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# PALESTINIAN AUTHORITY PROLONGED POLITICAL DETENTION, TORTURE AND UNFAIR TRIALS

## INTRODUCTION

The West Bank and Gaza Strip have been occupied by Israel since 1967. In May 1994 the Palestinian Authority was set up with jurisdiction over 60% of the Gaza Strip<sup>1</sup> and the town and environs of Jericho in the West Bank. In November and December 1995 the area under the control of the Palestinian Authority was increased to include six towns in the West Bank. As a result more than 65% of the population of the West Bank and Gaza Strip now live in areas under the jurisdiction of the Palestinian Authority. A Legislative Council of 88 members was elected to oversee the implementation of the Oslo accords in January 1996.

In this report Amnesty International documents human rights abuses committed by the Palestinian Authority in the territory under its jurisdiction. These abuses include arbitrary arrest and detention without charge or trial of political detainees, the widespread use of torture and deaths in custody after torture, possible extrajudicial executions and other unlawful killings. The failure to conduct and make public full and impartial investigations into abuses, the arrest of human rights activists and journalists who write about the abuses, the closure of newspapers and the banning of books have created an atmosphere of fear, while the selective sentencing of those alleged to have committed human rights abuses without any further investigation has done nothing to diminish the atmosphere of impunity which allows free rein to the security services.

Amnesty International recognizes that the Palestinian Authority has been under external political pressure, in particular from Israel and the United States of America, to clamp down on those who have organized violent attacks on Israeli citizens. Time and again wide-ranging measures to prevent violent attacks on Israeli targets have been a prerequisite for the implementation of what has been already agreed, or in order to progress to the next stage in the peace process. Such pressure has undoubtedly been a factor in encouraging the Palestinian Authority to carry out large-scale arbitrary arrests over the past two years, leading to the detention of hundreds without charge or trial, and the summary, unfair and often secret trials of those suspected of participating in violent attacks against Israelis or other politically-motivated offences.

Amnesty International condemns the deliberate and arbitrary killing of civilians and recognizes that the Palestinian Authority has both a right and a duty to bring to justice those responsible for such acts. However, those brought to justice should be charged with recognizably criminal offences and tried according to international standards for fair trials. There can be no justification for the fact that hundreds of people have been held outside any legal framework, for days, weeks, or months, or for the fact that torture has been inflicted on hundreds of Palestinians, including both political and non-political detainees.

Amnesty International delegates have visited the areas under the jurisdiction of the Palestinian Authority several times over the past two years<sup>2</sup>. The Secretary General of Amnesty International discussed the

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<sup>1</sup>The area outside the jurisdiction of the Palestinian Authority includes Israeli military areas and Israeli settlements.

<sup>2</sup>Visits also included research into Amnesty International's concerns in Israel and the Occupied Territories remaining under direct Israeli jurisdiction. See *Israel and Occupied Territories including the areas under the jurisdiction of the Palestinian Authority: Human rights: A year of shattered hopes* (AI Index: MDE 15/07/95);

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organization's concerns with President Yasser Arafat in February 1996 and Amnesty International's delegates have met Palestinian Authority ministers, government officials, including the Attorney General, officers in security forces and members of the Legislative Council. They have also met victims of human rights abuses, doctors, lawyers, and human rights activists. Amnesty International delegates in 1996 included a prominent human rights medical doctor who was able to examine some of the victims.

Because of the climate of fear and the very real possibility of reprisals, Amnesty International has protected identities by omitting names (except when the case has already been made public), at the request of the victims, and by not citing testimonies in full. The right of all Palestinians, including human rights activists, journalists, victims and others, to speak openly about human rights violations and to express conscientiously-held beliefs without advocating violence, is a fundamental right. Without this freedom of expression it will be impossible to build a society based on the rule of law.

Amnesty International urges the Palestinian Authority to take action to ensure that the abuses described in this report are ended. Recommendations are found at the end of this report.

## BACKGROUND

The Palestinian Authority was established in the Gaza Strip and the Jericho area in May 1994 following the Agreement on the Gaza Strip and Jericho Area signed on 4 May 1994 between Israel and representatives of the Palestine Liberation Organization (PLO) (Cairo Agreement). This agreement implemented the Declaration of Principles on Interim Self-Government Arrangements (Declaration of Principles) of 13 September 1993. An interim administration was set up in the area headed by Yasser Arafat, Chairman of the PLO, who returned to Gaza in July 1994.

On 28 September 1995 a further accord, the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (also known as Oslo II or the Taba Agreement), extended the jurisdiction of the Palestinian Authority to cover other areas in the West Bank which, like the Gaza Strip, had been occupied by Israel since 1967.

The Oslo II Agreement divided the West Bank into three categories. In Area A, consisting of the main urban areas, which make up 4% of the land in the West Bank, the Palestinian Council was to have powers and responsibilities for internal security and public order. In Area B, consisting of 440 West Bank Palestinian villages, the Palestinian Council was to have responsibility for public order for Palestinians while Israel maintained overriding responsibility for security with the purpose of protecting Israeli nationals and confronting the threat of "terrorism" (Article XIII). About 68% of the population and 23% of the land in the West Bank are contained in Areas A and B. In Area C, which included the majority of the land, civil powers were to be gradually transferred to Palestinian jurisdiction except for issues to be negotiated in the permanent status negotiations<sup>3</sup> (Article XI).

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*Israel and the Occupied Territories: Death by shaking: the case of 'Abd al-Samad Harizat* (AI Index: MDE 15/23/95); *Israel/Lebanon: Unlawful killings during operation "Grapes of Wrath"* (AI Index: MDE 15/42/96); *"Under constant medical supervision": Torture, ill-treatment and the health professions in Israel and the Occupied Territories* (AI Index: MDE 15/37/96).

<sup>3</sup>These issues include Jerusalem, settlements, Palestinian refugees, borders, foreign relations and Israeli nationals within the Palestinian Authority. The negotiations were to commence not later than May 1996; as Amnesty International December 1996 AI Index: MDE 15/68/96

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In implementation of the Oslo II Agreement Israel, at the end of 1995, withdrew its military forces from six towns in the West Bank: Jenin (13 November), Tulkarem (10 December), Nablus (11 December), Qalqiliya (16 December), Bethlehem (21 December), and Ramallah (27 December). Israeli redeployment from most of Hebron, due to take place in January 1996, was delayed until March and then further delayed following four suicide bombings carried out by supporters of Islamist organizations in February and March 1996 which killed 59 people in Jerusalem, Tel Aviv and Ashkelon.

Elections for the President of the Palestinian Authority and for a Legislative Council of 88 members took place in January 1996. Yasser Arafat was overwhelmingly voted President, with over 90% of the vote, while the *Fatah* party won 55 seats in the Legislative Council elections.

A number of Palestinian parties and individuals oppose the agreements with Israel. Members of these parties, including the Islamist parties, *Hamas* (the Islamic Resistance Movement) and Islamic *Jihad*, and the leftist parties, the Popular Front for the Liberation of Palestine (PFLP) and the Democratic Front for the Liberation of Palestine (DFLP), have committed violent acts against Israelis, and suspected sympathizers of these parties have been the focus of arrests by the Palestinian Authority (as well as by Israel in territories under its direct control). Suicide bomb attacks have been the major weapon used by *Hamas* and Islamic *Jihad*, while the PFLP has claimed responsibility for shooting attacks, including some in 1996 against Israeli settlers<sup>4</sup> travelling by car in the Hebron area. As a result, more than 100 Israeli and other nationals, including over 70 civilians, have died in suicide attacks by Palestinians since May 1994.

In response to these attacks, Israel has frequently closed the border, known as the “green line” between Gaza and the West Bank and Israel (including East Jerusalem, annexed by Israel in June 1967). While the Israeli Government states that this is done in an attempt to avoid such attacks, it is widely perceived as a form of collective punishment. The closures have meant that Palestinians from the Occupied Territories and the Palestinian Authority have been unable to travel to Israel (where in 1993, 55,000 of them had previously worked as migrant workers<sup>5</sup>). Palestinians in Ramallah have been unable to travel to Jerusalem, 11 kilometres away; the sick from the West Bank or Gaza have been unable to reach specialist hospitals on the other side of the “green line”; and exports and imports have not been allowed to cross the border. The Israeli policy of closure is said to have cost the Palestinian Authority, in lost trade and lost remittances, from \$4.5-\$6 million a day. Unemployment in Gaza in mid-1996 was estimated at about 39.2% and in the West Bank at 24.3%. There has been a striking fall of 22% in real incomes in the West Bank and Gaza Strip.<sup>6</sup>

In May 1996 Benjamin Netanyahu, the leader of the Likud Party, defeated outgoing Prime Minister, Shimon Peres, in the Israeli elections and in June became Prime Minister. In September 1996 violent demonstrations broke out against Israel’s opening of a tunnel running beside *al-Haram al-Sharif* (“the Holy Sanctuary” in Jerusalem’s old city which includes the Dome of the Rock and al-Aqsa Mosque).

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of the end of October 1996 they had not yet begun.

<sup>4</sup>About 144,000 Israeli settlers live in more than 190 settlements constructed since 1967 in the West Bank and Gaza Strip.

<sup>5</sup>Before the *intifada* (which started in 1987) the figure was around 85,000.

<sup>6</sup>Figures from the United Nations Special Coordinator’s Office; see also *News From Within*, vol 12 no 6, June 1996 and PCHR *Closure Updates*, 1996.

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Israeli soldiers used tear gas, rubber bullets and high-velocity firearms with live ammunition against civilian demonstrators, many of whom were throwing stones; helicopter gunships were also used. Palestinian police shot at Israeli soldiers and border police. On several occasions Israeli forces used excessive or indiscriminate force against demonstrators who, even when throwing stones, did not put their lives in danger. Palestinian police were also reported to have fired at civilians. A total of 65 Palestinians, including 37 members of the security forces, and 16 members of the Israeli security services were killed during four days of demonstrations. The areas under the jurisdiction of the Palestinian Authority were again totally closed off from Israel.

## **THE PALESTINIAN AUTHORITY AND HUMAN RIGHTS**

The Declaration of Principles between Israel and the PLO of September 1993 contained no mention of human rights. In the Agreement on the Gaza Strip and the Jericho Area of 1994 human rights only received a brief mention. Article XIV stated that:

*“Israel and the Palestinian Authority shall exercise their powers and responsibilities pursuant to this Agreement with due regard to internationally-accepted norms and principles of human rights and the rule of law”.*

Similar commitments are to be found in the 1995 Oslo II Agreement (Article XIX)<sup>7</sup>.

As it is not admitted as an independent state to the United Nations, the Palestinian Authority is not in a position to ratify international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, Chairman Yasser Arafat told Amnesty International delegates on 2 October 1993 that the PLO was committed to respecting all internationally recognized human rights standards and to incorporating them fully into Palestinian legislation. He reiterated this pledge to the Secretary General of Amnesty International on 7 February 1996.

Under Article VII(1) of the Agreement on the Gaza Strip and the Jericho Area:

*“The Palestinian Authority will have the power, within its jurisdiction, to promulgate legislation, including basic laws, laws, regulations and other legislative acts”.*

Immediately after the signing of the Declaration of Principles the Palestine National Council's Legal Committee started to draft a Basic Law which should be the framework of the operation of the Palestinian Authority during the transitional period. This Basic Law has been widely publicised and debated by the Palestinian public over the past two years. Each draft so far has tended to strengthen its human rights provisions; however, the authority recently tried to introduce into the Palestinian Authority's Legislative Council a version of the Basic Law with weaker human rights safeguards. The Palestinian Legislative Council has to date insisted on debating the fourth draft, and it is this draft of the Palestinian Basic Law

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<sup>7</sup>With “the Council” replacing “the Palestinian Authority”. The wording has been criticised for failing to require both sides to adhere to human rights standards; see, for instance, *A human rights assessment of the draft Basic Law for the National Authority in the Transitional Period* by Joanna Oyediran and Maherin Gangat, *al-Haq*, Ramallah, 1996, Section 1.2.4 (published in Arabic).  
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(which is not yet law but which has completed its first reading before the Palestinian Legislative Council) which is quoted in this report.

The Palestinian Basic Law, Fourth Draft, states in Article 8 that:

*“Palestine recognizes and respects the fundamental human rights and freedoms prescribed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other Conventions and Covenants which secure such rights and freedoms. Palestinian authorities shall adhere to the said international agreements”.*

The Palestinian Independent Commission for Citizens' Rights (PICCR) was established on 30 September 1993 by a decree of Chairman Yasser Arafat "to follow up and ensure the existence of the requirements for the protection of human rights in the various Palestinian laws, legislation, and regulations as well as in the work of the various departments, organs, and institutions in the state of Palestine and the PLO". The PICCR has offices in Jerusalem, Ramallah and Gaza, with four lawyers accredited to its staff. In October 1996 it published its first annual report, covering the period ending July 1995. The report details the Commission's investigations including cases of torture, deaths in custody, killings by members of the Palestinian security services, prison conditions and restrictions on freedom of expression and makes a number of recommendations to the Palestinian Authority.

For years the Palestinian population in the Occupied Territories has benefited from a large number of human rights organizations - Palestinian, Israeli, international or jointly run organizations - which have actively campaigned for upholding international human rights and humanitarian standards. Other organizations campaign on single issues, such as the ending of administrative detention in Israel, or provide legal aid for those arrested or support for Palestinian prisoners. Most Palestinian organizations have continued to campaign for human rights within the areas under the Palestinian Authority. Officials in some branches of the Palestinian security services have allowed human rights organizations to visit detainees and detention centres and have discussed their human rights concerns, although action on these concerns has been limited. Human rights organizations are also involved in running human rights education courses, both in the Police Academy in Jericho and in local centres<sup>8</sup>.

The PICCR and other Palestinian human rights organizations have raised cases of human rights abuses committed by members of the Palestinian security forces directly with the Authority. However, organizations complain that they rarely receive any response to cases of abuses raised confidentially. At the same time, when organizations have made public their concerns, on a number of occasions those considered responsible for statements critical of the Palestinian Authority have been arrested and detained (see pages 14-16). Nevertheless, a number of Palestinian human rights organizations continue to raise publicly concerns about human rights abuses committed by Palestinian security forces.

Amnesty International has called on the Palestinian Authority to adhere to internationally recognized human rights standards and to support the legitimate role of human rights defenders in monitoring human

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<sup>8</sup>Amnesty International is also working with *al-Haq* and the Palestinian Human Rights Information Centre (PHRIC), on community-based human rights education.

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rights developments, contributing to the human rights debate and working to ensure the enjoyment of human rights for all.

## A MULTIPLICITY OF POLICE FORCES

The Declaration of Principles of September 1993 stated in Article VIII:

*“In order to guarantee public order and internal security for the Palestinians of the West Bank and the Gaza Strip the Council will establish a strong police force...”*

The Agreement on the Gaza Strip and Jericho Area of 4 May 1994 and the Oslo II Agreement of 1996 repeat, in almost the same words, the need for a “strong police force”. Today the “strong police force” is in danger of overshadowing the civilian Palestinian administration.

Annex I, Article IV(2) of the Oslo II Agreement of 1995 states that the Palestinian Police shall consist of one integral unit under the control of the Council, composed of four branches: the Civil Police, Public Security, Preventive Security, Intelligence and Emergency Services and Rescue. “In each district, all members of the four Police branches shall be subordinate to one central command.” The Palestinian Coastal Police (*bahriyya*, also known as the naval police or the marines) is mentioned as a separate unit.

However, neither at central nor at district level is there any unified command. It is even difficult to be sure of the exact number of security services. At least 10 different police or security forces<sup>9</sup> operate within and, on occasion, outside the areas under the jurisdiction of the Palestinian Authority. Each Palestinian district may have several security branches operating with minimal accountability. No security force appears to be subject to any civilian control although in theory the governor (*muhafez*) of each town has overall authority over the forces in his area<sup>10</sup>. The extent of control of the leaders of each security force over units stationed in other parts of the West Bank is also unclear.

The Palestinian police force was recruited partly from Palestinians from the diaspora, including members of the Palestinian Liberation Army, the armed force of the PLO, and partly from local people from the West Bank and Gaza Strip. Originally composed of 12,000 police, by July 1995 its number had risen to 20,000 and by September 1996 there were believed to be more than 40,000 police in different branches of the security forces. In the Gaza Strip, with about 20,000 police, there is one law enforcement officer for every 50 people, possibly the highest ratio of police to civil population in the world.

In theory all security services are under the control of General Naser Yusef, the Head of Public Security, based in Gaza. Amnesty International was told by General Yusef that the security forces were complementary with one overall leadership through a security council headed by President Arafat. In practice, however, different branches of the security forces appear to be independent and often competing entities. The main security forces involved in arresting political detainees are the Palestinian Preventive Security Service (PSS) in theory a branch of the police; the Intelligence or *mukhabarat*; the military intelligence or *istikhabarat*; and Force 17, a special force directly accountable to President Arafat. As one

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<sup>9</sup>For a list of security services, see Appendix, page 37.

<sup>10</sup>Governors are only appointed to towns in the West Bank.

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former detainee told Amnesty International delegates:

*“I was arrested twice and held by four different police forces without charge or trial. I said to the police chief, ‘Where is the law?’ He said, ‘We are the law’.”*

All branches of the police are armed. In cases of arrests and detentions over the past two years, different branches of the security forces appear frequently neither to coordinate nor even to communicate with each other. Amnesty International was informed of occasions when one security force arrived to arrest someone after he had already been arrested by another force,

*“The peculiar thing about my arrest is that, although I was under detention by the mukhabarat, other security forces were looking for me, and in fact they went so far as to erect road barriers in order to find me.”*

In some cases the detainee under interrogation is passed from one service to another:

*“The interrogation was general and without torture by four security departments: the mukhabarat who arrested me, the PSS, the istikhbarat, and the special forces.”*

The large number of armed police has meant that deaths from shooting by the security forces are frequent. More than 50 civilians have been killed by the Palestinian police and over 100 wounded since 1994. Some killings appear to have been extrajudicial executions, targeting suspected opponents of the Palestinian Authority. Others were deliberate and arbitrary killings of members of civilians. In addition, people have been killed as a result of the accidental discharge of a weapon; crossfire during shoot-outs between members of the security forces and those they were trying to arrest; or crossfire during shoot-outs as a result of rivalry between different branches of the security forces.

In one case of unlawful killings 13 people were killed outside the Palestine Mosque in Gaza on 18 November 1994 when police opened fire on a demonstration of supporters of *Hamas*. In another unlawful killing, Taysir Ahmed al-Lawzi was killed by members of the Palestinian security services after he stopped his car at a checkpoint in al-Bireh on 1 April 1996. Witnesses report that when the passengers were getting out of the car, the security services started shooting<sup>11</sup>. In another case, an 11-year-old girl, Riba Nidal Hindi, was killed on 21 August 1996 during a shoot-out between rival members of the police and the PSS in Gaza. The Attorney General, Khaled al-Qidreh, stated that several people had been arrested and an investigation was underway.

## **ARBITRARY POLITICAL ARRESTS AND DETENTION WITHOUT TRIAL**

*“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or*

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<sup>11</sup> Amnesty International wrote to the Attorney General asking for a report of the investigation into the killing of Taysir al-Lawzi, and about any action taken against the police involved. The killing of Taysir al-Lawzi in April 1996 was followed by demonstrations in Ramallah and a promise by the Palestinian Authority that the perpetrators would be punished. On 28 July 1996, at a trial before the military court, one member of the *istikhbarat* was convicted of “causing death” and a member of the PSS was convicted of “improper use of a weapon”. Both were sentenced to 18 months’ imprisonment.



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*detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” ICCPR, Article 9(1).*

*“Every person has the right to liberty and security of person. No person shall be subjected to arbitrary arrest or detention. No person shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.” Palestinian Authority Basic Law, Fourth Draft.*

In the Gaza Strip arrest procedures are governed by the 1924 Criminal Procedure (Arrest and Searches) Ordinance, promulgated under the British Mandate of Palestine. Article 10(1) states that:

*“A person arrested without warrant and detained under the last preceding section [which gives detention powers to officers of police stations] shall be brought before a magistrate within forty eight hours of his arrest”.*

In the West Bank (which was under Jordanian rule between 1948 and 1967) arrest procedures are governed by the 1961 Jordanian Code of Criminal Procedure which requires the detainee to be taken before the attorney general within 24 hours:

*“1. The Attorney General shall question immediately the accused brought before him under the terms of a summons. The accused brought before him under the terms of a warrant shall be questioned within 24 hours of being held in custody.*

*“2. At the expiry of the 24-hour period, the custodial officer shall automatically bring the accused before the Attorney General.” (Article 112)*

*“If the accused is arrested under the terms of a warrant and held in custody for more than 24 hours without being questioned by the attorney general or brought before him in accordance with the provisions of the previous article his arrest shall be regarded as an arbitrary act and the official responsible shall be prosecuted for the offence of deprivation of personal liberty provided for in the Penal Code.” (Article 113)*

Apart from fewer than 100 people brought before State Security Courts, the great majority of the more than 2,000 political detainees arrested and detained by the Palestinian Authority over the past two years have been held without charge or trial. Some have been detained for days, some for months, before being released uncharged. Access to lawyers and families has been delayed for several weeks or never granted at all. Some detainees stated that, after weeks in detention without charge or trial, they asked for a certificate of release but were refused.

Many arrests may have stemmed from outside pressure, especially from Israel and the US, to arrest perpetrators of violent attacks against Israeli targets. The arrest of individuals accused of criminal offences is, of course, a recognized responsibility of the Authority. However, the scale and arbitrary nature of the arrests has frequently suggested that attempts were being made simply to round up large numbers of suspected sympathizers of opposition parties, without any relation to whether or not they had committed or were suspected of having committed any criminal offence.

Arrests of suspected supporters of groups opposing the peace process began soon after the official Amnesty International December 1996AI Index: MDE 15/68/96

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handover of Gaza to the Palestinian Authority in May 1994. Most of those arrested - up to 800 people - during 1994 were held for a few days, but a few supporters of Islamist groups were held for up to 50 days before being released. Those arrested were held outside any legal process: they were not brought before a magistrate to have the grounds for detention examined; no formal access was allowed to the detainee's lawyer or family (though the family frequently gained informal access); and the interrogation of those arrested seems to have frequently been limited to general questions about personal details and political affiliation, rather than about any specific acts.

From January 1995 the pattern of arrest and detention changed. Those arrested were held, often incommunicado, for over 20 days - a longer average period than previously - before being released without charge. In February 1995 a decree issued by President Arafat setting up a State Security Court gave the power to the Palestinian Authority to sentence people in summary trials, without due process, to long prison sentences. Trials before the State Security Court began after two bombing attacks against Israelis on 9 and 10 April 1995. A total of 33 people were sentenced to up to 25 years' imprisonment in summary, unfair trials before 26 May 1995.

After June 1995 the number of trials before the State Security Court diminished, perhaps because of local and international protests. But those arrested were not brought before civilian courts; on the contrary, the policy of holding political detainees in prison without charge or trial continued. A number of arrests of suspected opponents of the peace process, from the PFLP and Islamist groups, took place in the newly handed over towns in the West Bank just before the elections on 20 January 1996. A former detainee told Amnesty International:

*"I was arrested five times under the Israeli occupation and released. Then, two weeks later, I was arrested by the Palestinian Authority and kept in the same prison."*

The largest wave of arrests carried out by the Palestinian Authority up to October 1996 has been that following the four suicide bombings in Jerusalem, Tel Aviv and near Ashkelon, which killed a total of 59 people, most of them civilians, at the end of February and the beginning of March 1996. Following these bombings more than 1,200 suspected members of Islamist groups are believed to have been arrested by the Palestinian Authority - over 400 in the Gaza Strip and over 800 in the West Bank. More than 300 people were arrested by Israel during the same period. Those living in Area B found themselves liable to arrest by either Israel or the Palestine Authority. At the time of writing, at least 150 political detainees are believed to be held in detention in the West Bank and about 300 in Gaza.

Most of the political arrests carried out are made without any arrest warrant and those detained are not brought before a judge or a public prosecutor. The following testimony is typical of many collected by Amnesty International:

*"Three police came in civilian clothes, wearing police berets. My wife said, 'What do you want with Muhammad?' The chief said, 'We are going to take Muhammad to give you a rest from him. There is an order to arrest him'. She said, 'Show me the order'. He said, 'I am the order'."*

Frequently the arresting forces tell individuals that they are needed only for a matter of a few minutes. Many are kept for months, without charge or trial. Arrests frequently involve large numbers of armed security personnel and unwarranted violence. A journalist accused of writing an article critical of the

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Palestinian Authority stated:

*“I was travelling to a meeting by car when three cars surrounded me and about 15 men with kalashnikovs rushed forward shouting at me to raise my hands. They were in civilian dress and the cars were unmarked. They tied my hands, blindfolded me, and took me to the istikhbarat”.*

The arbitrary nature of many arrests is illustrated by the number of cases where security forces have taken another person in addition to the person sought. One former detainee from the West Bank said: “My younger brother is bigger than me, so they arrested him as well and kept him for two days.” A student, arrested in March 1996 stated: “ My brother looks like me, so they arrested both of us.”

Frequently, members of the family are taken as hostages, to put pressure on a family member to give himself up to the police. One former detainee stated that his two brothers and a 15-year-old nephew were arrested by the *mukhabarat* but released after he gave himself up. In another case, Musa al-Ghaul and Jaber al-Ghaul, farmers in their 50s, were arrested in Gaza by the *mukhabarat* on 8 June 1996 after their brother, ‘Adnan al-Ghaul, a *Hamas* leader, had gone into hiding. They stated that they were told: “We will release you when your brother gives himself up”. Their families had no access to them during the first 30 days of their detention. Amnesty International delegates who raised their case with Brigadier General Amin al-Hindi, the head of the *mukhabarat*, were informed that they were being held because of their own activities. However, like hundreds of others, they were never charged with any offence. They were released in August.

The Trial upon Information Act of 1924 states, in Article 14:

*“A magistrate, before whom an accused person has appeared, under arrest or otherwise, for the purpose of a preliminary enquiry, shall have power pending proceedings from time to time to remand the accused for any period not exceeding fifteen days and for that period either to commit him into custody or to admit him to bail”<sup>12</sup>.*

Amnesty International delegates visiting the Palestinian General Intelligence Services (*mukhabarat*) in Gaza were told that the failure to charge detainees or bring them to trial was because investigations were inter-related and trials could not be held until all investigations were completed. Although detainees have consistently denied being brought before a magistrate’s court, files shown to the delegates<sup>13</sup> did contain one or more 15-day extensions by the magistrate’s court. However, these extensions never covered the whole period of detention. In one file, containing five detention extensions, the most recent extension was dated over two months before the visit; in another file only one 15-day extension of detention, dated January, seven months before the delegates’ visit, was found.

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<sup>12</sup>Under the 1961 Jordanian Code of Criminal Procedure, applicable in the West Bank, the Attorney General (or public prosecutor) has to see the detainee and may give a 15-day extension of detention if the crime is punishable by a prison sentence (Article 114(1)). Under Article 179 of the 1960 Jordanian Penal Code a prison director or guard who admits a detainee without a written decision can be punished by imprisonment for between one month and one year for deprivation of personal liberty.

<sup>13</sup>Amnesty International delegates visiting Gaza in August 1996, made the request for a particular detainee’s file without notice given using a list shown to them of over 100 detainees held by the *mukhabarat*.

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Those suspected of cooperating, in the past or at present, with Israeli secret services (“collaborators”) and suspected supporters of the Revolutionary Council of *Fatah* (RCF, or Abu Nidal group)<sup>14</sup> have spent long periods in incommunicado detention. Prolonged incommunicado detention has also included people formerly working in the service of the Palestinian Authority. The precise reasons for their arrest frequently remains unclear.

Khaled Wahba, aged 22, a former student at Birzeit University who gave up his course to become a policeman, was arrested on 15 May 1995. His family was not informed of where and by what service he was held and went from one security service to another trying to find out. Eventually they were informed that he was held by the *istikhbarat*, but were still not given access to him. Khaled Wahba was detained incommunicado for more than six months until he was released uncharged on 23 November 1995. His family concluded from the marks still apparent on his body that he had been severely beaten while in custody. He was rearrested on 7 December 1995 and held incommunicado by the *istikhbarat* for over two months. His case was raised, on 7 February 1996, by Amnesty International delegates who met President Yasser Arafat. Three weeks afterwards he was allowed access to his family but at the time of writing still remains in detention without charge or trial.

Major Farid al-Salya, a member of the Palestinian police on the staff of General Naser Yusef, was arrested, reportedly by the PSS, on 7 July 1996, one week after his sergeant, Muhammad Ferhat. Both were held in incommunicado detention, reportedly in Ramallah, and no information was given to the family about their whereabouts. Later, both men were said to be held in Gaza by Force 17. The two men were said to be held in incommunicado detention on the orders of President Yasser Arafat. On 18 September Major Farid al-Salya was reported to have been moved to Shifa’ Hospital in Gaza with a broken leg after jumping out of the second storey of the Force 17 detention complex. Amnesty International has repeatedly raised their prolonged incommunicado detention to the Palestinian Authority but has received no response.

Families of those arrested for lengthy periods usually visit or write appeals to Palestinian political figures. Many of them stated that they were told that only President Yasser Arafat can order the release. The conditions of arrest and the rules of access vary from one prison or detention centre to another. Many prisons allow families and human rights organizations access to detainees. But, with the exception of the extensions of detention orders, apparently made out in the absence of the detainees, one factor appears to be common to all these arrests: detainees are held outside the legal system; they are not charged and not brought to trial and there is no impartial assessment of the legality of their detention.

### ***Detention of Human Rights Defenders and Journalists***

A number of human rights activists and journalists who have been critical of the Palestinian Authority or disobeyed the orders of President Yasser Arafat have been arrested. There are already indications that some of those who previously spoke out against human rights abuses are no longer prepared to do so.

The following have been among the human rights activists arrested:

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<sup>14</sup>The Abu Nidal group, led by Sabri Khalil al-Banna (Abu Nidal), was founded in 1973 as a breakaway from *Fatah*. Now based in Libya, it has, in the past, laid claim to a number of violent attacks against civilians and assassinations of other Palestinians.

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**Raji Sourani**, currently Director of the Palestinian Centre for Human Rights (PCHR) and then Director of the Gaza Centre for Rights and Law, was arrested and held for 16 hours on 14 February 1995 after he called for a conference to discuss the decree on State Security Courts. He was then released without charge.

**Bassem Eid**, a human rights fieldworker then employed by the Israeli human rights organization, *B'Tselem*, was arrested on 2 January 1996 after *B'Tselem* had issued a report suggesting that Palestinians implicated in torture had been incorporated into the Palestinian Preventive Security Services (PSS). He was released without charge on the following day.

**Iyad al-Sarraj**, the Commissioner General of the Palestinian Independent Commission for Citizens' Rights (PICCR) and Director of the Gaza Community Mental Health Programme, was detained three times in 1995 and 1996 as a result of his outspoken criticism of the human rights record of the Palestinian Authority.

**Muhammad Dahman**, Director of the Gaza Office of the human rights organization *al-Damir* (Conscience), was arrested on 12 August 1996 by the Palestinian Intelligence Service (*mukhabarat*) after issuing a communique calling for an investigation into the alleged suicide after interrogation of Nahed Dahlan. He was charged with incitement by spreading false information and his case was transferred to the State Security Court. He remained in prison until 27 August. The charge against him was apparently dropped.

The three arrests of Dr al-Sarraj, in December 1995, May 1996 and June 1996, showed a dangerous progression. On 7 December 1995 Dr al-Sarraj was held without charge for nine hours, apparently after making remarks critical of the Palestinian Authority. On 18 May 1996 he was arrested for giving an interview critical of the Palestinian Authority's human rights record. His detention was extended before a court but he was not charged. He was released on 26 May. He was arrested for the third time on 10 June 1996. A prominent international figure known for his medical and human rights work, he was reportedly beaten up, thrown to the ground and kicked by the police soon after arrest. At first he was charged with possession of drugs. Later, when he had smuggled out a note concerning the beating, he was charged with assaulting the police. Eventually, but only after strong local and international intervention<sup>15</sup>, Dr al-Sarraj was released on 26 June after 17 days in prison with access only once to the US consul-general and once to his sisters.

Journalists have also been arrested for criticism of the Palestinian Authority or for publicising human rights abuses. **Tahar Nunu** was arrested in April 1995 and held for 23 days without trial apparently for having suggested that *Hamas* members reported to have blown themselves up might have been deliberately killed by members of the Palestinian Authority security services. He was arrested again for a few hours on 30 August for saying that Dr Mahmud Zahhar had been tortured (see page 17). In another case, **Maher al-Alami**, the editor of *al-Quds* newspaper, was arrested on 25 December 1995 and detained for six days, reportedly because an interview between Yasser Arafat and the Greek Orthodox Patriarch of Jerusalem was placed on the eighth rather than the first page of *al-Quds*, as apparently requested by President Arafat's office.

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<sup>15</sup>The Palestinian Legislative Council also called, on 13 June, for his release.  
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The detention for a total of 25 days of Dr al-Sarraj, a human rights activist with a worldwide reputation, brought international pressure for his release. But charges against him remain pending. Amnesty International fears for the rights of other human rights activists and individuals who are less well known but in a similar danger of arbitrary arrest, ill-treatment or torture, and prolonged detention.

### **TORTURE AND ILL-TREATMENT**

*“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”*  
ICCPR Article 7

*“All persons are equal in human dignity. No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no person shall be subjected without his free consent to medical or scientific experimentation. No effect shall be given to any statement or confession obtained as a result or under the threat of torture, cruel, inhuman or degrading treatment.”* Palestinian Basic Law Fourth Draft, Article 11

The torture of political and other detainees is in danger of becoming systematic in certain detention centres in Gaza and the West Bank. The fear currently expressed by victims that they would suffer reprisals as a result of their names being publicized by human rights organizations has increased over the past year and is closely related to the increasingly widespread use of torture or ill-treatment. Researchers from human rights organizations working in the first months of the Palestinian Authority found most victims of arbitrary political arrest and detention ready to lodge official complaints and to have their names and testimony publicized. By mid-1996 the fear had spread even beyond the mention of names: a 24-year-old student at a particular university, tortured by a particular force in a particular place, feared that he could be identified even if his name was not given; a detainee held in a small place with 12 others in a cell felt vulnerable to reprisals, if his detention centre was mentioned or his torture described.

During the period June 1994 to June 1995, the first year of the Palestinian Authority, those reported to have suffered torture were usually those accused of cooperating with the Israeli security services or detainees accused of certain common law offences, especially those alleged to have been involved in drug-dealing or prostitution. A pregnant woman arrested in Gaza in June 1994 was reportedly held for seven days, most of the time in Gaza Central Prison. She was allegedly accused of prostitution and beaten during interrogations over four days. She alleged that the beatings caused her to miscarry.

The majority of the hundreds of suspected members of organizations opposed to the peace process detained in Gaza<sup>16</sup> before June 1995 were not ill-treated. However, a number of occasions have been reported when torture or ill-treatment was reportedly used against such political opponents. Some supporters of Islamic *Jihad* arrested in June 1994 alleged that they were tortured by being beaten, sometimes while being suspended. In November 1994 a group of people who had apparently made unfavourable comments while passing a group of police were reportedly chased, arrested, held for a week

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<sup>16</sup>Few of those arrested for opposition to the peace process were detained in Jericho before December 1995. Political detainees held in Jericho during the first year were mostly those accused of cooperating with Israeli security services. Torture or ill-treatment of these and of common law prisoners was widespread.  
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and beaten, slapped and kicked. One member of the group had his beard and hair shaved<sup>17</sup>. In March 1995 Muhammad al-Simri, later tried by the State Security Court on charges of carrying bombs to Israel, was allegedly beaten during his pre-trial detention.

By mid-1995 reports of beatings and ill-treatment of political and common law detainees in Gaza were growing more frequent. Dr Mahmud al-Zahhar, the leader of *Hamas* in Gaza, who was arrested on 28 June 1995 and detained for more than three months without charge or trial, was reportedly beaten to the extent that his arm was broken, and his hair and beard were shaved off. There were also reports that a number of individuals living in areas of the West Bank outside Palestinian jurisdiction were taken from their homes by paramilitary groups<sup>18</sup> close to the Palestinian Authority or by Palestinian security services, in particular the PSS, and tortured either in secret centres in the West Bank or in Jericho Prison.

After the signing of the Oslo II (or Taba) Agreement in September 1995 the end of Israeli rule over the main towns in the West Bank was welcomed with large celebrations in centres like Nablus, Ramallah and Bethlehem. However, within a month, occasions of beatings and torture of Palestinians living within these towns were being reported. The first cases, in January 1996, were frequently reported publicly. Those tortured, and their lawyers, laid official complaints before the Attorney General in the West Bank or the public prosecutor of the local area, and wrote letters to President Arafat and other members of the Palestinian Authority. Very occasionally an expression of regret and a statement that those found guilty would be punished was made. More often no response was made to the complaint. Persistent complainants reported being threatened with detention or being sent to the State Security Court.

Amnesty International has received substantive and consistent testimonies alleging torture by most branches of the Palestinian security forces including the police, the PSS, the *mukhabarat*, the *istikhbarat*, Force 17, and the *bahriyya* (naval police). Torture appears now to be most widespread in Gaza. Throughout the West Bank the situation is more variable. Torture has been practised frequently since late 1994 in detention centres in Jericho, dominated by the PSS and the *mukhabarat*. Of the areas handed over to the Palestinian Authority in 1995, Nablus and Bethlehem have been areas where many former detainees have testified to torture. The wing of Jneid Prison in Nablus controlled by the naval police became, in July and August 1996, a centre where torture was systematically practised. Reports of torture have also come from Tulkarem and Ramallah. However, in some detention centres or prisons little or no torture has been reported.

### *Methods of torture*

Methods of torture vary widely and may possibly depend on the background of those who are in charge of torturing. Some methods (especially the use of sleep deprivation and position abuse in the Gaza Strip) show striking similarities with Israeli torture methods recorded for many years against Palestinian political detainees. However, many victims stated that their torturers came from outside (i.e. Palestinians in exile who had returned since 1994) rather than from inside the Occupied Territories.

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<sup>17</sup>The shaving of beards is carried out against Islamists, who, as a group, are marked by the wearing of beards.

<sup>18</sup>Such as the *Fatah Hawks*. See *Neither Law nor Justice: Extra-judicial punishment, abduction, unlawful arrest, and torture of Palestinian residents of the West Bank by the Palestinian Preventive Security Service*, B'Tselem, Jerusalem, August 1995.

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**- Burning with electric elements and cigarettes**

Mahmud Jumayel, who died on 31 July 1996 after being tortured in Jneid Prison, Nablus, on 27 July, was tortured by the use of electric elements, whilst being suspended and beaten. Dr Milroy, an independent forensic expert, examined at Amnesty International's request a series of photographs of Mahmud Jumayel's body. He found:

*“ . . . multiple burns which are ‘U’ shaped. Many appear deep burns. These are in keeping with having been delivered with an electric element such as is used in a kettle. Probably 20 or more such injuries have been inflicted to the chest, abdomen, back and limbs”.*

Others, who remain detained, have reportedly been tortured in the same way. Burning with cigarettes is frequently reported:

*“The colonel said to the seven policemen ‘Start’. They lay me on the floor and took my shoes off. Four of them had electric cables in their hands and they had taken off the plastic on one side so that the metal wires were exposed. They started to beat me on the feet and burned my skin with cigarettes”.*

**- *Shabeh* (Position Abuse) and Sleep Deprivation**

Detainees report being hooded and made to sit or stand for up to 20 days handcuffed to chairs<sup>19</sup> and deprived of sleep. Sometimes this is combined, as in Israel, with the *khazana*, confinement to a cupboard-sized room, or exposure to cold from an air-conditioner. Even raucous music, blaring out 24 hours a day from a loudspeaker - similar to testimonies of detainees who had experienced Israeli torture - appears still to be used as an additional form of sensory abuse.

*“The PSS then made me sit on a chair. I was blindfolded and I could hear the crying and shouting of detainees and office doors opening and closing. There was loud music going on the whole time - American, Japanese, Hebrew, perhaps. I sat for three days and they would beat my head and neck to wake me up. Later I met people who said they had spent 20 to 30 days without sleeping. Some were kept standing against a wall and with their hands up or kneeling.”*

*“The way the mukhabarat treat you is that you sit in a chair without being allowed to move. They call it uslub al-kursi (“the chair procedure”). You cannot sleep and this took 2½ days. After that they put me in a khazana which is a sort of wardrobe measuring 70cm x 50cm but it is tall and you sit there, you cannot do anything. However, you can stand. This is considered to be the rest room of interrogation. Then they would ask you to squat and that can take anything from between one to three hours. Another method I was subjected to was to stand or sit half-naked in front of the air-conditioner. Most of the interrogations took place in the middle of the night. I was dealt with in this manner for about 20 days, then I was moved. During that period I was not allowed to see a doctor, but afterwards I was medically examined.”*

*“Straight away they brought me to the shabeh room consisting of a narrow corridor in which there was a pipe about two metres off the ground. I had to take hold of the pipe above whilst punches and kicks were directed at me and the others in this position. During the shabeh, a sack was placed over the head and sometimes I was handcuffed. On the first day, I was in this position for about three hours.”*

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<sup>19</sup>One difference with Israeli *shabeh* is that in the Palestinian Authority there have been no reports of the use of kindergarten rather than full-sized chairs.



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### **- Suspension from a hook in the ceiling**

The victim may be upside-down or suspended by his handcuffed hands. This is sometimes known as the *farraj* (chicken), but differs from the *farraj* form of torture used elsewhere in the Middle East, where the victim hangs from a horizontal bar. The victim is often beaten or tortured by the other methods described at the same time.

*“The istikhbarat questioned me for 16 hours. Their questions were just to prove I did something. They started to hit me on the face, with someone behind pushing as hard as possible on the handcuffs behind my back. Then they tied my hands, still handcuffed behind me, by a chain to a hook in the ceiling and started beating me all over with electric cables and a police baton. They tied ropes on my legs and hit my feet with sticks and cables and kicked me on my chest and legs. The following day they took me to an office and my interrogator said: ‘I hope you did not mind this, please forgive us and take it as though you were hit by your father or brother’. He warned me not to tell anyone about this and then I was released.”*

### **- Beating with cables, hoses, sticks or hands; kicking**

Beating is probably the most common form of torture or ill-treatment. The use of electric cables, usually with the plastic coating stripped off to expose the wires, is very frequently reported.

*“The istikhbarat pushed me inside a white place and beat me with sticks, cables and hands. They were shouting and screaming. They beat my head and I fell to the ground. One interrogator put his foot on my neck and let other people beat me. Later I was handed over to the PSS who beat me with electric cables and fists - my leg was black and I could not stand on my foot for three days. I met one person whose whole body was black. I think my story was very simple in comparison with other people.”*

Beating on sensitive parts of the body, such as the testicles, has also been reported:

*“The interrogator would ask me to take off all my clothes and if I refused I would be handcuffed and forced to do so. Then the guards would force my legs apart; one of them would take the left leg, another the right and the third would sit on my chest. The interrogator would begin to hit me with a tube on the testicles and penis at which point I passed out.”*

### **- Dropping molten plastic on the body**

*“I was interrogated by the army, Force 17, and the mukhabarat for over 20 days, mostly during the night. They did a lot of things including dripping molten plastic on my body and beating me. They told me: ‘We want to show the Israelis we have caught the killer of the settler. If you confess, your sentence will be very light, for 10 years or so, and after a month we will release you’.”*

### **- Threats and insults**

A number of detainees, especially during the first year of the Palestinian Authority, stressed that most guards were friendly and helpful. Since torture has become widespread, however, insults of the detainee’s family, or threats of punishment, incapacitating or raping female relatives, have been quite frequently reported.

*“Four of the mukhabarat hit me and I fell on the floor. When that happened I was taken to prison and*

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*they threatened that I would never be able to sit the exam again and said they were going to rape my mother and sisters.”*

### ***Reasons for the spread of torture***

The Palestinian security services have received large amounts in aid from other governments since 1994. Members of the services from the rank of service chiefs downwards have been trained under this government funding, usually by other police forces, from countries which include Denmark, Netherlands, Norway, the United Kingdom and the United States. Human rights training has also been given. Little evaluation of the results of this and other training given to the police has been made. There is no means of knowing whether those who torture have passed through externally-funded human rights courses. However, since the aid and training has reached the highest echelons of the service, it is almost certain that the heads of the services have been exposed to such training. But the heads of the Palestinian security services implicated in torture - the police, the PSS, the *mukhabarat*, the *istikhbarat*, the *bahriyya*, and Force 17, especially - at the least, by failing to investigate allegations of torture, condone the torture practised by their subordinates.

In preparing its report on the State Security Court in April 1995, Amnesty International investigated the pre-trial detention of 29 people arrested from Islamist or leftist groups opposed to the peace process during the preceding two months. Two out of the 29 were reportedly tortured or ill-treated by being beaten. In 1996 there has been a marked deterioration in the situation. After two visits to the area and numerous interviews with former detainees, human rights defenders, lawyers, doctors and families of victims, it is difficult to escape the conclusion that the majority of more than 800 detainees arrested in Gaza since February 1996 have been tortured and at least a quarter of detainees arrested from the West Bank.

An important factor in the spread of torture is the increasingly long period of incommunicado detention. While families, during 1994, could usually see a political detainee after a few days, now the family frequently has no contact with the detainee over the first week or more of the detention. In particular, the great majority of those detained in the mass arrests of March 1996 after the suicide bombings of February and March 1996 were held incommunicado immediately after arrest. Those arrested in the West Bank tended to be held in incommunicado detention for up to a week, while most of those arrested in Gaza, where torture was systematic, were held for at least a month in incommunicado detention. Amnesty International has consistently noted to the Palestinian Authority, as elsewhere in the world, the link between incommunicado detention and torture and has stressed that judicial supervision of incommunicado detention and prompt access to family, lawyers and doctors plays an important role in the fight against torture.

Other factors in the spread of torture may include: the rapid expansion of the Palestinian police which has placed untrained policemen in a position of authority over others; the need to obtain information about past or future operations; the desire to gain a confession; and the use of torture as revenge or punishment (both in the earlier torture of common law detainees and “collaborators” and, over the past 18 months, as a reflection of a frustration that armed attacks on Israelis were delaying the peace process and causing closures with all their attendant economic consequences).

Even more, the fact that the complaints of the individual against those who have committed acts of torture

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are almost invariably ignored has created an atmosphere of impunity which has allowed torture to increase. The Palestinian Authority itself, at the highest level, has so far failed to take any action to end torture, thus giving the impression that torture is condoned and perhaps even encouraged by many of the authorities. Only in rare exceptions, when the case has received great media attention or if the victim is sufficiently important, have perpetrators been brought to trial or punished. Rare trials, summary and often secret, appear designed to cover up the circumstances of the case and to smother any inquiries concerning the chain of command, rather than to elucidate the affair and mete out justice. The weakness of the courts, the failure to observe arrest and detention procedures, the lack of investigation and redress are among the institutional factors which have allowed torture to continue and spread.

## DEATHS IN CUSTODY

At least nine people have died in the custody of the Palestinian security services in circumstances where torture appears to have caused or contributed to their deaths. The aftermath of the deaths have been marked by official silence and cover ups. Investigations have been announced into some of these cases but no conclusions have ever been published. Sometimes it has been announced that members of the security forces involved in the deaths have been punished but, until the worldwide publicity which surrounded the death of Mahmud Jumayel in July 1996, their names were never known.

**Farid Hashem Abu Jarbu'** from the Gaza Strip was arrested on 26 June 1994 and died in custody on 6 July 1994, reportedly after being subjected to torture. The Palestinian Minister of Justice, Freih Abu Middein, announced that Farid Abu Jarbu' had died as a result of violence. Four members of the Palestinian police were arrested in connection with the death but later apparently released without trial.

**Salman Jalaytah** was arrested in Jericho on 15 January 1995 by the PSS. On 18 January his family was told he was dead; they saw marks of violence on his body, which had undergone an autopsy. Rashid Fityani, Salman Jalaytah's brother-in-law who was detained with him, later told the family that both he and Salman Jalaytah had been kept without food and given electric shocks, pinched by pliers and beaten with cables<sup>20</sup>.

**Yusuf al-Sha'rawi**, aged 21, was killed on 26 May 1995 during interrogation in Gaza by a shot in the head. The Attorney General, Khaled al-Qidreh, was quoted as saying: "The policeman was holding a submachinegun when the gun fell and hit the table. A bullet was fired by mistake towards his head and killed him. It was 100% an accident". He said that the interrogator would be put on trial, but no such trial is known to have taken place. Letters sent by Amnesty International to Khaled al-Qidreh seeking clarification about the circumstances of Yusuf al-Sha'rawi's death remain unanswered.

**Muhammad 'Atwa 'Abd al-Majid al-'Amur**, a 50-year-old farmer from Khan Yunus in the Gaza Strip, the father of 17 children, was arrested from his house by the PSS on 24 April 1995. He was detained at Rafah. On 19 June 1995 he was transferred to Shifa' Hospital and he died there on 21 June 1995. On the same day his family were informed where he was. According to information received by Amnesty

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<sup>20</sup>For more information about the cases of Farid Abu Jarbu' and Salman Jalaytah see *Israel and the Occupied Territories including the areas under the jurisdiction of the Palestinian Authority: Human rights: A year of shattered hopes* (AI Index: MDE 15/07/95) pages 26-7.  
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International there was evidence that he had been tortured and his body showed traces of burns. An autopsy was performed, but no information has been released about its findings and no investigation is known to have been carried out.

**Tawfiq Subaih al-Sawarkeh**, aged 36, died on 27 August 1995 in Gaza Central Prison soon after his arrest. The Palestinian authorities at first stated that he had died of a heart attack. Later, President Yasser Arafat opened a formal inquiry into his death and announced that two interrogators had been questioned and suspended. On a visit to Tawfiq al-Sawarkeh's family President Arafat is reported to have said that he would punish severely all those proven guilty of torture. However, to date no one is known to have been charged or tried in connection with his death.

**'Azzam Muslah**, a US citizen aged 52, died on 28 September 1995. He was taken by members of the PSS at 4.30pm on 27 September from a café near his home in the village of 'Ain Yabrud near Ramallah, outside the territory under the jurisdiction of the Palestinian Authority. On 28 September his family unsuccessfully visited detention centres in Jericho to find out where he was. They were told that he had been transferred from the PSS to the *mukhabarat*. The following morning around 2am the body of 'Azzam Muslah was taken to the village. The family reported that there were cuts and bruises on the head. As a result of external pressure the body was later exhumed and an autopsy was performed about 21 days after 'Azzam Muslah's death; it found that three of his ribs had been broken before his death. Three officers of the *mukhabarat* were said to have been tried and sentenced, two to one year's imprisonment and one to seven years' imprisonment, in connection with this case. However, no information was made public concerning the circumstances of 'Azzam Muslah's death, the trial or the names of the officers concerned.

**Mahmud Jumayel**, aged 26, from Nablus, was arrested on 18 December 1995. He was held without charge or trial by the PSS in Jericho and apparently suffered no ill-treatment. On 26 July he was handed over to the naval police and taken to Jneid Prison in Nablus. For three hours, from 1am to 4am, he was reportedly suspended by his feet, beaten with cables and truncheons and burned with electric elements. He died on 31 July 1996 in Hadassah Hospital, Jerusalem.

President Yasser Arafat ordered an investigation and the Palestinian Legislative Council established a commission of inquiry. The investigations ordered by President Arafat and by the Legislative Council were not made public, though the Legislative Council's report was discussed in a closed session of the Council on 14 and 15 August 1996<sup>21</sup>. Meanwhile, those alleged to have carried out the torture were sentenced to up to 15 years' imprisonment in a summary trial<sup>22</sup>.

Shortly after the death of Mahmud Jumayel two further deaths occurred in which torture or ill-treatment before death may have led to suicide or caused or hastened the death. Neither has been fully, impartially and publicly investigated.

The body of **Nahed Mujahed Dahlan**, aged 24, from al-Qarara village near Khan Yunus, was found near his house on 7 August 1996. His body reportedly showed scars and bruising on the abdomen, arms and

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<sup>21</sup>For the Legislative Council Fact-Finding Committee's recommendations, see page 32.

<sup>22</sup>See page 27 and the report *Palestinian Authority: Death in custody of Mahmud Jumayel* (AI Index: MDE 15/62/96), September 1996.

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legs. He was taken to hospital where he died shortly after. During the week before his death he had apparently been summoned every evening for interrogation by the *mukhabarat*, returning home in the morning. An autopsy had apparently found that Nahed Dahlan committed suicide by swallowing insecticide. However, no copy of the autopsy report was made available to the family. The director of the human rights organization *al-Damir*, Muhammad Dahman, was arrested and held for 15 days after issuing a communique calling for an investigation and suggesting that the death of Nahed Dahlan might have been caused by his interrogators (see page 15).

**Khaled 'Isa al-Habal**, a 66-year-old farmer from the village of Kharbata near Ramallah, died on 11 August 1996, a few hours after his arrest by the PSS the previous day. He had been arrested, with five of his sons, after the death of a woman during a fight over a piece of land. Two of his sons, who were released for the funeral, reported that from 1am until 5am they could hear screams and beating coming from the room where their father was held with their other three brothers. The body of Khaled al-Habal was handed back to the family on 13 August, after an autopsy. No autopsy report was made available, but members of the Palestinian Authority announced that the death had been a suicide by hanging. The family stated that there were bruises on the body, leg and back, while no strangulation marks were visible on the neck. Amnesty International called for a full inquiry, but no inquiry is known to have taken place.

Amnesty International asked for copies of all autopsies and reports from investigations of these deaths in custody, but no reply had been received at the time of writing.

## THE STATE SECURITY COURT

*“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”*  
(Universal Declaration of Human Rights, Article 10)

*“Every person who has been arrested or detained shall be informed promptly on his arrest of the cause thereof, and shall, without delay, be informed in detail and in a language which he understands of the nature and cause of the charge against him. He shall be given adequate time and facilities for the preparation of his defence and to communicate with a lawyer of his own choosing. He shall be tried without undue delay in his presence in a manner which guarantees defence through a lawyer of his own choosing.”* Palestine Basic Law Fourth Draft, Article 45

The State Security Court was instituted by a decree of President Arafat in February 1995 and started trying people accused of security offences on 9 April 1995, hours after two bomb attacks, claimed by Islamic *Jihad* and *Hamas*, had killed seven Israeli soldiers and a US student and wounded 40 others. The State Security Court has held sessions in Gaza, Jericho, Nablus and Jenin.

Trials before the State Security Court violate minimum requirements of international law. During the first months of its existence trials were usually held secretly and in the middle of the night. Many started around midnight. Some reportedly lasted only minutes. The authorities gave no advance notice of these trials. People tried by the court stated that 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, including those who visited their relative days or even hours before the trial took place, were not even aware of any

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charges or trial until they heard on the radio that their relative had been convicted the night before. Some of those tried by the court were tried, sentenced and convicted within one or two days of their arrest.

Amnesty International and other local and international human rights organizations strongly criticized the State Security Courts as a gross violation of the right to fair trial. Since then, certain procedures have improved: trials are sometimes public and may be held during the daytime. However, procedures remain grossly unfair. Those appointed to serve as judges in this court are active officers in the security forces. Defendants are almost invariably represented by court-appointed lawyers who are security forces personnel<sup>23</sup>.

According to the UN Basic Principles on the Independence of the Judiciary:

*“Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals”* (Principle 5).

The first trials before the court mostly involved individuals accused of recruiting suicide bombers or planning weapons training. In a number of trials the State Security Court has been used as a means to prevent the extradition to Israel of Palestinians allegedly involved in armed attacks. In the first trial held in Jericho, Rashid al-Khatib and ‘Abd al-Majid Dudin were sentenced on 26 August 1995 to seven and 12 years’ imprisonment respectively for “carrying out activities which harm general security, the Palestinian Authority and the peace process”<sup>24</sup>.

After the death of Mahmud Jumayel on 31 July, three members of the naval police were arrested and were tried before the State Security Court in Jericho on 3 August, charged with causing unintentional death under Article 384(a) of the 1979 PLO code. Captain ‘Abd al-Hakim Hijjo and Lieutenant ‘Umar Qadumi were sentenced to 15 years’ imprisonment with hard labour and Sergeant Ahmad Biddo to 10 years’ imprisonment with hard labour. However, the trial, which lasted two hours including a half-hour adjournment, was grossly unfair: the defendants had a state-appointed military lawyer who offered no defence, no witnesses were called and no information was given as to who had ordered the torture. The Palestinian Authority has a responsibility to bring those responsible for criminal acts to justice. However, this must be done in a properly constituted court according to international fair trial standards. The trial of those accused of causing the death of Mahmud Jumayel did not establish any of the vital circumstances leading to his death in custody.

Two weeks after the above trial, five people charged with disturbing public order and using violence

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<sup>23</sup>For a fuller discussion of the State Security Court see *Israel and the Occupied Territories including the areas under the jurisdiction of the Palestinian Authority: Trial at Midnight: Secret, summary, unfair trials in Gaza* (AI Index: MDE 15/15/95), July 1995.

<sup>24</sup>The then Israeli Minister of Justice David Liba’i is quoted as saying that Israel had proof that they had planned the suicide bombing attack of 21 August but that under the Oslo Agreement the Palestinian Authority had no legal obligation to transfer the suspects as long as they remained in detention. The Declaration of Principles of 13 September 1993, Annex III Protocol Concerning Legal Matters, Article 2(7) Transfer of Suspects and Defendants, states in section (f)(2): “If the individual requested is detained in custody or is serving a prison sentence, the side receiving the request may delay the transfer to the requesting side for the duration of the detention or imprisonment”. The same provision is found in Annex IV, Article II(7)(f)(2) of the Oslo II Agreement.

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against Palestinian security forces were sentenced to between two and 12 years' imprisonment in a seven-hour trial in Nablus. The trial was flagrantly unfair: conviction was based on confessions extracted under torture from the defendants who had been involved in a demonstration in Tulkarem on 2 August to demand the release of detainees held for five months without charge or trial.<sup>25</sup>

A more recent development, which shows the danger involved in leaving the State Security Courts in existence, has been the threat of their use against human rights defenders who criticise human rights abuses committed by the Palestinian Authority. Both Dr Iyad al-Sarraj, in June 1996, and Muhammad Dahman, in August 1996, were charged before the State Security Court. Although both were released untried, trials before the State Security Court remain a dangerous tool to bypass the civil courts in cases deemed to relate to internal security. Under Decree No.49 of February 1995 setting up the State Security Court, the court was to be a military court which would displace other courts in jurisdiction over security offences, and decisions of the State Security Court would be subject to ratification only by the executive authority. Thus, the decree alone contravened internationally recognized rights including the right to a competent, independent and impartial tribunal, the right to be tried by ordinary courts using established legal procedures, and the right to appeal to a higher tribunal. Even if procedures were reformed the State Security Court would remain a court whose existence contravened international standards.

## FAILURE OF INTERNAL REMEDIES

*"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."* (UDHR, Article 8)

*"The right of recourse to the courts is guaranteed for everyone and no administrative act or decision may exclude its review by the courts."* Palestinian Authority Basic Law Fourth Draft, Article 39

### *The disempowerment of the judiciary*

For months after June 1994 Palestinian lawyers sought recourse through the law by bringing complaints before the judiciary to halt abuses: they were systematically blocked at every stage. A society where people sought to resort to law to redress their rights has effectively found that there is no law but the law of the police. Few of those arrested by members of the Palestinian Authority security forces for political reasons now make any effort to appoint a lawyer. Detention or freedom of those detained for political reasons appears to be determined by political choices not by evidence. A legal system and a judiciary, already fragile after nearly 30 years of occupation<sup>26</sup>, is being robbed of any independence.

The first political prisoner arrested by the Palestinian Authority was a university lecturer and a leader of Islamic *Jihad*, Hani 'Abed. Arrested on 24 May 1994, he was not brought before a judge within the legal limit of 48 hours. His lawyer complained to individuals in authority in the police and the judiciary and

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<sup>25</sup>During the demonstration one of the demonstrators was shot dead by a member of the Palestinian police in circumstances where the policeman's life was not in danger.

<sup>26</sup>Since 1967 most Palestinians have been tried in Israeli military courts. See *Israel and the Occupied Territories: The military justice system in the Occupied Territories: detention, interrogation and trial procedures* (AI Index: MDE 15/34/91), July 1991.

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eventually, on 6 June 1994, 13 days after Hani ‘Abed’s arrest, he submitted a writ of *habeas corpus* to demand to know his whereabouts. The judge, however, reportedly refused to rule on this case saying that he had no authority because neither he nor the prosecutor had given the order for Hani ‘Abed’s arrest. The judge adjourned the case for 10 days. However, by 14 June Hani ‘Abed had been released.

Two months later, in August 1994, a lawyer petitioned the Gaza Supreme Court to seek the release of Islamic *Jihad* supporters who had been arrested and detained, but never charged or brought before a judge. Chairman Yasser Arafat; Freih Abu Middein, the Minister of Justice; Khaled al-Qidreh, the Attorney General; and General Naser Yusef, the Chief of Police, were asked to show reason why the 24 detainees should not be released. Eight days after the case was brought, the Attorney General asked for a further period for response, and was granted 21 days; by that time all the named detainees had been released.

In another case, an engineer, apparently suspected of relations with an opposition political group, was arrested in Gaza on 23 October 1994 and detained in Gaza Central Prison for three months without charge or trial. A petition for his release was filed before the Supreme Court and on 12 January 1995 the court ruled that he should be released. On 14 January 1995 he was released, but was rearrested the following day by the *mukhabarat*. A magistrate’s court (*mahkama al-sulh*) then gave the order to detain him for 15 days; no renewal order of that term of detention is known to have been issued. He remained in Gaza Central Prison without charge or trial for another 16 months until he was released in May 1996.

The Oslo II or Taba Agreement, signed on 28 September 1995, underlined the right of all to challenge executive decisions in the courts:

*“Any person or organization affected by any act or decision of the Ra’ees<sup>27</sup> of the Executive Authority of the Council or of any member of the Executive Authority, who believes that such act or decision exceeds the authority of the Ra’ees or of such member, or is otherwise incorrect in law or procedure, may apply to the relevant Palestinian Court of Justice for a review of such activity or decision.”* (Article VIII)

However, since then other similar cases appealing against the failure to implement judicial decisions have been brought to the Palestinian High Court of Justice with a similar lack of success.

One such case involves 10 students of Birzeit University who were arrested without warrant after the suicide bombings of February and March 1996 and held for months without charge or trial. On 19 May 1996 lawyers for the students acting in conjunction with the Birzeit Human Rights Action Project submitted a request to the Attorney General of Ramallah that he visit the students in Ramallah Prison and carry out an inquiry into their detention. He responded that they were being held under the military not the civil authority. The lawyers then repeated their request to the Military Prosecutor who responded, orally, that their detention was not under his authority. On 26 June the lawyers filed a petition to the High Court of Justice in Ramallah requesting the court to issue a preliminary injunction requiring President Yasser Arafat and the Attorney General, Khaled al-Qidreh, to show reason for the detention of the students and to order their release. After a number of delays the Attorney General filed a response on 25 July saying that the Court did not have jurisdiction over this question and the detentions were not illegal. On 31 July a five-judge panel, headed by the Chief Justice, Amin ‘Abd al-Salam, heard arguments from

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<sup>27</sup>President.



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the Attorney General's office and from the defence and adjourned the proceedings until 18 August, when it issued a unanimous decision declaring that the detention of the students was illegal and ordering their immediate release. Orders for the release of the students were delivered to Ramallah Prison and officers reportedly told the lawyers that the students would be released. One had already been released before the trial was over. Two were released on 27 September, two on 29 September and two on 7 October, all in group releases. As of 22 October 1996, three remained in detention. Judge 'Abd al-Salam, who presided over the Supreme Court, was retired soon after the judgment.

The interference in the judicial process which has led to the failure of the courts to impose the rule of law and to provide redress for human rights violations has led to a lack of confidence in the judiciary as a means to obtain justice. For this reason few detainees held for political reasons now appoint lawyers. As the wife of one detainee said:

*"Why should I waste my money? He is detained for a political reason and whatever I do he will only be released when the President decides it".*

Even when a lawyer is given power of attorney by the detainee or the family, this is frequently not accepted by the security service holding the detainee. Members of the *bahriyya* (naval police) guarding detainees at Jneid Prison in Nablus confiscated affidavits and powers of attorney held by the lawyer from the Palestinian Society for the Protection of Human Rights and the Environment (LAWE, formerly Land and Water Establishment) who visited Jneid Prison in Nablus. The four prisoners, Naser Jum'a, Jamal al-Nabulsi, Mu'ammam Mabrukeh and 'Abd al-Halim Mabrukeh, had been detained without charge or trial since December 1995, and all four alleged that they had been recently tortured.

Those who have raised complaints concerning torture before the Palestinian Authority have encountered similar obstacles. Immediately after the handover of the West Bank to the Palestinian Authority at the end of 1995 those who suffered torture initially raised complaints with the police, or with the legal or administrative authorities. As one victim said:

*"I was very angry. I wrote out my testimony and made 100 photocopies. I sent a copy to President Yasser Arafat, Freih Abu Middein (the Minister of Justice), the Attorney General, the head of police, the governor. I didn't get a single reply. I went with my lawyer to give my complaint to the Attorney General. He promised to examine the charges. I never heard anything after that. Eventually, someone in the police said to me that if I didn't stop making so much noise I would be brought before the State Security Court".*

One person who had been severely beaten up by police said:

*"We were told that action would be taken and the police would be dismissed. We brought a case and demanded compensation. Now we aren't bothering. We see that the police who tortured us are still there and no one has taken any action".*

### ***Failure of investigations***

After some of the most flagrant abuses of human rights, the Palestinian Authority has announced an investigation or an inquiry. On no occasion is the report of any investigation or inquiry known to have been published or made available to victims or human rights organizations; usually no report is even

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known to have been made. Where penalties for violations of human rights are ordered they are rarely carried out. In the few cases where suspected human rights abusers are brought before the courts, they are tried in unfair trials, where the evidence against them is neither put forward nor challenged. Following are only a few of the cases where inquiries have been announced but no result has been made public.

After the killing of 13 people outside the Palestine Mosque in Gaza on 18 November 1994, President Arafat on 21 November announced that a five-man judicial commission of inquiry would be set up, headed by the Chief Justice Qusay Abadlah. The inquiry was set up and heard a number of witnesses. However, no conclusions of the Commission of Inquiry were ever made public and no one is known to have been disciplined or brought to justice for the deaths in Gaza.

Muhammad al-Jundi, aged 33, from Shijayeh in the Gaza Strip, was arrested by Palestinian police on 5 January 1995, apparently in connection with the Jebaliyya Camp killing of six members of the *Fatah* Hawks in March 1994, and detained at Gaza Central Prison. At some time between 25 March 1996 and 1 April 1996 he was handed over to the *Fatah* Hawks who then killed him. The Minister of Justice, Freih Abu Middein, announced "an immediate and extensive investigation into the killing". No results of this investigation were ever made public.

An investigation into the killing of Ayman al-Razayna and 'Amar al-A'raj, two Islamic *Jihad* activists killed in Shatti in Gaza on 3 February 1996, was announced by PSS deputy-commander Muhammad Dahlan and, later, by President Yasser Arafat in public and to an Amnesty International delegation which visited him on 7 February 1996. An inquiry was said to have been set up on 9 February 1996, to be headed by Jamal al-Sourani, Secretary General of the PLO Executive Committee. On 18 February Jamal al-Sourani said he had stopped the inquiry.

An inquiry was announced by the Head of Police in Tulkarem into the death of Ra'ed Harasheh on 17 February 1995. He was hit by a stray bullet fired by a policeman. No result of any inquiry was ever made public.

The mockery of trials of those convicted of human rights abuse seems designed to cover up the abuses they have committed rather than to redress them. The trial of those accused of torturing 'Azzam Muslah and the military trial in July 1996 of those accused of killing Taysir al-Lawzi in April 1996 were apparently held in camera; the names of defence lawyers are not known. The trial of those accused of torturing Mahmud Jumayel has already been mentioned.

### ***The Legislative Council***

According to Article I of the Declaration of Principles of 1993:

*The aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority, the elected Council (the "Council") for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council Resolutions 242 and 338."*

After its inaugural meeting in March 1996 the Legislative Council appointed 12 committees including a

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Legal Committee and a Human Rights Committee. Members of the Council have made a number of important statements on human rights issues, particularly during debates on the Palestinian Basic Law, which has passed its first reading in the Council. Members have strongly criticised human rights abuses including torture and prolonged detention without trial. The Legislative Council's Fact-Finding Committee set up to investigate the death after torture of Mahmud Jumayel (26 July 1996 - see page 24) and the Tulkarem killing (2 August 1996 - see page 27) showed the Council's determination to play an active role in monitoring human rights. The committee made several recommendations including the identification of all detention centres and their supervision by the attorney general's office; the regulation of arrest and detention procedures according to human rights principles to prevent torture; the development of a special mechanism with the authority to investigate torture and abuse by security personnel; and ending the duplication of security forces in arrest and detention and defining their jurisdictions.

However, up to now, the power of the Legislative Council to call the executive to account or to ensure implementation of human rights recommendations has been extremely limited.

## CONCLUSION

The factors which have allowed human rights to deteriorate in the areas under the Palestinian Authority are many. The failure of the leadership of the Palestinian Authority to act to end torture and other abuses and the virtual impunity afforded to those responsible for such abuses has led to the general belief that such abuses are condoned at the highest level. The world desire for peace in the Middle East has led to an international readiness to subordinate human rights concerns to the pursuit of peace and an unwillingness by many countries to raise human rights violations committed whether by Israel or by the Palestinian Authority. The overriding importance given in the peace agreements to security issues has almost inevitably meant that human rights are not a priority for either side; the prolonged detention or summary trials of those opposed to the peace process are accepted as necessary for peace; the Palestinian Authority's adherence to even basic human rights standards is of far less importance.

Amnesty International has consistently stated that a durable peace in the Middle East is only sustainable with clear guarantees for human rights in the area. In the areas under the jurisdiction of the Palestinian Authority, the neglect of institutional safeguards for human rights has meant that the laws and governmental institutions which should have promoted and upheld human rights and the rule of law have suffered. The ordinary courts have been sidelined and marginalised and there has been a loss of confidence in the integrity of the political process. The Legislative Council is in danger of being bypassed. Human rights organizations are harassed and criticised rather than encouraged. Even the institution of the police - apparently all-powerful and subject to no accountability, more than 40,000-strong and the recipient of large amounts of foreign aid in training - is fragile. The weakness is shown in lack of communication, failure to uphold legal procedures of arrest and detention and secret detention centres. Unless concrete steps are taken to redress abuses, and ensure the rule of law the situation will further deteriorate.

## RECOMMENDATIONS

## Prolonged political detention, torture and unfair trials

On 16 August 1996, following a visit to the areas under the jurisdiction of the Palestinian Authority, Amnesty International made public its concerns and made a number of recommendations directly to the Palestinian Authority.

### 1) **Public Condemnation of Torture**

After the death of three people within three weeks, apparently after torture, Amnesty International urged President Arafat, on behalf of the Palestinian Authority, to make a public condemnation of torture. On 15 August 1996 President Arafat made a statement, publicized in the Norwegian newspaper *Aftenposten*, to the Norwegian State Secretary in the Ministry of Foreign Affairs, Jan Egeland, that he “would not tolerate torture”. Amnesty International welcomes this statement. In view of the reports of torture since the statement was issued, Amnesty International urges the Palestinian Authority to ensure that a statement is publicized in the Palestinian media making clear the President’s condemnation of torture no matter who is the detainee or what the offence. The statement should also be sent to each branch of each security force and posted up on the wall of every police detention centre.

### 2) **Access for the International Committee of the Red Cross**

Amnesty International also urged that, for humanitarian reasons, the International Committee of the Red Cross (ICRC) be granted full, regular and confidential access to all security detainees in detention centres and prisons under the control of the Palestinian Authority. On 1 September 1996 “an understanding” was signed with representatives of the International Committee of the Red Cross authorizing the ICRC to visit any prisoner in any jail without the intervention or supervision of Palestinian security agents and regardless of the charges against them. Amnesty International welcomes this understanding.

Amnesty International now calls on the Palestinian Authority to implement fully this and the other recommendations to the Authority made at this time:

### 3) **No Impunity for Torturers**

Amnesty International welcomed President Arafat’s statement to Amnesty International delegates in February 1996 that “No one is above the law”. The organization urges the Palestinian Authority to ensure that those who commit acts of torture are brought to justice in a fair and public trial according to international standards.

### 4) **Immediate Access and Appearance before a Judge**

Families, lawyers and doctors should have immediate access to detainees. Detainees should be brought before a judge well within the legal limit of 48 hours.

### 5) **Full and Public Inquiries**

No report of any inquiry into human rights abuses under the Palestinian Authority has ever been made public. Amnesty International calls on the Palestinian Authority to set up a commission of inquiry made up of persons known for their independence, integrity and commitment to human rights to investigate the use of torture by the security services. The commission should have the power to visit all detention centres and prisons, to take evidence from detainees and other interested persons, to ensure the protection of witnesses, and to make recommendations. Its report should be made public.

### 6) **Freedom for Human Rights Defenders to Carry Out their Activities in Safety**

Fear of reprisals is creating a climate in which torture can flourish. Human rights defenders, lawyers,

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journalists and all Palestinians should have the right to raise individual cases of human rights abuse and general concerns without fear of arbitrary arrest or for their physical safety.

#### **7) End Prolonged Political Detention without Trial**

Hundreds of detainees have been held without charge or trial for more than six months. Some political detainees have been detained for up to two years without trial. Amnesty International calls on the Palestinian Authority to free immediately all prisoners of conscience, that is all those held because of their conscientiously-held beliefs without having used or advocated violence. Other political detainees should be released unless they are to be tried promptly and fairly before courts capable of offering guarantees for fair trials in accordance with international standards.

#### **8) Halt Trials by State Security Courts**

The State Security Courts do not provide the guarantees for a fair trial. State security court trials should be halted, previous trials annulled, and new fair trials should be held for those already convicted.

*In addition to the above recommendations, already presented to the Palestinian Authority, Amnesty International proposes further measures to strengthen legal, and human rights institutions and to bring the security forces under the law. Such institutional reinforcement would provide a powerful protection for human rights under the Palestinian Authority.*

#### **1) The Judiciary**

Following the recommendations of the UN Basic Principles on the Independence of the Judiciary, the independence of the judiciary should be assured (Principle 1); there should be no unwarranted interference with the judiciary and judicial decisions by the courts should not be subject to revision (Principle 4). Judges should have guaranteed tenure (Principle 12).

#### **2) The Legislative Council**

Amnesty International urges that the Palestinian Basic Law should be approved by the Palestinian Authority and passed as soon as possible by the Legislative Council and that the human rights guarantees in it be respected. The organization also expresses the hope that the Legislative Council will exercise an effective monitoring role in relation to executive actions related to human rights.

#### **3) The Palestinian Independent Committee for Citizens' Rights**

The Palestinian Independent Committee for Citizens' Rights (PICCR) should have the right, duty and power to investigate any reported complaint or abuse, either by using its own personnel or by setting up independent commissions of inquiry of members noted for their impartiality and independence. Its reports should be made public promptly and its recommendations implemented. A special commission should be founded and given power to visit any place where persons are detained by any branch of the Palestinian Authority's security services. It should have the power to conduct such visits without any advance notice at any time and to conduct meetings with detainees in full confidentiality.

#### **4) The Security Forces**

The different branches of the security forces should be rationalised and brought under a single command structure. All members of the security forces should carry a clear identity card and show it on request. Detention centres of the security forces should be publicly known and supervised. Arrests should be carried out by a warrant. The family should be immediately informed of the arrest and the whereabouts of

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the detainee. There should be central records of detention. The training of the different branches of the security forces should be evaluated.

Amnesty International calls on all countries giving aid and training to the Palestinian Authority's security services to do all in their power to ensure that these recommendations are put into force by the Palestinian Authority.

#### **5) Palestinian Law**

The basic principles of a Palestinian criminal procedure code and a criminal code should be drawn up clearly, following the guarantees for human rights protection laid down in international human rights standards.

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## Appendix: Police and Security Forces

Though the number of law-enforcement bodies has multiplied, there is frequently no clear distinction as to the precise roles of the different bodies.

- 1) The **National Security** (*al-'amn al-watani*) In theory this should be the body in charge of all the Palestinian security forces. In practice it appears to be one body among others.
- 2) The **Civil Police** (*al-shurta*). This is the main law-enforcement body, headed by Ghazi Jebali in Gaza.
- 3) The **Public Security** (*al-'amn al-'ammi*). This is a general security service.
- 4) The **Palestinian Preventive Security Service** (PSS, *al-'amn al-wiqa'i*). This is the main body involved in coordinating with Israeli security services.
- 5) The **Criminal Investigation Department** (*al-bahth al-jina'i*). In contrast to the previous service, this department is charged with investigating offences after they have been committed.
- 6) **Intelligence** (*mukhabarat*). The service is one of the main ones charged with arresting political detainees.
- 7) **Military Intelligence** (*istikhabarat*). In theory this service is particularly concerned with surveillance over members of security services.
- 8) **Force 17** (*quwa sab'a 'asher*; sometimes described as the Presidential Guard, *al-haras al-ri'asi*). This was formed in Lebanon as an elite corps with the special responsibility of guarding the then Chairman Yasser Arafat and, as its other name shows, has a particular loyalty to the President.
- 9) **Naval Police** (*bahriyya*; sometimes translated as Marines or Coastal Police). They have had a reputation for particularly harsh treatment of political detainees at least since Gaza in 1994.
- 10) **Special Forces** (*al-quwat al-khassa*). Their remit is apparently to oversee the operation of other security force branches.
- 11) **Civil Defence** (*al-difa' al-madani*), charged with emergency services and rescue.

Other forces appear to exist, including the **Republican Guard** (*al-haras al-watani*).

A University Security System (*jihaz 'amn al-jami'a*), was announced by President Arafat in August 1996 to prevent student uprisings, put them down when they happen, monitor the political atmosphere on campus and arrest students who oppose the Palestinian Authority. However, vigorously opposed by universities, the Ministry of Higher Education and by members of the Legislative Council it has remained in abeyance.