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La situation des droits de l'homme en Palestine et dans les autres territoires arabes occupés

Communication de la Commission indépendante des droits de l'homme* de l'État de Palestine

Note du secrétariat

Le secrétariat a l'honneur de transmettre au Conseil des droits de l'homme une communication soumise par la Commission indépendante des droits de l'homme de l'État de Palestine**, qui est distribuée conformément à l'article 7 b) du Règlement intérieur du Conseil (voir résolution 5/1, annexe) et selon les modalités et les pratiques que la Commission des droits de l'homme a arrêtées dans sa résolution 2005/74.

* Institution nationale des droits de l'homme accréditée avec le statut « A » par l'Alliance mondiale des institutions nationales des droits de l'homme.

** La communication est distribuée telle qu'elle a été reçue, dans la langue de l'original seulement.



Palestinian prisoners in Israeli prisons and the Covid-19 pandemic

The Israeli occupation authorities have been committing arbitrary arrests of Palestinian citizens as a constant and systematic policy since the occupation of the Palestinian territory in 1967. The issue of sick prisoners is one of the most important issues of the Palestinian prisoners in Israeli prisons and detention centers, especially in light of the significant increase in these arrests and increase of sick prisoners having their suffering exacerbated because of medical negligence policy of the Israeli occupation authorities. Medical negligence is one of a long chain of violations and crimes in the prisons. Because of Israeli procrastination in providing treatment, simple diseases among prisoners deteriorate into chronic and dangerous diseases that are difficult to treat. Such diseases have already resulted in the death of dozens in detention or after the prisoners' release.

This becomes even more aggravated in light of the Corona pandemic and the Israeli holding up of preventive and precautionary measures to protect prisoners, which is indicative to ignoring the rules of international humanitarian law, especially the four Geneva Conventions of 1949, and its responsibilities as an occupying power. World countries continue facing the Coronavirus pandemic and take preventive precautionary measures confronting it to prevent its spread. Yet, ICHR considers with great concern, the increase in the number of Palestinian prisoners infected with the virus and the Israeli disregard to the health and safety of Palestinian prisoners and detainees in its prisons. ICHR further expresses concern over the failure and negligence of the occupation authorities to take the due diligence serious measures necessary to protect the prisoners, as the prisoners suffer tough detention conditions in prisons that lack minimal health requirements and conditions, a matter that exacerbates the risk that threatens their lives.

More than 4400 Palestinian prisoners have been suffering detention in the occupation prisons, by the end of 2020. Of these prisoners, 40 were females and 170 children and minors. The occupation forces continue systematically arresting children and try them before military courts that lack fair trial guarantees. The number of administrative detainees, without trial or indictment, was about 380 detainees. The oldest of these prisoners are Karim Yunus and Maher Yunus that are in detention since 1983, and the prisoner Nael Barghouti who is serving a total of (40) year, which is the longest period of detention in the history of Palestinian prisoners.

Since 1967, 73 Palestinian prisoners lost their lives in the Israeli occupation prisons because of harsh detention conditions and the Israeli medical negligence policy, in addition to dozens of others who consequently died after their release, because of serious diseases that they suffered during their detention. The latest martyrs in Israeli prisons were four prisoners during the year 2020. These were Nour al-Din al-Barghouti, Saadi al-Gharabali, Dawood al-Khatib and Kamal Abu Wa'er, who suffered cancer during his imprisonment and suffered the Corona virus few months before his death. The occupation authorities refused a Palestinian petition for his release before succumbing to the disease on 10-11-2020.

By the end of the first half of 2020, there were (700) sick Palestinian prisoners, male and female, of whom (350) prisoners suffer from chronic diseases and need constant medical follow-up and care. Of the above, (40) cases are described as "serious" as they suffer from physical, psychological and sensory disabilities and need medical interventions and regular follow-up. At least 17 of the sick prisoners admitted to the Ramle prison clinic, including seven prisoners, on wheelchairs, constantly stay there. The most prominent of these cases are (Mansour Muqadeh, Khaled Al-Shawish, Nahed Al-Aqraa, Mutassim Raddad, and Saleh Saleh).

Prisoners' conditions under the Corona pandemic:

The Covid-19 virus is increasing at a high pace among the Palestinian prisoners in the Israeli occupation prisons. There are serious concerns for their lives, especially after reporting 355 cases of infections among them since March 2020, in addition to the infection of sick and elderly prisoners, who suffer from chronic diseases and need continuous medical care.

The increase in the number of infections confirms the intentional negligence by the Israeli Prison Authority in providing means of prevention and protection for the prisoners. Most of the infections occurred during the past two months, as the number of infections in Jalbou' prison was 100 during last November.

The Palestinian prisoners who are isolated from the world in the confinement of closed humid crowded rooms. In light of the failure to allocate special rooms for the sick, the poor food and the harsh detention conditions amid a shortage of cleaning, disinfectants and sterilization materials, this will lead to a real disaster. The detention environment is a fertile ground for the virus infection among the prisoners, which exacerbates the risk to their lives.

According to the testimonies of Palestinian prisoners, male and female prisoners in "detention" centers suffer from difficult conditions that lack the minimum means for preventing disease. This is because of the large number of detainees in one room without sterilization materials and the failure to conduct the necessary examination for them, and keeping the rooms without sterilization or cleaning and without providing them with masks. In addition to the suffering of those in quarantine, in terms of inadequate and lack of food, lack of drinking water, in addition to the fact that some of them did not have the opportunity to change their clothes during the period of quarantine. The patient among them suffered from a shortage of their medications, which may affect their health.

The Israeli occupation authorities bear full legal responsibility for the health and lives of all Palestinian prisoners and detainees in their prisons, especially the sick of them. The occupation continues with its arbitrary practices against the prisoners and violates their rights enshrined under the principles of international humanitarian law, especially the Geneva Conventions of 1949, which stipulate the need for providing immediate medical care to the prisoners and treating them of any diseases they suffer. The occupation also continues violating its obligations towards the prisoners in accordance with the principles of international law, including the Minimum Standard Rules for the Treatment of Prisoners. It violates the stipulations of Article (29) of the Third Geneva Convention, which stipulates the obligation of the Detaining Power to take all necessary health measures to ensure the cleanliness of the camps and their suitability for health and the prevention of epidemics and the observance of health facilities to the health conditions and permanent cleanliness. This, in addition to Article (85) of the Fourth Geneva Convention for the Protection of Civilians in Time of War of 1949. The later states "It is the duty of the Detaining Power to take all necessary and feasible measures to ensure that protected persons are housed in buildings or places that meet all health conditions and safety guarantees." Articles (26) and (27) of the Minimum Standard Rules for the Treatment of Prisoners issued by the United Nations in 1957, guaranteed prisoners' access to health care.

On the other hand, transferring detainees, including children to prisons in Israel, is illegal and violates Article 76 of the Fourth Geneva Convention and constitutes a war crime in violation of Article 8 (2) (b) (8) of the Rome Statute of the International Criminal Court. Despite the obligation of states to pay increased attention to the protection needs of children and their rights and to give the interests of children the first priority in all measures taken by governments, the occupation forces continue systematically arresting children and try them before military courts that lack fair trial guarantees, as the continue detaining more than (170) children.

The occupation authorities rejected international and local calls for the release of elderly and sick Palestinian prisoners, who are at high risk of contracting the virus. These include women, children, prisoners whose sentences are nearing the end, and administrative detainees who have no indictments against them, while Israel issued a decision during 2020 to release 500 Israeli criminal prisoners.

The occupation authorities had ignored all international and local demands to take serious measures to protect the prisoners and provide the protection supplies and preventive measures for them to prevent the spread of the virus. These authorities also begun to issue racist decisions targeting the prisoners, among the most important of these decisions was the withdrawal of (140) items of prisoners' purchases list. The items withdrawn included sterilizers and detergents, which are necessity in facing the pandemic crisis, while they left only bleach as a sterilizer, and a sole detergent in the occupation prisons.

The occupation authorities administered the first dose of the vaccine to the prisoners last week, after a long delay and after the Prisons Administration issued a statement on 01/17/2021, stating that after vaccinating the staff, it will vaccinate the prisoners in accordance with the medical protocol to vaccinate older age groups first. Yet, it failed to reduce the great overcrowding in the wards, which constitutes a fertile environment for the transmission of infection among the prisoners and leads to the spread of the virus at a large scale due to the lack of social distancing. In addition to not providing the necessary cleaning materials for prevention or to sterilize wards and rooms, which increases the possibility of infection, at a time when protecting prisoners, women prisoners and providing them with all necessary protection requirements is the obligation of the occupying power.

ICHR is concerned over the possible violation of the basic rights of Palestinian prisoners during the coming period. We call on you to intervene immediately to ensure protection for their lives and right to the highest attainable health level without discrimination, exert pressure on the occupying power to abide by its legal obligations, especially in times of epidemics, and to take necessary measures to prevent the spread of the pandemic and ensure the prisoners' access to medical care. ICHR also calls for seeking to send an international medical committee follow up on their health conditions urgently, in light of the developments and the escalation of infections. We also call for pressuring the occupation authorities to take the necessary precautions, preventive and precautionary measures to protect the prisoners. This, in addition to stop all the arbitrary practices against them, stop interrogation, impose control on the prison officers, police and all those who have daily contact with them, stop the transfer of prisoners through "Bosta" vehicles, provide adequate medical treatment and conduct the necessary examinations, in addition to taking swabs from them to ensure their safety.

ICHR calls on you to take your legal and ethical obligations to seriously pressure Israel, the occupying power, for the immediate and urgent release of the Palestinian prisoners and detainees, especially the sick and elderly of them, who are the most vulnerable to infection due to their weak immune system, and for the release of children and women. In addition to holding Israel the full legal responsibility for the safety and lives of Palestinian prisoners and detainees in its prisons.

In addition to exerting pressure, with diplomatic and legal means, on the occupying power, regarding this dangerous issue, and to include the results in terms of response or lack thereof in the annual reports submitted to the Human Rights Council. Holding the Israeli occupation authorities accountable for their violations of Palestinian human rights is one of the most important steps in deterring the occupying power, as international laxity in holding the occupation authorities accountable gives them immunity in continuing violations of Palestinian human rights and in persistence in violations of the rules of international humanitarian law.
