

PUBLIC

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Fear of forcible transfer

30 May 2003

ISRAEL/
OCCUPIED TERRITORIES

Walid Khaled Husein 'ALI (m), aged 32
Samir Mohamed Mahmud BAHIAS (m), aged 29
Baha al-Din Salah 'Ali al-QADI (m), aged 22
Ragheb Ratib Faez BADER (m), aged 38
Nader Mustafa SAWAFTAH (m)

On 22 May, Israeli army Commander for the West Bank Moshe Kaplinski ordered that the five detainees named above, be expelled to the Gaza Strip for a two-year period. The detainees have lodged appeals with the Military Appeal Board, which are still pending. However, in the overwhelming majority of cases the military appeal board confirms the decisions of army commanders.

The five Palestinians detainees from the West Bank are currently being held by the Israeli army in administrative detention. They have been detained without charge or trial for periods ranging from two to 22 months. Walid Khaled Husain Ali has been detained since 30 July 2001, Samir Mohamed Mahmud Bahias since 7 August 2002 and Baha al-Din Salah Ali Al Qadi since 22 October 2002. They are currently being held at the Ketziot/Ansar 3 military camp, in the Negev desert in Israel. Ragheb Ratib Faez Bader has been detained since 10 December 2002 and Nader Mustafa Sawaftah since 23 March 2003. They are currently being held at the Ofer military detention centre, near Ramallah in the West Bank.

As is the case for more than 1,000 others 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 is routinely used to hold Palestinians whom the Israeli authorities have no intention of bringing to trial in administrative detention. 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

One of the detainees, Ragheb Ratib Faez Bader, was previously forcibly transferred by the Israeli army to Southern Lebanon in December 1992, together with more than 400 other Palestinians. He was eventually allowed to return to the Occupied Territories at the end of the following year.

It is the second time this year that the Israeli army has forcibly transferred Palestinians. In 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 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.

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.

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 five administrative detainees named above;
- 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 the five 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:

Prime Minister Ariel Sharon,
Office of the Prime Minister
3 Kaplan Street, P O Box 187
Jerusalem 91919, Israel

Telegram: Prime Minister, Jerusalem, Israel
Fax: +972 2 6705475
Telex: 25279 MPRES IL
E-mail: rohm@pmo.gov.il
Salutation: Dear Prime Minister

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

General Shaul Gordon
President of the Military Appeal Court
No address available
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Salutation: Dear General Gordon

and 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 11 July 2003.