

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

We have the honour to address you in our capacity as First Vice-Chair of the Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/18, 26/7, 5/1, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest and detention of Palestinian human rights defender Mr. **Judeh Deeb Ibrahim Jamal**, born on 27 March 1961 in East Jerusalem, Occupied Palestinian Territory, as well as his two colleagues, namely Ms. **Najwan Odeh** and Mr. **Fadi Mansra**.

Since March 2011, Mr. Jamal has served as the Acting Director of Qatar Charity in its Ramallah office. Qatar Charity is a non-governmental organization registered in 2009 with the Palestinian Ministry of Interior. The organization is dedicated to carrying out humanitarian and development programs to fight against poverty by working in partnership with vulnerable communities. Its Ramallah office implements humanitarian projects targeting orphans, poor communities and students.

According to the information received:

On 7 September 2015, at approximately 2 a.m., around 15 fully armed and masked Israeli soldiers stormed the apartment of Mr. Jamal in East Jerusalem. The soldiers searched the house without presenting a search warrant and took Mr. Jamal by force into a military vehicle, which was stationed near the house. Mr. Jamal's arrest was carried out without presenting an arrest warrant. The soldiers did not provide any reason for the arrest and did not indicate where they were taking Mr. Jamal to. On the same day, two other employees of Qatar Charity, namely Ms. Najwan Odeh and Mr. Fadi Mansra, were also arrested by the Israeli forces.

The family of Mr. Jamal was not informed of his whereabouts in the first 48 hours after the arrest. On 10 September 2015, Mr. Jamal's family received a phone call from a lawyer informing it that Mr. Jamal would appear before an Israeli military court in Ofer in the occupied West Bank on the same day.

Mr. Jamal was held in solitary confinement in Petah Tikva Detention Center near Tel Aviv, Israel, for 33 days (from the date of his arrest on 7 September until 10 October 2015). He was kept in a small cell without windows and he was given raw food on several occasions. The lights in the cell were kept on all the time. Mr. Jamal suffered from pre-existing back problems and high blood pressure. When he was held in solitary confinement, he was deprived access to a doctor or medicine. During interrogation, he was subjected to threats and verbal abuse.

Almost every week, Mr. Jamal and his two colleagues, Ms. Odeh and Mr. Mansra, appeared separately before the military court in the Pitah Tikva detention centre. Mr. Jamal was brought to the court with his arms and legs shackled and he was blindfolded. During court hearings, the military judge approved the request of the Israeli army to prohibit Mr. Jamal from contacting his family and consulting his lawyer. The judge extended the detention of Mr. Jamal until 10 October 2015 under the same conditions which denied his right to consult a lawyer or contact his family.

Although the lawyer of Mr. Jamal was allowed to attend court hearings, he was denied access to the case file and related evidence. Moreover, the lawyer was not informed of the reasons for the arrest until 12 October 2015, when the Israeli military prosecutor formally issued separate lists of charges against Mr. Jamal and his colleagues. Mr. Jamal was accused of being a member of an unlawful organization (Qatar Charity); holding a position in an unlawful organization; and transferring money without the permission of the Israeli authorities. The charges are based on the Defense (Emergency) Regulations of 1945. His two colleagues received similar charges.

Mr. Jamal was initially detained in Petah Tikva detention an interrogation centre near Tel Aviv, then he was transferred to Ofer prison near Ramallah. His family has not been allowed to visit him. They have only been able to see him during court hearings where they were not allowed to approach him or talk to him. Interpretation provided during the court hearings was reportedly not sufficient for Mr. Jamal to understand the arguments.

On 26 November 2015, the lawyer of Mr. Jamal submitted a bail request to the military court. It was rejected by the judge on the same day. The lawyer appealed the decision. The date of the hearing was initially scheduled for 15 December 2015 but was postponed to 17 December 2015 because 45 minutes after the session started, the military prosecutor left the court room without giving any justification.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that the arrest and detention of Mr. Judeh Deeb Ibrahim Jamal may be arbitrary and related to his legitimate human rights activities, including his humanitarian work as the Acting Director of Qatar Charity in the West Bank. Grave concern is expressed at the allegations that Mr. Jamal was held in prolonged solitary confinement for 33 days which may amount to torture and other cruel, inhuman or degrading treatment. During this period he was also denied access to a lawyer. Further concern is expressed that Mr. Jamal, a civilian, is being tried by a military court and that he was so far not provided with adequate guarantees of due process and fair trial. Further, we express concern about the inherent questionability of the use of military courts to try civilians. Finally, we are concerned that Mr. Jamal, a Palestinian from the Occupied Palestinian Territory, and therefore a protected person under international humanitarian law, was detained in a detention Centre in Israel.

In connection to the above concerns, we would like to remind your Excellency's Government of its obligations under international human rights law, in particular article 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which guarantee the rights to liberty and security of the person and right to equality before courts and to a fair hearing before a competent, independent and impartial tribunal established by law. In particular, we would like to stress that, as per the Human Rights Committee's General Comment no. 32, trials of civilians by military courts should be exceptional, that is, limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and when with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trial (see paragraph 22). Such trials should also be held in full conformity of article 14 of the ICCPR. In her 2013 report to the General Assembly, the Special Rapporteur on the independence of judges and lawyers noted that military tribunals should have jurisdiction only over military personnel who commit

military offences or breaches of military discipline, and then only when those offences or breaches do not amount to serious human rights violations (see A/68/285, para. 89).

We further recall that, under international humanitarian law, article 76 of the Fourth Geneva Convention stipulates that protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.

Moreover, with regards to the practice of solitary confinement, we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), which states that the use of prolonged solitary confinement in itself runs afoul of the absolute prohibition of torture and ill-treatment. In addition, paragraph 6 of General Comment No. 20 of the Human Rights Committee states that the prolonged solitary confinement of a detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR. Moreover, due to the prisoner's lack of communication with his family and defence lawyer, and the lack of independent witnesses, the practice of prolonged solitary confinement may create conditions for further violations of the rights of detainees to be committed, including torture or ill-treatment.

Last, we wish to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5 and 6. We further draw your attention to Human Rights Council resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Judeh Deeb Ibrahim Jamal in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.

2. Please provide information concerning the legal grounds for the arrest and the detention of Mr. Judeh Deeb Ibrahim Jamal. Please explain in particular why he was not allowed to communicate with his counsel until 10 October 2015.

3. Please provide detailed information concerning the judicial proceedings against Mr. Judeh Deeb Ibrahim Jamal. Please explain in particular how the fact that Mr. Jamal is being tried by a military court is compatible with international human rights standards, including article 14. Please also explain why Mr. Jamal's lawyer did not have access to the case file of his client.

4. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. Jamal.

5. Please indicate what measures have been taken to ensure that Palestinian human rights defenders, civil society and humanitarian activists can operate in an enabling environment and are able to carry out their legitimate work without fear of prosecution and criminalization.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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First Vice-Chair of the Working Group on Arbitrary Detention

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