about what he and his family go through, and how difficult it is for them not to know his date of release:

"...my wife has been mixed up since--optimistic one day, pessimistic the next; uncontrollably oscillating between hope and the loss of it, between daydreaming and austere realism and so on. I was a little mixed up too, I admit. My daughter is too small, she was spared.... Now, neither I, nor my wife are mixed up any longer. We both have our feet firmly on the ground. My feet are in Megiddo, hers are in Ramallah. The two places are 100 kilometres apart, I think.

"Our term as administrative detainees is both fixed and not fixed (the first law of Aristotlean logic negated). They are not fixed in the sense that we do not know--and cannot know--when the end will come.... The terms are fixed, however, as testified to by the fact that the 'unfixed sentence' is made up of smaller, finite, fixed sentences, administered to use in standard doses of three, four or six months."

In March 1996 Imad Sabi was accepted for the MA program on Politics of Alternative Development Strategies at the Institute of Social Studies in the Netherlands and in April he was awarded a Dutch Fellowship. He has not been able to take up his place due to his detention. He finishes his letter in the following way:

"I seem to have lost myself in verbiage, whereas my story is a simple one. I was imprisoned, without charges, without trial, because I am a 'security threat'. I wanted to go to Holland to study: to be with my family in a place where only a burglar comes uninvited at 3:00am. My application [to go to the Netherlands to study] was rejected, on

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'security grounds', even though I had applied for the scholarship before I was arrested. I therefore safely conclude that prison is the only place fit for me to live in. Mine is not an extraordinary story. The number of detainees is 320; 120 of them had their original arrest orders extended at least once. There are 15 who have been 'resting' this side of the fence more than two years. Somebody thinks that prison is the only place fit for them to live in. They are dangerous. The military commander says so, and if he says it, who needs a court to prove charges that are obviously justified?"

Amnesty International believes that Imad Sabi is a prisoner of conscience and that he should be released immediately.

#### **Ahmad Qatamesh**

"If one of us has committed a crime there is a way to punish him by presenting him to the court. But to detain someone without any specific charge and without trial, and to punish him on the basis of suspicion, this kind of treatment needs to be exposed."

Ahmad Sulayman Musa Qatamesh from Ramallah was arrested on 1 September 1992. After his arrest he was reportedly tortured and ill-treated.

Ahmad Qatamesh was formally charged on 22 November 1992 on four counts: providing services for an illegal organization; possession of hostile material; refusal to give fingerprints; and forgery of documents issued by the military authorities (an ID card). In the first trial session on 3 December 1992 the prosecution stated that an administrative detention order had been issued against Ahmad Qatamesh and was pending in his file, until the outcome of the trial. His trial was repeatedly postponed.

At a trial session on 14 October 1993 the judge ordered that Ahmad Qatamesh be released on bail arguing that the prosecutor had failed to provide evidence against him justifying his continued detention. The prosecution appealed, and was given 72 hours to present evidence against him. The decision to release him on bail was then confirmed on 20 October 1993. At that time, the Israeli military authorities decided to place Ahmad Qatamesh under administrative detention for six months.

Ahmad Qatamesh has stated that the general prosecutor offered to release him if he publicly supported the Middle East peace process, but that if he opposed the talks he would stay in jail until after the self-rule arrangements were implemented. Apparently the file on the original charges against him is now closed.

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Ahmad Qatamesh's administrative detention order has now been renewed nine times. His appeals against the administrative detention orders have been unsuccessful. The Israeli High Court has also turned down two appeals against the illegal use of administrative detention in his case.

"I've been in prison for four or five years, and I'm the longest administrative detainee. I would not mention what I went through because it does not differ from the ill-treatments other administrative detainees are subjected to.

"The pressure I was subjected to did not stop: they prevented my wife from visiting me for months in late 1993, and in the last four months they prevented her again, claiming that she is not my wife, and my seven year old daughter... she might be a threat to their security! These restrictions are aimed to punish my wife, because she continued campaigning and lobbying the media and meeting members of the Knesset [Israeli parliament] to highlight my case."

Ahmad Qatamesh is a possible prisoner of conscience and should be released immediately if he is not be charged with a recognizable criminal offence and promptly tried in a proper court of law in accordance with internationally accepted standards for fair trial.

### **'Usama Jamil Isma'il Barham**

'Usama Barham, born on 11 January 1963, from Ramin near Tulkarem, was arrested on 8 November 1993 and given a six month administrative detention order. He was reportedly tortured after arrest. He was accused of being a militant in Islamic *Jihad*; connection to an armed organization and connection to the possession of weapons. He had previously served seven years' imprisonment from 1985 till 1992 on charges of membership of an illegal organization and possession of weapons.

'Usama Barham's detention order has been renewed nine times for four or six-month periods since November 1993. He has now spent over three years in prison without trial.

'Usama Barham should be released immediately if he is not to be charged with a recognizable criminal offence and promptly tried in a proper court of law in accordance with internationally accepted standards for fair trial.

### **Noam Federman**

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In recent years, Jews as well as Palestinians have been put under administrative detention. Noam Federman was arrested from his home in Hebron at 5am on 10 November 1996 and given a two month administrative detention order. At the time of its expiry, his detention order was renewed for two weeks, at the end of which he was released. For the previous three years he had been under administrative detention orders, mostly house arrest, although he had also spent time in prison.

Noam Federman was a spokesman for the Kach movement, a Jewish militant group banned in 1994. At the time of his arrest, Israel and the Palestinian Authority were negotiating the details of the long-delayed Israeli troop redeployment from the West Bank town of Hebron which was agreed in the Oslo Accords. The Israeli authorities feared demonstrations by right-wing Jewish groups who did not agree with the redeployment and this may have been the reason for the detention of Noam Federman.

Noam Federman initially went on hunger strike to protest his prison conditions in Ashmoret Prison: he did not receive Glatt Kosher food and could not pray in his cell as it had a toilet in it. At the beginning of his detention he was not allowed to see his wife or his lawyer. At one point he was given an intravenous drip against his will by prison doctors because he was suffering from acute dehydration. Eventually the Rabbinical court ordered Noam Federman to drink and he complied with the ruling. He was later moved to better conditions in Eyal Prison near Tel Aviv and was allowed visits (including weekend visits from his wife and children) and telephone calls.

Noam Federman's lawyer, Naftali Werzberger, petitioned the High Court of Justice against his detention. He charged that the detention was politically motivated and was not based on a definite security risk. Later, the High Court of Justice gave the state seven days to justify the administrative detention order, without even examining the classified evidence against him, saying that the case raised many questions irrespective of the weight of the evidence. The order required the state to justify why Noam Federman was being detained and why an alternative to arrest was not possible. Naftali Werzberger said the army feared he would instigate protest activity against the Israeli deployment from Hebron, which in turn could lead to bloodshed. The actions of the High Court were very rare in this case; it has hardly ever questioned other administrative detention orders so carefully.

The administrative detention of Noam Federman, a Jew, gained much

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publicity in Israel and led to many Israelis calling for an end of the practice of administrative detention as being undemocratic. (The same was the case when other Jews have been administratively detained, such as Shmuel Cytryn, detained from December 1995 to February 1996.) Noam Federman has stated that he opposes the practice for Jews and Palestinians alike.

### **STATEMENTS FROM ADMINISTRATIVE DETAINEES**

Many administrative detainees have written letters relating what they have experienced. The following is a selection of the prisoners' own words.

*Salim Abu Hawash*

"By the end of 1994 I was serving three months' administrative detention due to end on 1 November 1994. The prison guard came with the numbers of the detainees to be released. At that time I was in the bathroom finishing getting washed. I was about to get dressed and say goodbye to the prison and the prisoners, when my friend said from outside the bathroom, 'Take your time washing and getting dressed'. I said I would before the words could sink in. I swallowed a bitter lump in my throat and waited a long time in the bathroom. So my detention would begin again and I didn't know yet how long the new administrative detention order was for. The other prisoners had left that day and I had not seen them or said goodbye to them. In the evening I learned my detention was for five more months...longer than the first order.

"My family were waiting for me on the road...and my wife (who was pregnant) was waiting for me at home. Those released reached the place where the family was waiting but I wasn't amongst them. My mother cried a lot, and soaked the place in tears. She was carried away, to our home. My wife fainted from shock when she realized that I was not released.

"I asked the officials either to release me or continue the investigation and bring me before a court; my request was in vain.

"To submit an application before the Supreme Court is very expensive. I asked the Israeli solicitor, Tamar Pelleg; she volunteered to defend me. Many people cannot afford the fees of the Supreme Court. The defect is within the law which allows administrative detention without trial, boundaries and reason."

*Khaldun 'Umar Khalil Abu 'Ayyash*

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"The aim of the *Shabak* is to destroy the person. Otherwise why have they not released me, especially as they have not lodged any charge against me, nor issued a charge sheet?

"Today I live in the nightmare of administrative detention and I have no hope of being released, nor does any other detainee whose period of detention is at an end. For when they renew the detention of a detainee, I feel the pain he suffers and the blow he sustains. And I cannot discuss it with him or support him, because he is a prisoner and I am a prisoner, and we both suffer. If his detention order is not renewed today, it will be tomorrow."

*Khaled Dalayshah*

Khaled Dalayshah was arrested on 22 January 1992. He served three consecutive administrative detention orders and was then placed under town arrest until he was re-arrested on 17 April 1994. Since that time he has been held under continually-renewed administrative detention orders. His daughter, Majd Dalayshah, writes about the experience of having her father in administrative detention.

"Please, who will help me get daddy released?

"My name is Majd. I am now ten years old. When I was five, my daddy was put in administrative detention. They said to me at that time that it was only for six months. I did not know that this six months would be extended.... The hardest thing about this detention is that every six months my sisters and I put on our best clothes and wait...and wait. But he doesn't come. We ask mummy, 'Why didn't he come?' She says, 'Because they renewed his detention for another six months.' We continue asking, 'Then when will he come back home?' Mummy replies, 'This is too difficult a question as I don't know. If only I knew when he would come back!' So we wait another six months... and another six months.... We don't know when this difficult and painful situation will end. I am tired out. Please help me. Nothing in this world can tempt me any more, not new clothes, or sweets, or even the fun fair. All that I need is for daddy to be at my side. How I need him to hold me, carry me, make a fuss of me and take me along to school like the rest of my friends. I wish I could call out to him, 'Daddy, daddy.' Please help me. We used to live as a happy family but now we are miserable. So who...who will help me so that we can again become a happy family as before? Who can answer our difficult question, 'When will daddy come home?'"

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*Darrar al-'Izza*

"The judge decided to reject my appeal without giving any justification. The decision stated that the *Shabak* had obtained information to the effect that I had constituted a danger for around 40 days before my arrest. There was no clarification of this information which was contained in a secret file that neither the judge nor my lawyer had read. That is to say, I am held on a charge but don't know what it is!

"One of the Israeli security men told my lawyer during my appeal hearing against the third renewal of my detention, 'He will never be released'. This is a clear indication that they are determined to break our spirits and to destroy our humanity."

*Samir Shalalda*

"The lawyer made a great effort to explain my case and managed to obtain from the judge, who had looked at the secret file, a decision not to renew the administrative detention order unless new information came to light; i.e. they could not rely on the old information. This means that all the previous renewals were based on the information contained in the secret file upon which I was arrested for the first time. This, according to the judge, was no longer valid and did not constitute a basis for continued detention. This decision gave me hope that my detention would not continue. However, this hope did not last long and was shattered by the renewal of the detention for the fourth time for four more months. This was for the same reason given on previous occasions without being amended or updated, not even cosmetically. This means that the detention order was renewed by the intelligence service regardless of any considerations from any military judge.

"By the end of the sixth renewal on 26 February 1997, I will have spent a total of 33 months continuously in administrative detention. During this time, I have not once been able to answer the innocent and persistent question of my two little girls, 'When are you coming home?' I would meet this question of theirs, and even the same question from my wife and my mother, either by silence or by changing the subject or by saying that I didn't know. I still don't know how to explain to the little ones why I can't return. Even grown-ups may not be able to understand it logically so what chance is there for the innocence of small children? The person issuing the administrative detention order doesn't take these humanitarian considerations into account. He doesn't care whether or not at the end of each renewal

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period the detainee's family is waiting spurred on by the hope that this time he will come home. This hope is not shattered until that day goes by without his return. Administrative detention is not only a violation of human rights but a destruction of the highest human feelings: motherhood, fatherhood, childhood. You are taken forcibly from amongst your family and neither you nor they know when you will return to them. They have no means to protect, defend or help you.

"This is my experience of administrative detention. I write it in the hope that maybe amongst those in this world who have a conscience, there is someone who can do something to end the injustice, halt this most basic form of human rights violation and bring back a smile to the faces of innocent children, wives and mothers whose eyes are fixed in hope for the return of their loved ones."

*Ribhi Qatamesh*, brother of Ahmad Qatamesh, has been in administrative detention for over three years.

"And if the legislation (Emergency Law and Military Orders) permit powers of detention if the law has been broken, then the detainee has the right to know the reasons that necessitate his detention.

"After looking at the file and listening to the prosecution and defence lawyer, if the lawyer demands an explanation of the reasons for detention, the detainee and his lawyer must go outside the hall while the *Shabak* person explains what is known as the secret file. The Public Prosecutor will refuse to explain or give information in the presence of the detainee or his representative on the pretext of infringing the 'sacred cows' of security and sources of information. With these little words 'Security' and 'Secret File' the detainee can be turned into a criminal, dangerous to the future of the public and to the future of Israel."

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*Mahmud Dhib al-'Adariya*

"I am still a young man who has spent two-and-a-half of his twenty-one years in prison. Was I created to spend the flower of my youth in prison? Will I continue to suffer from administrative detention? I cry out to you saying that this detention is unfair and unjust.

"Yes it is unjust and the cruel fire of prison burns my mother and father who have waited a long time for me. I had no sooner begun to see life than I was detained. Will I and my family continue to suffer from this detention? Will my family continue to wait for me every six months to get the response that 'Your son's detention has been renewed'?"

*Musa Musharqa*

"They say I am a danger to state security. If so then why not take me to interrogation or try me on these charges?

"But in fact, the reason for administrative detention is that the detainees have political principles or positions that are not acceptable to the intelligence services. So in administrative detention they want the administrative detainee to behave as they want, and to eat as they want and to sleep for the hours they want."<sup>8</sup>

*Elias Jaraisah*

"As a teacher, I was forced because of my arrest to leave the school I worked in. What about the harm that does to the students I taught, what about their studies and the effect it had on that?

"And I am concerned about my family I left behind me. A wife who has suffered for long years because of her husband's absence, and my two children whom I have only lived with for a short period. This has had a clear psychological effect on my eldest child... Ahid who is 11 years old, in the fifth class at the Roman Catholic school in Beit Sahour, and who has lived most of his life away from me.

"My repeated detention...has imposed extra responsibilities on me in the difficult economic and material circumstances for there was only my income from my work as a teacher and that has stopped during the period of my detention."

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<sup>8</sup>For details of the earlier torture of Musa Musharqa see "*Under constant medical supervision*" *Torture, ill-treatment and health professionals in Israel and the Occupied Territories*, August 1996 (AI Index MDE 15/37/96).

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*Nasser Khaled Ibrahim Jarar*

"They said to me, 'You are high up in *Hamas*, an official, we want you to talk about everything you know... you are a killer... you have relations with people who are our enemies... you present a danger to the security of the region....' I challenged them to show one piece of evidence to prove their accusations were true; they did not present one piece of evidence, only the accusation.

"I told them more than once, 'I am an innocent pacifist, I've never harmed anybody in my life, I am married with two small children... I do good works as the supervisor of the orphanage for the *Awqaf* (Islamic charities) and humanitarian work, and I have my moderate political opinions and religious beliefs and I am against all acts of violence and am for the free democratic struggle to achieve rights'.

"Then the process of a chain of extensions of detention began, and all without a reason....

I have suffered the pain of administrative detention and continued extension of detention for a number of years with no reason!"

'*Abd al-Rahman al-Ahmar* was given a year's administrative detention order in February 1996, which was renewed for another six months in February 1997.

"I was arrested in November 1995 because of my activities against the anti-democratic developments in my society [the elections<sup>9</sup>] and because I was demanding openly freedom of opinion and expression and rejecting all political injustice. This is what I was arrested for.

"It is my right to demand an end to this series of detentions, interrogations and imprisonments which has eaten my childhood and now my youth.

"But if this is the price I have to pay for my activities and demands for my people's rights, then here I am paying for it without any limits."

### **CONCLUSION**

Amnesty International believes that the practice of administrative detention in Israel and the Occupied Territories violates fundamental human rights. The organization insists on the right to a trial in which international standards for fair trial are upheld for all

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<sup>9</sup>The PFLP, *Hamas* and Islamic Jihad boycotted the Palestinian elections held in January 1996.

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political detainees, including those accused of violence. Amnesty International does not regard the judicial reviews or the appeal hearings which occur during the administrative detention procedure as constituting a fair trial and believes that administrative detention should not be used as a means of circumventing the criminal justice system and avoiding the due process safeguards it provides.

In addition, Amnesty International has for some years been concerned that some of those held in administrative detention in Israel and the Occupied Territories are prisoners of conscience, held solely for the non-violent exercise of their right to freedom of expression and association.

In view of the pattern of misuse of administrative detention in Israel and the Occupied Territories, Amnesty International is calling for an end to the practice. The organization 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 be released unless they are to be charged with a recognizable criminal offence and promptly tried in a proper court of law in accordance with internationally accepted standards for fair trial.

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