

EXTERNAL (for general distribution)

AI Index: MDE 15/63/91
Distr: GR/CO/REL SC

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11 December 1991

ISRAEL AND THE OCCUPIED TERRITORIES

@MUHAMMAD SHA'BAN AL-'AYISAH - ADMINISTRATIVE DETENTION

Muhammad Sha'ban al-'Ayisah (ID no. 91027175, prisoner number 23024-91) is 20 years old and comes from the Deheisheh Refugee camp near Bethlehem on the West Bank. He was arrested on 13 October 1991 and issued with a four-month administrative detention order. He is currently held in the Ketziot detention centre in southern Israel.

Muhammad Sha'ban al-'Ayisah's appeal against his administrative detention order was originally due to have been held on 13 November 1991 but was postponed until 25 November 1991. He is due for release on 12 February 1992.

The reasons for detention given on Muhammad Sha'ban al-'Ayisah's order alleges that in April 1990 he participated with others in a demonstration in the camp on Land Day and also that in June 1990, May 1991 and July 1991 he participated in throwing stones at soldiers.

Amnesty International does not have enough information to determine whether Muhammad Sha'ban al-'Ayisah is a prisoner of conscience detained solely for the non-violent expression of his rights to freedom of expression and association. If that is the case, he should be released immediately and unconditionally. Otherwise he should be released immediately unless he is charged and given a prompt and fair trial.

ADMINISTRATIVE DETENTION IN ISRAEL AND THE OCCUPIED TERRITORIES

In Israel and the Occupied Territories, administrative detention orders can be issued by the Minister of Defence or a military commander if they believe that security reasons so require.

In Israel and East Jerusalem administrative detention orders are issued by the Minister of Defence for up to six months, renewable. They must be reviewed within 48 hours by a District Court, which has the power to uphold, shorten or cancel the order. The detainee can petition the High Court against the decision of the District Court. The District Court is also required to automatically review the order no later than three months after the first judicial review.

In the Occupied Territories (except for East Jerusalem), administrative detention orders are issued by military commanders. Since March 1988 administrative detainees only appear before a military court judge if they decide to appeal against their detention order. The military court judge has the same powers regarding administrative detention as the District Court judge in Israel. Detainees can go on to petition the High Court against the decision of the military court judge.

Since August 1989 each order can be issued for a maximum period of 12 months, but can be renewed indefinitely thereafter for further periods of up to 12 months. In August 1989 an automatic judicial review was introduced if the detainee did not appear before a military court judge for a period of six months.

Since the outbreak of the Palestinian uprising in December 1987, more than 15,000 Palestinians have spent some time in administrative detention. These have included students, labourers, human rights workers, journalists, trade unionists and teachers. The vast majority have been held in a military detention centre at Ketziot, in the desert of southern Israel.

AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International opposes the detention without a fair trial of all political prisoners, including administrative detainees. It believes that the practice of administrative detention in Israel and the Occupied Territories violates fundamental human rights.

Administrative detention can and has been used by the Israeli authorities to detain prisoners of conscience, held for their non-violent exercise of the right to freedom of expression and association. This is facilitated by the broad formulation of the grounds for detention.

Existing procedural safeguards are insufficient to prevent abuse of the detainees' right to challenge their detention, particularly their right to be informed promptly and fully of the reasons for their detention. In many cases the first if not the only opportunity detainees have to find out why they are detained is at an appeal hearing which they have to initiate themselves. It takes place several weeks, sometimes months, after arrest. Even then in almost every case detainees and their lawyers are not given sufficient information concerning the grounds for arrest to enable them to exercise effectively the right to challenge the detention order.

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

Amnesty International believes that administrative detention should not be used as a substitute for, and a means of avoiding the safeguards of, a criminal justice system.