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**A Synopsis of:
PALESTINIAN AUTHORITY
Prolonged political detention, torture and unfair trials**

Introduction

This document is a synopsis of a 37-page report, *Palestinian Authority: Prolonged political detention, torture and unfair trials* (AI Index: MDE 15/68/96) issued by Amnesty International in December 1996. Anyone wishing further details or to take action on issues described in this synopsis should consult the full document. **Please also consult the full document for case histories and examples.**

Background

The Palestinian Authority was established in the Gaza Strip and the Jericho area in May 1994. On 28 September 1995, 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". 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.

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 Israeli targets, 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).

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.

The Palestinian Authority and Human Rights

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.

For years the Palestinian population in the Occupied Territories has benefited from a large number of human rights organizations which have actively campaigned for upholding international human rights and humanitarian standards. Most Palestinian organizations have continued to campaign for human rights within the areas under the Palestinian Authority. On 30 September 1993 the Palestinian Independent Commission for Citizens' Rights (PICCR) was established 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 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 page 3). Nevertheless, a number of Palestinian human rights organizations continue to raise publicly concerns about human rights abuses committed by Palestinian security forces.

A Multiplicity of Police Forces

At least 11 different police or security forces operate within and, on occasion, outside the areas under the jurisdiction of the Palestinian Authority. However, neither at central nor at district level is there any unified command and thus different branches of the security forces frequently appear to act as independent and often competing entities. It is even difficult to be sure of the exact number of security services. 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. 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 thus one law enforcement officer for every 50 people, possibly the highest ratio of police to civil population in the world.

Arbitrary Political Arrests and Detention without Trial

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 over the past two years by the Palestinian Authority have been held without charge or trial. Many of those arrested are held outside any legal process: some have been detained for days, some for months, before being released uncharged. Detainees were not brought before a magistrate to have the grounds for detention examined. 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.

Most of the political arrests carried out have been made without any arrest warrant and those detained have not been brought before a judge or a public prosecutor. Arrests frequently involve large numbers of armed security personnel and unwarranted violence. Frequently, members of the family are taken as hostages, to put pressure on a family member to give himself up to the police.

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. Journalists have also been arrested for criticism of the Palestinian Authority or for publicising human rights abuses.

The following have been among the human rights activists arrested: **Raji Sourani**, Director of the Palestinian Centre for Human Rights; **Bassem Eid**, a human rights fieldworker who was employed by the Israeli human rights organisation *B'Tselem*; **Iyad al-Sarraj**, the Commissioner General of the Palestinian Independent Commission for Citizens' Rights; and **Muhammad Dahman**, Director of the Gaza office of the human rights organization *al-Damir* (Conscience).

Torture and Ill-Treatment

The torture of political and other detainees is in danger of becoming systematic in detention centres in Gaza and the West Bank. 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. By mid-1995 reports of beatings and ill-treatment of political and common law detainees in Gaza were growing more frequent. Within one month after the end of Israeli rule over the main towns in the West Bank in September 1995, occasions of beatings and torture of Palestinians were being reported.

Amnesty International has received substantive and consistent testimonies alleging torture by most branches of the Palestinian security forces including the police, the Preventative Security Service (PSS), the *mukhabarat* (Intelligence), the *istikhabarat* (Military Intelligence), 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 used include: burning with electric elements and cigarettes; *shabeh* (position abuse) and sleep deprivation; suspension from a hook in the ceiling; beating with cables, hoses, sticks or hands; kicking; dropping molten plastic on the body; and threats and insults.

The fact that the complaints of the individual against those who have committed acts of torture 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 make strong public statements condemning 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. 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

The State Security Court was instituted by a decree of President Arafat in February 1995. 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 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.

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 be tried before 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

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, is being robbed of any independence. There have been cases where the Palestinian Authority has failed to implement judicial decisions. The interference in the judicial process which has led to the failure of the courts to impose the rule of law and 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.

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 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.

The Legislative Council has made a number of important statements on human rights issues, particularly during debates on the Palestinian Basic Law. Members have strongly criticised human rights violations including torture and prolonged detention without trial on a number of occasions. 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 condemn 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 deteriorate further.

Recommendations

Amnesty International urges the Palestinian Authority to take swift and concrete action to ensure that the abuses described above are ended. The organization recommends: immediate access and appearance before a judge for all detainees; thorough, independent and public inquiries into complaints of torture and other abuses; no impunity for those who carry out or order abuses; freedom for human rights defenders to carry out their activities in safety; the end of prolonged political detention without trial, and trials by State Security Courts. Amnesty International considers the role of state institutions such as the Legislative Council and human rights organizations to be of particular importance in the process of ensuring that clear human rights guarantees are built into new legislation, which should be implemented without delay.