

ADMINISTRATIVE DETENTION: GET THE FACTS

What is Administrative Detention?

There are currently 650 administrative detainees in Israeli prisons and detention centers including 5 women and 13 children under the age of 18.

- Israeli military and civil laws related to the administrative detention orders are based on the British Mandate Emergency Law for the year 1945.
- Military Order 1226 (1988) empowers commanders of the Israeli army to detain Palestinian West Bank residents, for up to six months if they have *“reasonable grounds to presume that the security of the area or public security require the detention.”*
- No definition of *“public security”* is given and the initial six-month period can be extended by additional six-month periods indefinitely. Administrative detention orders are issued either at the time of arrest or at some later date and are often based on secret evidence collected by the Israeli Security Agency (ISA). Neither the detainee, nor the detainee’s lawyers are given access to the secret evidence.¹
- The detainee is brought before the Administrative Detention Court within **eight days** of his or her arrest, for the Court to decide on the legality of the detention, however, information concerning the reasons for the detention remains secret.

Legal Context: Protection from Arbitrary Detention

Article 9 of the Universal Declaration of Human Rights establishes that **“no one shall be subjected to arbitrary arrest or detention”**.

Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which also sets that **“anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”**.

- The Geneva Conventions and their Additional Protocols, as well as human rights law, provide the international legal standards that are to be applied to administrative detention in armed conflict and other situations of violence. International law permits administrative detention under specific narrowly defined circumstances. In accordance with the International Covenant on Civil and Political Rights (ICCPR) there **must be a public emergency that threatens the life of the nation**. Furthermore, administrative detention can **only be ordered on an individual case-by-case basis**, without discrimination of any kind. A State’s collective, non-individual detention of a whole category of persons could in no way be considered a proportional response, regardless of what the circumstances of the emergency concerned might be.

- ¹ Amnesty International describes administrative detention in Israel as “... a procedure under which detainees are held without charge or trial. No charges are filed, and there is no intention of bringing a detainee to trial. By the detention order, a detainee is given a specific term of detention. On or before the expiry of the term, the detention order is frequently renewed. **This process can be continued indefinitely.**”¹



- In many of the legal cases pursued by Addameer Association, administrative detainees spent years in the prison after being sentenced for committing violations, in accordance with military orders. When the period ended, however, they were placed under administrative detention under the pretext that they still pose a threat to security. Israeli authorities don't hesitate to violate the standards of fair trial, and fail to take international law or humanitarian dimension into consideration while handling the issue of administrative detention.
- In terms of reasons for internment, the Fourth Convention specifies that a protected person may be interned or placed in assigned residence only if “**the security of the Detaining Power makes it absolutely necessary**” (Article 42) or, in occupied territory, for “**imperative reasons of security**” (Article 78). According to Adalah, Israel has sought to justify its policy of administrative detention by the outstanding claim that it has been under a "state of emergency since 1948" and is therefore justified in suspending or "derogating" from certain rights, including the right not to be arbitrarily detained.²

Israel's use of Administrative Detention

- Administrative detention, arrest without charge or trial, has been used as a form of collective punishment by the Israeli military against Palestinians, illegal in this form under international law. For example, during the period of March 2002 to October 2002, Israeli occupying forces arrested over 15,000 Palestinians during mass arrest campaigns, rounding up males in cities and villages between the ages of 15 to 45. In October 2002, there were over 1,050 Palestinians in administrative detention. By the beginning of March 2003, Israel held more than one thousand Palestinians in administrative detention. In 2007, Israel held a monthly average of 830 administrative detainees, which was one hundred higher than in 2006. Furthermore, during the PLC elections of 2007, Israel placed dozens of candidates from the Islamic ‘Change and Reform Party’ in administrative detention. Some of which are still imprisoned to this day.
- Over the years, **only nine Israeli citizens** from settlements in the West Bank have reportedly been detained for periods up to six months.

Conditions of Detention

- Administrative detention should never be of a punitive nature. Furthermore, as enshrined in article 10 of the ICCPR, all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. This implies not only the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, but also that those deprived of their liberty should be kept in conditions that take into account their status and needs.
- Administrative detainees in Israeli prisons are not separated from the rest of the prison population, without arrangements for food appropriate to their culture and/or religion and to allow them to practice their faiths. Prison personnel in most of the cases do not receive specific training on how to deal with administrative detainees and on international law regarding administrative detainees. Administrative detainees in Israel must endure severe restrictions on their right to education, rights to communicate with families and receive visits, and right to adequate medical treatment.

² Adalah (2003) [Submission to the UN Human Rights Committee](#) (PDF) Adalah (22 July 2003). Available online at: www.adalah.org

Facts at a Glance

Administrative detainees under states of emergency should enjoy **as a minimum** the following rights and guarantees:

- ✓ The right to be brought before a judicial authority promptly after arrest;
- ✓ The right to receive an explanation of rights upon arrest in their own language or soon thereafter and to be informed of the specific reasons for the deprivation of liberty;
- ✓ The right of immediate access to family, legal counsel and a medical officer;
- ✓ The right to communicate with and be visited by a representative of an international humanitarian agency, such as the ICRC;
- ✓ The right to challenge, in a fair hearing and periodically if necessary, the lawfulness of the detention and to be released if the detention is arbitrary or unlawful;
- ✓ The right to complain to a judicial authority about mistreatment;
- ✓ The right to seek and obtain compensation if the detention proves to be arbitrary or unlawful.

Testimonies from Addameer indicate that none of the above minimum standards are respected by Israel. Rather, Israel uses administrative detention in a highly arbitrary manner as a form of punishment and oppression throughout the West Bank.

United Nations Committee of the Human Rights Commission (1962) in charge of the study on the right of everyone to be free from arbitrary arrest, detention and exile.