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Israel must end ill-treatment of hunger-striking Palestinian detainee

The Israeli authorities must immediately cease all non-consensual medical treatment and other punitive measures against Palestinian journalist Muhammed al-Qiq, who has been held without charge or trial for two months and on hunger strike since 25 November, Amnesty International said today. The authorities have undertaken a number of measures aimed at pressuring him to end the hunger strike, some of which violate the prohibition of torture and other ill-treatment.

Al-Qiq has been on a hunger strike, refusing everything but water, in order to protest the torture or other ill-treatment to which he says he was subjected in Israeli custody, and to demand his release from detention he believes is motivated by his work as a journalist. Al-Qiq's health is now in serious danger. The Israeli authorities should release him unless he is charged with an internationally recognizable criminal offence and tried in proceedings adhering to international standards. They should also conduct independent investigations into his complaints of torture or other ill-treatment and prosecute those responsible if sufficient admissible evidence is found.

The Israeli military arrested Muhammed al-Qiq from his home in Ramallah, in the occupied West Bank, on 21 November 2015, and initially took him to a detention centre in the illegal Israeli settlement of Beit El, before transferring him to a detention centre in Jerusalem, and then the Kishon (Jalameh) detention centre, near Haifa in Israel. According to Addameer, a Palestinian prisoners' rights organization, and his lawyer, al-Qiq was tortured during his two-week interrogation by the Israel Security Agency, and denied access to his lawyer. They reported that he was subjected to a stress position commonly known as the "banana", which involves being tied in a contorted position to a chair, that he was tied to a chair for up to 15 hours at a time and that he was threatened with sexual violence by his interrogators, who told him that he would not see his family for a long time unless he "confessed" to the allegations against him. After his interrogation, he was transferred to Ramleh prison clinic as his health deteriorated because of his hunger strike. He was transferred to HaEmek Hospital in Afula, also inside Israel, on 30 December, and has remained there since.

He received a six-month administrative detention order dated 17 December 2015. At a hearing at Ofer Military Court on 24 December, al-Qiq saw his lawyer for the first time. By that point, the effects of the hunger strike meant that he was brought to court in a wheelchair. The military judge confirmed the administrative detention order against al-Qiq on 30 December. An appeal filed against his administrative detention with the Military Court of Appeals, also in Ofer, was heard on 13 January, and the judge issued a ruling rejecting the appeal on 14 January. After this ruling, al-Qiq's lawyer filed an appeal against his administrative detention to the Israeli Supreme Court. This appeal has not been heard yet, although the court agreed to move up the appeal to 27 January from 25 February due to al-Qiq's poor health.

While the evidence against him is secret, the military judge at Ofer Military Court told al-Qiq that the file against him accuses him of "incitement", of working with media associated with Hamas, a Palestinian political faction with an armed wing, and also of being a "threat to the security of the area". All Palestinian political factions, as well as their armed wings, are banned under Israeli military orders in the Occupied Palestinian Territories (OPT).

International law allows for the exceptional use of administrative detention in emergencies, but Israel has for decades used it as an alternative to prosecuting Palestinians suspected of offences, and to arbitrarily detain people who have committed no crime, including prisoners of conscience. Administrative detention orders are renewable an unlimited number of times, and some Palestinians have been held without charge or trial for years. The use of secret evidence denies detainees the right to a fair hearing. As detainees cannot mount a proper defence against their charges, and are uncertain as to when they will be released, Amnesty International considers that Israel's use of administrative detention itself may amount to cruel, inhuman and degrading treatment.¹

Al-Qiq launched a hunger strike on 25 November 2015 to protest the torture or other ill-treatment to which he says he was subjected, and continued it to protest his detention on secret evidence, without charge or trial. He is demanding his release, and has been refusing everything but water since that date. Hunger strikes are a legitimate form of protest and, in recent years, some Palestinians held as administrative detainees have engaged in prolonged hunger strikes, seeing them as their only means of demanding their rights under international law. The Israeli authorities have consistently responded to such detainees with punitive measures aimed at pressing them to break their hunger strikes, in some cases amounting to torture or other ill-treatment.

On 10 January 2016, Israeli prison guards shackled both of al-Qiq's hands to his bed and held him down, despite his extremely fragile physical state, while blood was taken from his right arm for a blood test and an intravenous drip was inserted into his left arm. Physicians for Human Rights - Israel (PHR-Israel), a human rights organization, believes that this drip was used to administer vitamins and minerals. This was in direct contravention of al-Qiq's wishes and, although he was too weak to resist physically, he repeatedly said to his lawyer that he had no wish to be given anything intravenously. He was not allowed to leave his bed for four days, not even to be taken to the bathroom or shower. After five days, he was allowed a bathroom visit, at which point the intravenous drip was removed, and he was able to successfully resist its reinsertion. Carrying out a medical procedure against the patient's wishes is a breach of medical ethics, and the way al-Qiq was treated in hospital violated the prohibition of cruel, inhuman or degrading treatment or punishment.

On 15 January, Muhammed al-Qiq collapsed and was transferred to the hospital's intensive care unit. While he was unconscious he again had an intravenous drip inserted into his arm, and was attached to a number of medical monitoring devices. When he regained consciousness later that same day, he immediately requested the removal of the intravenous drip and the monitoring devices, but his wishes were not complied with until 16 January. Following his transfer to HaEmek Hospital, al-Qiq was shackled to his bed by restraints on both legs and one hand. During the period of his forced treatment, both his hands were restrained, despite his serious and increasingly frail physical state. After a request from PHR-Israel to the Israel Prison Service (IPS), one of his legs was unshackled, but he remains shackled by one leg and one arm, despite being too weak to flee or to pose a danger and the presence of IPS guards at all times in his hospital room. There are seven guards in and around his hospital room, according to his lawyer, and at least some remain in the room when his lawyer visits him. The IPS has refused to unshackle him and so on 18 January PHR-Israel filed a petition in Israel's Northern District Court seeking the removal of his restraints. The court gave the IPS until the end of 21 January to respond. Shackling al-Qiq while he is in such a physically weak condition constitutes cruel, inhuman and degrading treatment, and a means of punishing him for his hunger strike; the shackles must be removed immediately.

The Israeli authorities have consistently denied Palestinian detainees on prolonged hunger strikes access to lawyers, independent doctors, and family members, and this constitutes another means of punishing them and pressing them to end their hunger strikes. Although the IPS finally agreed on 21 January to allow a visit by an independent doctor, scheduled for 27

¹ Amnesty International, *Starved of justice: Palestinians detained without trial by Israel* (Index: MDE 15/026/2012), June 2012, <https://www.amnesty.org/en/documents/MDE15/026/2012/en/>.

January, his family have not been able to visit him since his arrest, including after he was transferred to HaEmek Hospital in a serious condition. As al-Qiq, like most other Palestinians from the OPT held by Israel, is being detained inside Israel, in violation of the Fourth Geneva Convention, his family cannot visit him without a permit issued by the Israeli military. The Israeli authorities must allow him to consult with independent doctors of his choice, and allow his family regular, private visits with him, without further delay.

The Israeli parliament, the Knesset, passed a law on 30 July 2015 that allows prisoners and detainees on hunger strike to be forcibly fed or treated, even if the individual has not consented, if this is authorized by a district court judge, subject to a medical report proving the individual is in a grave condition. The law allows the judge to consider “threats to state security” and evidence withheld from the detainee and his lawyers in making the decision. Statements made by the Israeli politicians responsible for promoting the legislation indicate that its main intent is to avoid making concessions such as releasing administrative detainees, rather than to preserve the life or health of those on hunger strike. The law has not been implemented yet, and is being challenged at Israel’s Supreme Court. So far, doctors at HaEmek Hospital have refused to force-feed al-Qiq.

As a general rule, hunger strikers should not be forcibly fed, and any decision on non-consensual feeding should be made only by qualified health professionals and only for reasons of medical necessity. The authorities must never require health professionals to act in any way contrary to their professional judgment or medical ethics, which essentially preclude compulsory feeding of mentally competent hunger strikers. Amnesty International does not believe that the Israeli law contains sufficient guarantees to ensure these conditions are met. Its implementation could lead to violations of the right to health and of the prohibition of torture and other ill-treatment.

Since the beginning of October 2015, violence in Israel and the OPT has increased greatly. Palestinians have targeted Israeli soldiers, police and civilians in stabbing, shootings and ramming attacks. Israeli forces have used intentional lethal force in situations where it was not warranted, unlawfully killing Palestinian attackers or those they suspected of carrying out attacks, including children. In some cases investigated by Amnesty International, Israeli forces killed Palestinians in apparent extrajudicial executions. Many other Palestinians have been shot and killed or wounded in protests, where the lack of an imminent threat to the lives of Israeli forces makes such force unjustified or excessive, and many of these killings therefore apparently unlawful.²

As during other periods of heightened tension in the OPT, the Israeli authorities have carried out mass arrests, and markedly increased their use of administrative detention. Israel was holding more than 580 Palestinian administrative detainees at the end of 2015, the highest number since 2008, according to statistics provided by the Israeli authorities to Israeli human rights organization B’Tselem. It is a practice that Israel cannot justify and must end; it should release all administrative detainees unless they are to be promptly charged with internationally recognizable criminal offences and tried in accordance with international fair trial standards.

Public Document

² Amnesty International, *Israel/OPT: No justification for deliberate attacks on civilians, unlawful killings by Israeli forces, or collective punishment of Palestinians* (Index: MDE 15/2633/2015), 8 October 2015 <https://www.amnesty.org/en/documents/mde15/2633/2015/en/>; Amnesty International, “Israeli forces in Occupied Palestinian Territories must end pattern of unlawful killings”, 27 October 2015, <https://www.amnesty.org/en/latest/news/2015/10/israeli-forces-must-end-pattern-of-unlawful-killings-in-west-bank/>; Amnesty International, “Israel/OPT: Investigate apparent extrajudicial execution at Hebron Hospital”, 12 November 2015, <https://www.amnesty.org/en/latest/news/2015/11/israel-opt-investigate-apparent-extrajudicial-execution-at-hebron-hospital/>.

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