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ISRAEL AND THE OCCUPIED TERRITORIES

Sami Abu Samhadanah - Prisoner of Conscience

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Sami Abu Samhadanah has been detained almost continuously since September 1985. During that time he has never been charged or tried for any offence. He is currently held in the Ketziot detention centre in southern Israel, serving a six-month administrative detention order issued on 24 August 1992 after a deportation order against him was cancelled.

Sami Abu Samhadanah (ID no. 975047176) is a 29-year-old journalist and translator from Rafah Refugee Camp in the Gaza Strip. He is married with a young daughter who was born after his latest arrest.

Sami Abu Samhadanah was first arrested on 27 June 1981 when he was 18. He was charged with membership of an illegal organization, the *Arab Struggle Front*. He was convicted and sentenced to four years' imprisonment, one year of which was suspended for two years. He was released on 26 June 1984. On 29 November 1984 he was arrested and held for 15 days' interrogation.

On 12 September 1985, a string of administrative detention orders began. He was given a six-month order which was renewed on expiry for a further six months. He was released on 11 September 1986. He was arrested again on 18 December 1986 and issued with another six-month order. He was released on 6 June 1987 and was rearrested about two months later on 26 August 1987 and held for interrogation for 11 days. On 9 October 1987 he was again held for four days under an administrative detention order.

His next administrative detention order was issued on 7 January 1988 for six months and was renewed on expiry for a further six months. Following his release on 2 November 1988, he remained free for six months until rearrested on the basis of another

six-month administrative detention order issued on 10 April 1989, which was once again renewed on expiry for a further six months.

After he was released on 8 April 1990, Sami Abu Samhadanah got married, but on 10 June 1990 he was arrested at his office in Gaza City, and issued with a 12-month administrative detention order dated 28 May 1990. He has been in detention ever since.

Sami Abu Samhadanah appealed against this administrative detention order and a hearing was held on 30 July 1990. The non-classified evidence alleged that he was an activist in the Unified National Leadership (UNL) of the *intifada* on behalf of *al-Fatah*, a faction of the Palestine Liberation Organization (PLO), and that he had resumed his activities since his release in April 1990. At the hearing, the judge stated that, given the short space of time since Sami Abu Samhadanah's release from administrative detention and the length of time he had spent in detention, the evidence against him must be substantial. The classified information provided by the General Security Service (GSS) to the judge apparently accused him of being a member of the UNL in Gaza and gave details of his alleged activities on behalf of the UNL in Gaza (none of which were revealed to Sami Abu Samhadanah or his lawyer at the appeal hearing). The judge indicated that these activities were allegedly intended to harm the security of the region and its inhabitants. He stated that he was convinced that administrative detention without charge or trial, and without interrogation, was justified in order to protect the GSS's sources of information. He rejected the appeal and confirmed the order.

Sami Abu Samhadanah signed an affidavit on 11 June 1990 in which he gave an account of his activities during the two months between his release from administrative detention and his arrest on 10 June 1990. Three days after his release on 8 April 1990 he got married. He was also involved in setting up an office to provide a translation service from Hebrew to Arabic for local lawyers. The office was, in fact, opened at the beginning of May. He also stated that he was approached by a number of individuals who feared that they were suspected of "collaborating" with the Israeli authorities and would face reprisals from other Palestinian groups. Sami Abu Samhadanah stated that he did his best to prevent assaults on these individuals.

In his affidavit of June 1990 Sami Abu Samhadanah also mentioned meetings which took place between himself and senior members of the Israel Defence Force (IDF), including Major-General Matan Vilnai, Commander for the Southern Command (which covers the Gaza Strip), following the murder of seven Palestinians by an Israeli gunman at Rishon LeZion on 20 May 1990. At these meetings, various matters were discussed, including how to reduce the level of confrontation between the IDF and the Palestinian population. According to official Israeli figures at least 17 Palestinians were shot dead and over 1,000 wounded by Israeli troops in the days that followed the Rishon LeZion killings.

Sami Abu Samhadanah said that he was invited several times to the Civil Administration offices in Rafah and Gaza City to discuss the local situation with IDF officers. In his affidavit he stated that, in his opinion, a dialogue and continuation of the peace process was essential as a background to any true and effective appeasement. At his appeal hearing, the Israeli authorities confirmed that such meetings had taken place.

Shortly before the expiry of his administrative detention order, a new order was issued for his detention until 25 May 1992. The reason given for this extension was that

he had continued his activities in his place of detention. An appeal against this order was also rejected and the order confirmed. Sami Abu Samhadanah then petitioned the Israeli High court of Justice for a review of his detention. His lawyer claimed that the decision to keep Sami Abu Samhadanah under detention for more than five years exceeded the scope of reason and was therefore being used as a punitive, rather than a deterrent, measure. His lawyer also pointed out that Sami Abu Samhadanah had not been interrogated since 1987, and that since his administrative detentions began in 1985, no attempt had been made to bring Sami Abu Samhadanah to trial where he would have had access to the evidence against him.

A hearing before the High Court of Justice was scheduled for 15 September 1991. However, during the hearing, the State representative offered to release Sami Abu Samhadanah on condition that he left the country and did not return for five years, later reduced to three. His lawyer communicated this offer to Sami Abu Samhadanah, who rejected it. A fresh hearing before the High Court of Justice to review the evidence against him took place on 1 December 1991. At that hearing, the panel of three judges reviewed the evidence but did not issue a decision.

On 2 January 1992, before the High Court of Justice issued its decision, the IDF announced it was issuing expulsion orders for 12 Palestinians from the West Bank and Gaza Strip, including Sami Abu Samhadanah, whose administrative detention order was then cancelled. All 12 appealed against their expulsion orders to a special military appeals committee; one order was overturned, the others were confirmed. The 11 Palestinians still facing expulsion went on to petition the High Court of Justice.

While their petitions were still pending before the High Court, a new Israeli government took office, under Prime Minister and Minister of Defence Yitzhak Rabin, and the expulsion orders were cancelled. All 11 Palestinian detainees were issued with administrative detention orders instead.

Following the cancellation of his expulsion order and the issuing of this most recent administrative detention order, Sami Abu Samhadanah gave his lawyer an affidavit on 27 August 1992, from which the following extracts are taken:

"...I was very happy to have the deportation order cancelled and yet I felt like the guy whose car had been stolen and a year later one night was returned as a matter of favour.

I deeply believe that there was no justification whatsoever for the issue of the deportation order and also that there is no valid reason to continue to keep me in administrative detention.

I am convinced that had I been released, I would have been able, as a free and independent man, to contribute to the well-being of others. By 'others' I mean my family and in particular my mother and my old father, [and] my wife with whom I lived for just two months and my little daughter Beirut who has met me only behind the bars. By 'others' I also mean my community and my people.

With regard to peace and the peace process, it has always been my belief that the Palestinian problem can be solved only and exclusively by political means; that we and the Israelis must sit down and discuss possible solutions to this historic conflict that has caused so much suffering to both sides for such a long period of time.

I personally paid a very high price. The lives of two of my brothers were taken. My own life, so many [of] the very best years of it, has been spent in prison. Nine of my brothers have been scattered all over the world, and are not allowed to visit and neither am I allowed to leave. I actually don't know them. I hardly even know the names of their children.

I have never practised violence nor advocated it as means to achieve political, social or national aims, let alone personal. It was the deportation order that had thrown me off my mental balance to such a degree that in my testimony before the appeal committee I said: 'If I am deported, I will return to my homeland armed'.

When I learned that the deportation order had been cancelled I was full of hope that I would go home, and again they destroyed my dream. But this time I did not lose my head and, as always, I understand and know that my way is the way of peace. I have chosen it and I will remain faithful to it.

I feel that my hands are tied and I am prevented from participating in the big events that are taking place now. I am prevented from contributing to the peace process and having my share in the effort to promote it, to make it as just, as real, and as stable as possible. I feel that my hands are tied and I am unable to use my influence to prevent violence and to further the spirit of tolerance within my community...

...I believe that the deportation orders were issued for the wrong political reasons and that they were cancelled for the right political reasons. I want to believe that this political process will continue and that it will have manifold practical results, one of which will be the recognition of my right to freedom."

Amnesty International's Concerns

Amnesty International acknowledges that various Palestinian groupings, including *al-Fatah*, do advocate violence against Israel and have carried out acts of violence. However, it does not consider that membership of, or association with, the PLO or one of its factions is in itself conclusive evidence that a certain individual has used or advocated violence. In determining whether an individual is a prisoner of conscience, Amnesty International looks into whether the individual personally used or advocated violence in the circumstances relating to his or her arrest. In other words, it examines any specific opinions or acts attributed to the person in question beyond mere membership of the organization.

Amnesty International notes in this case that the Israeli authorities have not provided any evidence to either Sami Abu Samhadanah or his lawyer about the activities he is alleged to have carried out on behalf of *al-Fatah*. Since the start of the *intifada*, Sami Abu Samhadanah has not been interrogated about his alleged activities. Amnesty International also notes that at no point has he been referred to as someone who used or advocated violence. He has declared that he has never practised violence, nor advocated it as a means to achieve any aim, whether political, social, national or personal, and has expressed his desire to use his influence to prevent further violence. He has also stated his commitment to a political solution of the Israeli-Palestinian conflict, and pointed to the necessity for dialogue and a continuation of the peace process.

On the basis of the available evidence, Amnesty International believes that Sami Abu Samhadanah is a prisoner of conscience, held only for his non-violent political opinions or activities. He should be released immediately and unconditionally.

Administrative detention in Israel and the Occupied Territories

Since December 1991, in the Occupied Territories (except for East Jerusalem), administrative detention orders can be issued by military commanders for a period of up to six months, after which they may be indefinitely renewed for further periods of up to six months. Previously, administrative detention orders could be issued for up to one year. Detainees have no access to any judicial review until they lodge an appeal and the appeal hearing begins; this often takes place several weeks or sometimes months after arrest. Even then, detainees and their lawyers are provided with insufficient information about the grounds for arrest to enable them to effectively challenge the detention order. The grounds for detention are generally formulated in a very broad manner and appeals against administrative detention orders are in the majority of cases rejected.

Amnesty International opposes the detention without a fair trial within a reasonable time of all political prisoners, including administrative detainees. It believes that the practice of administrative detention in Israel and the Occupied Territories violates fundamental human rights. It should not be used as a substitute for, and a means of avoiding the safeguards of, a criminal justice system.

Amnesty International is urging that all administrative detainees held on account of their non-violent political opinions or activities, like Sami Abu Samhadanah, be released immediately and unconditionally, and that the others be released unless they are to be given a fair and prompt trial.

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