

PUBLIC

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UA 292/03

Fear of forcible transfer

15 October 2003

ISRAEL/OCCUPIED TERRITORIES **Rami Fawaz Hassan Hjeili (m)**
Hussam Hamdallah Abdelqader 'Odeh (m)
Rasem Khattab Hassan Mustafa (m)
Sami Hassan 'Ali Sous (m)
Shadi Ismail Satti 'Ayash (m)
Hani Hamdi Hammid Rajabi (m)
Samer Abdelghafar Fayad Abu Zeina (m)
Munther Mohammed Yunis al-Ju'bi (m)
Nasser Yusef Jum'a (m)
Lo'ai Daud (m)
Taha Dweik (m)
Samer Bader (m)
Raja Hirzallah (m)
Mustafa 'Abed (m)
Ahmad Mishkah (m)
Ala' Hassuni (m)
and at least three others (names unknown)

On 14 October, Moshe Kaplinski the Israeli army Commander for the West Bank ordered the forcible transfer of the 16 Palestinian administrative detainees named above and three others, from the West Bank to the Gaza Strip. Most are to be expelled for a two-year period and the rest for one year. The detainees have 48 hours to lodge appeals with the Military Advisory Appeal Board. However, military boards and judges systematically confirm the decisions of army commanders.

The detainees are currently being held by the Israeli army in administrative detention. They have been detained without charge or trial for periods ranging from a few weeks to up to two years. Several of them were held at the military detention centres Ketziot/Ansar 3 (in the Negev desert in Israel) and others were held in other detention centres and military bases in the West Bank and in Israel. They were moved on 13 October to the Israeli military installation at Erez, in the Gaza Strip near the border with Israel.

As is the case for more than 500 other Palestinians currently held in administrative detention, the detainees are not accused of having committed any offence and the Israeli authorities have not initiated any procedures to bring them to trial. They are being held on the basis of a military order stating that they constitute "a risk to security of the area". This vague formula is routinely used to administratively detain Palestinians whom the Israeli authorities have no intention of bringing to trial. In addition, the authorities have not provided any evidence to the detainees or to their lawyers to substantiate the claim that they constitute a "security risk".

BACKGROUND INFORMATION

On 1 August 2002, the Israeli army West Bank Commander signed an amendment to the Military Order 378 (of 1970, concerning security regulations) which provides for the forcible transfer of Palestinians from the West Bank to the Gaza Strip. Should these detainees be forcibly transferred, it will be the second time this year that the Israeli army will move Palestinians from the West Bank to the Gaza Strip.

In early September 2002, the Israeli army forcibly expelled Intisar 'Ajuri, a 34-year-old woman, and her brother Kifah 'Ajuri from their West Bank home town of Nablus to the Gaza Strip. The forcible transfer order was based on the Israeli army's unsubstantiated allegations that Intisar and Kifah had helped their brother to commit attacks against Israelis, before he was extra-judicially executed by Israeli soldiers. Intisar and Kifah have not been charged, nor have the Israeli authorities initiated any procedures to bring them to trial. They

remain in the Gaza Strip, where they have no family, no home and no means of subsistence other than charity. (See Extra 64/02; MDE 15/130/2002; 16 August 2002 and follow-ups)

In late May 2003, the Israeli army West Bank Commander Moshe Kaplinsky ordered the forcible transfer of five administrative detainees to the Gaza Strip. However, the decision was later cancelled, seemingly in the context of implementation of the "Roadmap" peace process, which broke down two months ago. (See UA 156/03; MDE 15/048/2002; 30 May 2002)

RECOMMENDED ACTION: Please send appeals in English, Hebrew or your own language:

- calling for the annulment of the military order for the unlawful forcible transfer of the 16 administrative detainees named above and any others against whom forcible transfer orders may have been issued;
- urging the Israeli authorities to comply with the provisions of Article 49 of the Fourth Geneva Convention, which Israel has ratified and which prohibits the "Individual or mass forcible transfers, as well as deportations of protected persons" (Palestinians living in the Occupied Territories are protected persons under the terms of the Convention), "regardless of their motives";
- reminding the authorities that the unlawful forcible transfer of protected persons constitutes a war crime under the terms of both the Fourth Geneva Convention and the Rome Statute of the International Criminal Court, which reflects customary international law;
- pointing out that if these administrative detainees have committed any offence they should be promptly charged and brought to trial in accordance with international standards for fair trial. If the authorities have no intention of bringing them to justice for any recognizably criminal offences they should be released.

APPEALS TO:

Minister of Justice Yosef Lapid
Ministry of Justice
29 Salah al-Din Street
Jerusalem 91010, Israel

Telegram: Justice Minister, Jerusalem, Israel
Fax: +972 2 6285438
E-mail: sar@justice.gov.il
Salutation: Dear Minister

General Menachem Finkelstein,
Judge Attorney General
Israel Defence Forces

No address available
Fax: +972 3 5694370
Salutation: Dear General Finkelstein

Colonel Shaul Gordon
President of the Military Appeal Court

No address available
Fax: +972 2 588 4458
Salutation: Dear Colonel Gordon

Colonel Daniel Reisner
IDF Legal Department

No address available
Fax: +972 3 5693320
Salutation: Dear Colonel Reisner

COPIES TO: Diplomatic representatives of Israel/Occupied Territories accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 26 November 2003.