



Joint Urgent Appeal to the UN Special Procedures to Safeguard Palestinian Political Prisoners' Rights against Collective Punishment and Retaliatory Measures by the Israeli Prison Services

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Submitted by:

- The Palestinian Commission for Detainees and Ex-Detainees Affairs
- The Palestinian Human Rights Organization Council, comprising of 11 Palestinian human rights organizations;
- The Palestinian NGO Network, comprising of 142 Palestinian civil society organizations;
- The Palestinian Prisoner's Club
- Inaash Al-Ausra Association

For the attention of the United Nations:

- Special Rapporteur on the Situation of Human Rights in the Palestinian Territory Occupied since 1967, Mr. S. Michael Lynk;
- Working Group on Arbitrary Detention, Ms. Leigh Toomey (Chair-Rapporteur);
- Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Prof. Nils Melzer; and
- Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Ms. Tlaleng Mofokeng.

1. Introduction:

On 6 September 2021, in the early hours of the morning, six Palestinian political prisoners escaped from the high-security Gilboa Prison via an underground tunnel. Of the escaped prisoners, three were classified as maximum-security prisoners, four had been serving life sentences, and two were held under detention awaiting military trial and sentencing. Moreover, one of the escaped political prisoners had previously been tied to a similar failed escape attempt in 2014, for which he was subsequently placed under solitary confinement for one year. Immediately following the prison break, Israeli Prison Services (IPS) and occupation forces began the forcible transfer of over 350 Palestinian prisoners in Gilboa Prison to unknown locations.

Our organizations express grave concern regarding the institution of a series of collective, punitive, retaliatory, and arbitrary measures by Israeli occupation authorities against Palestinian political prisoners—comprising over 4,700 Palestinian prisoners—arbitrarily held in Israeli prisons, as well as targeting Palestinian civilian populations residing in the occupied Palestinian territory (oPt); conducting raids and arbitrary arrests, including reprisals against the families of the escaped prisoners. Such collective and retaliatory penalties violate the absolute prohibition in customary international law against the collective punishment of protected people in occupied territory, as enshrined in Article 33(1) of the Fourth Geneva Conventions.¹ Our organizations further warn that should no intervention be made, Palestinian prisoners' rights and protected persons will deteriorate, only to escalate the gravity of the situation.

2. Imminent Risk of Retaliation: Ongoing Reprisals and Collective Penalties

Immediately following the prison break, Israeli Prison Services (IPS) instituted a lockdown on all Israeli prisons and detention centers, prohibiting outside contact or access to over 4,700 Palestinian prisoners, including visits from family members and lawyers. This morning, 9 September 2021, the International Committee of the Red Cross (ICRC) notified all prisoners' families that visits will be halted until the end of September. Additionally, the IPS is cancelling all attorney scheduled visits to Israeli prisons. On 6 September 2021, a lawyer from Addameer was unnecessarily harassed upon her arrival at Damon Prison and prevented from visiting female prisoners. The de facto ban on attorney visits raises critical concerns regarding the documentation of human rights violations against prisoners, particularly torture and ill-treatment, amid escalating retaliatory measures by Israeli occupation authorities.

Between 6 - 8 September 2021,² Addameer Prisoner Support and Human Rights Association, in concert with the Palestinian Commission for Detainees and Ex-Detainees Affairs and the Palestinian Prisoner's Club, documented an array of collective, punitive, retaliatory, and arbitrary measures enacted by Israeli occupation authorities against Palestinian political prisoners incarcerated in Israeli jails, and targeting Palestinian protected persons residing in the occupied Palestinian territory (oPt).

Within the confines of Israeli prisons, such measures include, *inter alia*, the complete closure of Gilboa Prison and the forcible transfer of over 350 Palestinian prisoners to unknown locations across Israeli prisons; the special transfer of Palestinian political prisoners in Section 2 of Gilboa Prison, composed of around 90 prisoners, to the notorious maximum-security desert prisons of Ramon, Nafha, and Naqab; the large transfers of Palestinian prisoners associated with the Islamic

¹ International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287, available at: <https://www.refworld.org/docid/3ae6b36d2.html> [accessed 8 September 2021]

² The time period represents the immediate aftermath of the prison outbreak up until the date of submission of the urgent appeal, noting that a lack of access and escalating measures by Israeli occupation authorities prevent a complete account of the developments at hand.

Jihad movement held in various Israeli prisons- among them, some were put in solitary confinement and several prominent leaders were taken to the interrogation wings of Kishon Detention Center, where IPS and Shin Bet forces routinely employ torture during interrogation;³ and the forced separation and dispersal of over 170 Palestinian political prisoners affiliated with the Islamic Jihad Movement across prisons. In Ofer prison, 150 Palestinian prisoners refused attempts of forced transfer and dispersal by the Israeli occupation authorities, threatening to burn down their cells; leading IPS to temporarily halt their transfer.

Moreover, IPS expanded reprisals and punitive measures against all Palestinian political prisoners—over 4,700—in Israeli prisons, initiating a lockdown of all prison sections holding Palestinian political prisoners and shutting down prison canteens, which Palestinian prisoners rely on for hygiene products and food; exemplifying the ongoing and imminent arbitrary, punitive, and retaliatory crackdown by Israeli occupation authorities against Palestinian prisoners. In Ramon prison, IPS decreased the daily allocated hours for prisoners to spend in the prison yard from eight hours to two, while concurrently limiting the number of prisoners allowed in the yard by prison cell. In further punitive measures, access to public phones were prohibited for Palestinian prisoners held in Section 1 of Ramon Prison.

Additionally, IPS and special forces conducted collective, arbitrary, retaliatory, violent raids against Palestinian prisoners in numerous prisons, most prominently Naqab Prison, where Palestinian prisoners, in Section 6, attempting to resist collective punishment and abuse burnt down prison rooms, which holds all their personal belongings including food and daily necessities. It should be noted that Naqab Prison holds the highest number of Palestinian political prisoners, distributed among 18 sections, each of which has 12 rooms.

The Israeli occupation regime systematically employs any excuse to deploy its special forces into prisons to attack and harass Palestinian prisoners and detainees. In 2020 alone, Addameer documented more than 25 such attacks. During these attacks, Israeli special forces shackle prisoners, often physically assaulting them without regard to their medical conditions and extensively deploy tear gas and pepper spray, alongside a plethora of other tactics to further abuse the prisoners.⁴ In addition, Israeli forces often confiscate the prisoners' belongings and all electronics and appliances in the prison rooms afterward. Prison raids by IOF special units, that are extremely violent in nature, give way to a host of abuses and human rights violations and serve

³ Prominent examples of torture include physical assault, beatings, positional torture, and psychological torture, see Addameer's report: *Addameer Prisoner Support and Human Rights Association*, "I've Been There: A Study of Torture and Inhumane Treatment in Al-Moscobiyeh Interrogation Center," 25 October 2018. <https://www.addameer.org/publications/ive-been-there-study-torture-and-inhumane-treatment-al-moscabiyah-interrogation-cetner>

⁴ *Addameer Prisoner Support and Human Rights Association*, "Torture and Ill-Treatment Beyond Interrogation: Violent Raids Against Palestinian Prisoners in Israeli Occupation Prisons," 30 June 2021, <https://www.addameer.org/media/4429>

as one method of collective punishment, torture, and ill-treatment of Palestinian prisoners and detainees.

Beyond the confines of Israeli prisons, Israeli occupation authorities extended arbitrary, retaliatory, and collective punishments against Palestinian protected population residing in the oPt, beginning with a declaration of a state of emergency and the erection of increased arbitrary checkpoints between cities, particularly in the northern region of the occupied West Bank, near the occupied city of Jenin, and in villages located near the Green Line. Israeli occupation forces (IOF) stormed several villages near Jenin, including the towns of Arab, Arbouna, Na'ura, Kafr Dan, and Bir al-Basha, conducting raids and arbitrary arrests, including reprisals against the families of the escaped prisoners.

On 7 September 2021, IOF stormed the village of Na'ura in the 1948 occupied territories, arbitrarily detaining three young Palestinian men. On the same day, IOF summoned the father of the escaped prisoner Ayham Kamamji for several hours of interrogation, during which they threatened him with the assassination of his son. In the same vein, on 8 September 2021, IOF raided several villages and towns near Jenin, among them the residences of the families of escaped prisoners. During raids, IOF arbitrarily detained six relatives of the escaped prisoners, blindfolding and shackling them for interrogation, among them Radad and Shadad Al-Aridah—brothers of Mahmoud Al-Aridah; Shadad was beaten by Israeli soldiers prior to his detention. As well as Basem and Ahmad Qasem Al-Aridah—brothers of Mohammad Qasem Al-Aridah. In addition to Yacoub Infe'at—father of escaped prisoner Munadel Infi'at. Furthermore, IOF confiscated camera recordings in the home of Dr. Nidal Al-Aridah in the town of Arabah. The detained relatives were released from interrogation hours later, in a clear act of reprisal, intimidation and coercion.

3. The Prohibition of Collective Punishment under International Law

The imposition of collective penalties adopted by the IPS and IOF, at the behest of the Israeli occupation regime, against Palestinian prisoners and protected persons aimed at reprisal, intimidation and coercion is explicitly prohibited in international law. Article 33(1) of the Fourth Geneva Convention presents the most clear and unambiguous prohibition of collective punishment and “penalties of any kind,” stating that “no protected person may be punished for an offense he or she has not personally committed.”⁵ The absolute prohibition of collective punishment enshrined in the Fourth Geneva Convention became further entrenched by the 1977 Additional Protocol I to the Geneva Conventions, wherein collective punishment is “prohibited at any time and in any place whatsoever, whether committed by civilian or military agents.”⁶In a report to the

⁵ See *supra* 1; for greater legal analysis see Al-Haq’s report: Shane Darcy, “Israel’s Punitive House Demolition Policy, Collective Punishment in Violation of International Law”, Al-Haq: 2003. Available at: <https://www.alhaq.org/publications/8101.html>

⁶ International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS 3, available at: <https://www.refworld.org/docid/3ae6b36b4.html> [accessed 8 September 2021]

44th session of UN Human Rights Council, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, notes that despite Israel's failure to ratify the Additional Protocols, the entrenchment of the prohibition in customary international law, according to the ICRC, leads breaches of the prohibition to be a "serious violation" of international humanitarian law.⁷

The large-scale measures adopted by the IPS, at the behest of the Israeli occupation authorities, regarding retaliatory, and punitive measures aimed at the entirety of the over 4,700 Palestinian political prisoners, in conjunction with the mass transfer and interrogation of prisoners constitute clear forms of collective punishment. Specifically, the mass detention of Palestinian prisoners as protected persons in the territory of the Occupying Power further violates Article 49 of the Fourth Geneva Convention⁸, and in and of themselves serve as a collective penalty.

The collective punishment further includes, *inter alia*, the lockdown of all Israeli prison sections holding Palestinian political prisoners and the institution of arbitrary reprisals and punitive measures, the erection of increased arbitrary checkpoints throughout the oPt, violent raids by IOF on Palestinian towns and villages, and the assault, arbitrary detention, and interrogation of family members of the escaped prisoners. The latter, aimed particularly at the coercion of the escaped prisoners and family members, violates Article 31 of the Fourth Geneva Convention, which states that "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties."⁹ In totality, the gross enactments of collective punishment measures targeting Palestinian prisoners and Palestinian protected persons in the occupied territory amount to war crimes under international law.¹⁰

4. Concluding Remarks:

Palestinian civil society organizations warn that the above-mentioned measures stand in stark contrast to the obligations of Israel as an occupying power under the Fourth Geneva Convention, by serving as collective punishment of all Palestinian prisoners and protected persons. **We emphasize that without third-party supervision of IPS policies, the rights of Palestinian prisoners will continue to be violated with impunity, and the gravity of the situation will increase.**

⁷ UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, 15 July 2020, (A/HRC/44/60), available at <https://reliefweb.int/report/occupied-palestinian-territory/report-special-rapporteur-situation-human-rights-17>

⁸ See *supra* 1

⁹ *Ibid.*

¹⁰ For greater analysis on the absolute prohibition of collective punishments in customary international law and the corollary offense of war crimes, see: International Committee of the Red Cross (ICRC), "Practice Relating to Rule 103. Collective Punishments," *IHL Database: Customary IHL*, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule103

Considering the urgency of the situation, our organizations submit this urgent appeal to safeguard Palestinian political prisoners' rights against collective punishment and retaliatory measures by the IPS, and urgently requests the immediate intervention of UN Special Procedures by, *inter alia*, calling on:

- I. Israel, the Occupying Power, and the IPS to ensure and uphold Palestinian political prisoners' right to life and the highest attainable standard of health and mental health, and to avoid and end all forms of reprisals against Palestinian prisoners;
- II. The International Committee of the Red Cross (ICRC) in Jerusalem to monitor the transfer of the remaining Palestinian prisoners in Gilboa Prison, follow up with the relevant occupying authorities to provide information confirming the location of the transferred prisoners, and inform the prisoners' relatives of their whereabouts;
- III. The ICRC to safeguard the rights of all Palestinian prisoners held inside Israeli prisons from arbitrary, retaliatory, and collective punishment imposed by the IPS following the Great Escape; and
- IV. The international community and all High Contracting Parties to the Fourth Geneva Convention to fulfill their obligations towards protecting human rights and enforcing the implementation of international humanitarian law.

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