



In June 2006, Israeli soldier Gilad Shalit was kidnapped by Hamas near the Kerem Shalom crossing in Israel while serving his compulsory military service for Israel. He was nineteen years old at the time, and was the first Israeli soldier to be captured by Palestinians since 1994.<sup>1</sup> Shalit is currently held in an unknown location in Gaza and was last heard of in October 2009 through a video message released by Hamas. Since Shalit's abduction, there have been various – and sometimes high-profile – domestic and international diplomatic efforts to secure his release. Unfortunately, there has been little attention paid by the international community to the thousands of Palestinian prisoners in Israeli custody who face similar human rights violations to those faced by Shalit.

## **What are the relative numbers of Palestinian/Israeli prisoners?**

According to the Israeli human rights organization B'Tselem, as of July 6<sup>th</sup>, 2011 there are 5,383 Palestinian prisoners detained by the Israeli Prison Service (IPS).<sup>2</sup> Of the 5,383 Palestinian prisoners, 219 are under administrative detention, which is defined as detention without judicial proceedings.<sup>3</sup> According to a 2011 UN Women report, there are 110 Palestinian women prisoners in Israel.<sup>4</sup> The number of Palestinian women prisoners has diminished since 2010 after Hamas agreed to exchange a video of the live Shalit for the release of 20 Palestinian women.<sup>5</sup> Since 2000, Defence for Children International (DCI) has reported that about 6,500 Palestinian children have been detained by the Israeli military.<sup>6</sup> Currently, Gilad Shalit is the only Israeli prisoner being held by the Palestinians.

## **Under what circumstances are prisoners detained?**

The Palestinian prisoners held by Israel under administrative detention are typically social activists, academics, university students, politicians (members of the Palestinian Legislative Council), children, or women.<sup>7</sup> Under Israeli occupation law, Palestinians can be administratively detained for a maximum period of 6 months, a period which can be extended for “inordinately lengthy periods”.<sup>8</sup> In most cases administrative detainees are not informed of the charges against them, thus preventing them the opportunity to mount a defence.<sup>9</sup> This is a violation of the Fourth Geneva Convention (articles 70 and 71) which “requires that a fair trial be

established and the accused clearly informed of their indictments”.<sup>10</sup> Following the abduction of Shalit in 2006, dozens of Palestinians employed by the Palestinian Authority were detained.<sup>11</sup> Minister of education Nasser a-Din Sh'ar, and the Minister of Fence and Settlement Affairs Wasfi Qaba, were among the senior Palestinian officials detained at the time by the Israeli army.<sup>12</sup> Other political prisoners administratively detained include Hamas members of Parliament Khalil Al-Rabai and Hatem Qafisha.<sup>13</sup>

Israeli military law permits its army to administratively detain Palestinian children as young as 12 years old. According to the Israeli military, Palestinian children are defined as being a person under the age of 16. Therefore Palestinians over the age of 16 are sentenced as adults and imprisoned with adults.<sup>14</sup> Approximately 20 to 30 Palestinian children are detained under administrative detention every year.<sup>15</sup> UNICEF has argued that Palestinian minors will be placed in administrative detention “as an alternative to charging them with a criminal offence, where there are concerns that there is insufficient evidence to prosecute a child”.<sup>16</sup> According to the Fourth Geneva Convention administrative detention may not be used as a substitute for a criminal lawsuit.<sup>17</sup>

Palestinian children are also detained on the basis of stone throwing. In 2010 a total of 204 Palestinian minors were arrested for throwing stones. Most often the arrests take place at checkpoints or during the night.<sup>18</sup> During the interrogation, Palestinian minors are not granted the right to have a parent present.<sup>19</sup> Child detainees have reported the use of both physical and verbal violence during interrogation.<sup>20</sup> UN Women has also reported that in some cases women were being culturally, verbally, psychologically, physically or sexually harassed during their detentions.<sup>21</sup>

## **What are the prison conditions of Palestinian/Israeli detainees?**

Israel has a dual system of incarceration, which consists of the IPS prisons and Israeli military detention camps. Israel's detention camps are reserved exclusively for Palestinians from the occupied territories.<sup>22</sup> Ketsiot is the most inadequate of the Israeli military detention camps, according to Middle East Watch, because it is located in a foreign environment which does not allow for family visits or reliable mail service.<sup>23</sup> The fact that Ketsiot is located in

Israel is a violation of international law because the Fourth Geneva Convention forbids the transfer of incarcerated persons from occupied territories to the territory of the Occupying Power.<sup>24</sup>

In general, detainees in Israeli military camps live in overcrowded tents which allow them no more than 3 square meters.<sup>25</sup> Palestinians administratively detained are also held in these camps and are therefore subject to the harsh conditions such as overcrowding, poor nourishment, inadequate clothing and hygiene.<sup>26</sup> This dual system of incarceration subjects Palestinian prisoners to substandard conditions in detention camps in comparison to Israeli prisoner in the IPS.<sup>27</sup>

DCI-Palestine has received similar complaints regarding the living conditions of Palestinian children prisoners which include: overcrowding, poor ventilation and access to natural light, poor quality and inadequate amount of food, harsh treatment by prison officials and boredom.<sup>28</sup> Torture and ill-treatment of child prisoners have also been reported in the form of head covering, beating and being suspended by their arms and legs.<sup>29</sup>

## How has Canada responded to the violation of Human Rights?

Since his capture in 2006, the Canadian government has released several strongly-worded statements urging the immediate and unconditional release of Gilad Shalit. In comparison, the Canadian government has been silent on the subject of Palestinian prisoners in Israel and the human rights violations surrounding their imprisonment. This, despite the fact that Canada has ratified several human rights treaties pertaining to such detainees: the Convention on the Rights of the Child (which embodies the human rights of minors in prison around the world), the Convention against Torture (which protects citizens of the world from all forms of ill-treatment and torture),<sup>30</sup> and others.

Although the Canadian government has failed to call for the release of Palestinian prisoners under administrative detention, the United Nations has been vocal on the issue. In a press release dated March 7<sup>th</sup> 2011, UN Secretary General Ban Ki-moon argued that the release of the Palestinian prisoners in Israel could boost future peace prospects.<sup>31</sup> Following the Secretary General's statement, the General Assembly held a meeting on the Question of Palestine and "turned its attention to the bleak situation and conditions of confinement for Palestinians in Israeli prisons and detention facilities".<sup>32</sup>

<sup>3</sup> For more information see CJMPE Factsheet No.38 *Torture and Detention in Israel*, May 2008.

<sup>4</sup> "Suspended Lives: Palestinian female prisoners in Israeli prisons" UN Women. 2011 (p. 4).

<sup>5</sup> Ibid

<sup>6</sup> "Palestinian Child Prisoner" Defence for Children International/Palestine Section, June 2009 (p.8).

<sup>7</sup> Ramahi, Sawzan. "Administrative Detention: A Legal & Lethal Tool of Israeli Repression" Middle East Monitor, April 2011 (p.16).

<sup>8</sup> "Administrative detention of children: a global report" United Nations International Children's Emergency Fund (UNICEF). February 2011 (p.56).

<sup>9</sup> "Administrative Detention." B'Tselem, <[http://www.btselem.org/administrative\\_detention](http://www.btselem.org/administrative_detention)>.

<sup>10</sup> "Administrative Detention: A Legal & Lethal Tool of Israeli Repression" (p.4).

<sup>11</sup> "Detainees & prisoners: 1 Aug. 2007: Detention of senior Palestinian officials-wrongful infringement of fundamental rights." B'Tselem, Aug. 1<sup>st</sup> 2007 <<http://www.btselem.org/topic-page/1-aug-2007-detention-senior-palestinian-officials-wrongful-infringement-fundamental-right>>.

<sup>12</sup> Ibid

<sup>13</sup> "Administrative Detention: A Legal & Lethal Tool of Israeli Repression" (p.13).

<sup>14</sup> "Palestinian Children and the Facts." uruknet.info, Sept. 6<sup>th</sup> 2007

<<http://www.uruknet.de/?p=36029>>.

<sup>15</sup> "Administrative detention of children: a global report" United Nations International Children's Emergency Fund (UNICEF). February 2011 (p.31).

<sup>16</sup> Ibid (p.52-53).

<sup>17</sup> "Administrative Detention: A Legal & Lethal Tool of Israeli Repression" (p. 10).

<sup>18</sup> Ibid (p.26).

<sup>19</sup> "No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone-Throwing" B'Tsalem . July 2011 (p.32).

<sup>20</sup> Ibid (p.39).

<sup>21</sup> "Suspended Lives: Palestinian female prisoners in Israeli prisons" UN Women. 2011 (p. 4).

<sup>22</sup> "Prison Conditions in Israel and the Occupied Territories" Middle East Watch, April 1991 (p.8).

<sup>23</sup> Ibid (p.24).

<sup>24</sup> Ibid (p. 24)

<sup>25</sup> Ibid (p.15).

<sup>26</sup> "Administrative Detention: A Legal & Lethal Tool of Israeli Repression" (p.12).

<sup>27</sup> "Prison Conditions in Israel and the Occupied Territories" Middle East Watch, April 1991 (p. 26).

<sup>28</sup> "Palestinian Child Prisoner" Defence for Children International/Palestine Section, June 2008 (p.18)

<sup>29</sup> "Health conditions of Palestinian prisoners in Israeli jails." Middle East Monitor, Feb. 8<sup>th</sup> 2010 (p.1).

<sup>30</sup> "Canada's International Human Rights Policy" Foreign Affairs and International Trade Canada <<http://www.international.gc.ca/rights-droits/policy-politique.aspx?view=d>>.

<sup>31</sup> "Israel's release of Palestinian political prisoners could boost peace prospects-Ban" UN News Center, March 2011.

<sup>32</sup> "Israeli security pretext for arbitrary detention of Palestinian Political Prisoners, United Nations Meeting on Question of Palestine Told." un.org, March 7<sup>th</sup> 2011 <<http://www.un.org/News/Press/docs/2011/gapal1185.doc.htm>>.

<sup>1</sup> "Israel, Gilad Shalit's 1600<sup>th</sup> day of Captivity." Digital Journal. Nov. 16 2010. <<http://www.digitaljournal.com/article/300284>>.

<sup>2</sup> "Statistics on Palestinians in custody of the Israeli security forces." B'Tselem, April 2011.