
OPT: Calls for respect of international law as prisoners swapped**الأرض الفلسطينية المحتلة: دعوات لاحترام القانون الدولي**

GAZA CITY, 18 October 2011 (IRIN) - The exchange of 477 Palestinian prisoners for Israeli soldier Gilad Shalit, who had been held by Hamas, has highlighted calls by several human rights organizations and NGOs for Israel to stop violating international law by removing Palestinians from occupied Palestinian territory (oPt).

"Holding these prisoners and detainees in Israel flagrantly breaches international humanitarian law, which prohibits the transfer of civilians, including prisoners and detainees, from the occupied territory to the territory of the occupying state," according to Israeli human rights NGO B'Tselem.

"Israel's disregard for this prohibition is one of the main reasons that the prisoners and their families are unable to exercise their right to visits in a reasonable manner," B'Tselem added.

Physicians for Human Rights-Israel has made similar calls.

The ground-breaking swap, brokered by the Egyptian authorities, led to celebrations across Gaza, and a tightly organized ceremony by the Hamas-led government to welcome home the detainees, including 27 women.

Fifteen-year-old Rawan Maroof stood at the entrance to the heavily secured event, waiting to greet her father, Talat Maroof, 41, who was part of the release. She and her eight brothers and sisters have not seen their father since he was detained by Israeli authorities in 2007. "I can't express my happiness, I can't wait to hold him," said Rawan.

Shalit had been in Hamas captivity since June 2006, kidnapped in a cross-border raid executed by Hamas-linked militants. In response, Israel targeted Gaza's main power station that supplies electricity to Gaza residents.

The Israeli cabinet approved the [agreement](#) on 12 October, under which Shalit was freed in exchange for 1,027 Palestinians held in Israeli jails.

Hamas deputy foreign minister Ghazi Hamad told IRIN that today's release includes 325 older prisoners who were serving life-sentences. Many of them were convicted for killing Israelis, including in bomb attacks. A small number of detainees will be transferred to Syria, Qatar and Turkey.

A second release in the coming two months will include 550 Palestinians prisoners of Israel's choosing. "Nearly 200 children and medical patients being held prisoner may be part of the second wave," said Hamad, who participated in the talks with Israel to broker the deal.

Emotional time

"Oh my God, it's an emotional time for our family, we have been preparing since Tuesday [11 October]," says Mohamad Arouki in the Sheikh Radwan area of Gaza City. His brother Rafat Arouki, 42, and a member of the Palestinian Front for the Liberation of Palestine (PFLP), was arrested by Israeli forces in 1993.

The Arouki family, like scores of Gaza families, have been raising flags and painting welcome banners for those coming home. The family had not been permitted to visit Rafat, imprisoned in Israel, for the last five years.

The International Committee of the Red Cross (ICRC) continues to call on Israel to allow the resumption of the family visit programme for Gazans, suspended in 2007 after Shalit was captured.

ICRC, which helped facilitate the logistics of the swap after the agreement was reached, monitors the detention and treatment of all Palestinian detainees. In 2010, ICRC enabled 124,000 family members from the West Bank to visit relatives in Israeli jails.

Article 76 of the Fourth Geneva Convention stipulates that citizens under military occupation cannot be removed from the occupied territory, thereby prohibiting family member visits.

The Israeli army admits that most Palestinian detainees are imprisoned inside Israel, but argues that removing Palestinians from oPt is approved by the Israeli High Court of Justice and is consistent with Israeli law.

Palestinians arrested by the Israeli army in the West Bank fall under the jurisdiction of Israeli "military legislation". This is a separate military court system that applies only to oPt, according to the Israeli army.

"Since the perpetrators declared themselves hostile towards Israel, and actually acted against Israel, Israel is entitled to take action against the perpetrators in self-defence," Leor Bendor, spokesperson for the Israeli Foreign Ministry, told IRIN. "Defending Israeli citizens' personal safety is also a humanitarian issue," he said.

Bereaved Israeli families had tried to block the release through the courts, but the petition was rejected. However, Supreme Court President Dorit Beinisch noted: "Undoubtedly, the government's decision will send many terrorists who will be set free without serving their full sentence."

Still no talks

An estimated 5,000 Palestinian prisoners remain under detention in Israel, according to B'Tselem, including 22 parliamentarians. With a population of 2.5 million in the West Bank and 1.6 million in Gaza, it is difficult to find a Palestinian family unaffected.

The deal, supported by a majority of the Israeli population, is also likely to boost Israeli Prime Minister Benjamin Netanyahu's popularity.

It does not appear that the prisoner exchange will bring the Israelis and the Palestinians any closer to direct negotiations. However, despite Hamas and Israel's unwillingness to recognize one another, the prisoner exchange proves that through a trusted mediator the two sides can reach a deal.

The Quartet (UN, EU, USA and Russia) are due in the region next week to try and resume peace talks, which stopped over a year ago.

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