

Mandates of the Working Group on the issue of discrimination against women in law and in practice; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

REFERENCE: AL
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10 March 2016

Excellency,

We have the honour to address you in our capacities as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 23/7, 25/2, 25/18, and 5/1.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arrest, administrative detention and subsequent sentencing of Ms. **Khalida Jarrar** and the harassment and tear-gas attack against Ms. **Manal Tamimi**.

Ms. Khalida Jarrar is a member of the Palestinian Legislative Council and vice-chairperson of the Board of Directors of Addameer Prisoner Support and Human Rights Association, a non-governmental organization that works to support Palestinian political prisoners held in Israeli and Palestinian prisons. From 1994 to 2006, Ms. Jarrar served as director of Addameer. She is also a member of the National Palestinian Committee for the follow-up with the International Criminal Court.

Ms. Manal Tamimi is a member of the Popular Resistance Coordination Committee, which organises peaceful demonstrations against prolonged Israeli occupation. Every week since 25 December 2009, Ms. Tamimi along with fellow villagers stage a protest against settlers from Hallamish, who take control of a natural spring and deny villagers access to this important water source. Ms. Tamimi also works as a fieldworker with Women's Centre for Legal Aid and Counselling (WCLAC) and monitors human rights violations of women residents in nearby villages related to the occupation.

According to the information received in relation to Ms. Khalida Jarrar:

On 2 April 2015, at approximately 1:00 a.m., around 60 Israeli soldiers surrounded the house of Ms. Khalida Jarrar, located in Al-Bireh, Ramallah. The soldiers destroyed the main door and entered the house by force. They searched the house without presenting a search warrant and confiscated two laptops and a mobile phone. At approximately 3:00 a.m., Ms. Jarrar was arrested without an arrest warrant, and the Israeli Defence Forces did not provide a reason for her arrest. She was taken to Ofer Military camp near Ramallah and was interrogated for more than four hours. Ms. Jarrar was later shackled and transferred to HaSharon prison (Central District). Later on the same day, on 2 April, she received a 6-month administrative detention order under articles 271(a) of the Military Order number 1654 of 2009.

On 15 April 2015, the prosecution issued a list of 12 charges against Ms. Jarrar, which allegedly included her being affiliated with an “illegal organization”, her role as a member of the Palestinian Legislative Council and as a political leader, and her advocacy for prisoners. On the same day, the first hearing to review the charges was held. Ms. Jarrar’s counsel requested to postpone the hearing because they did not receive all necessary information from the prosecution. This request was accepted and the hearing was postponed until 29 April.

On 21 May 2015, a judge of Ofer Military Court decided to release Ms. Jarrar on bail until the end of the trial. The military prosecution appealed the judge’s decision, and an appeal hearing was held on 28 May 2015. The appeal was initially based on public material, which was accessible to Ms. Jarrar and her lawyer. However, the prosecution presented secret material based on which the judge decided to remand Ms. Jarrar in custody until the end of the trial. Ms. Jarrar and her lawyer were denied access to the secret material, and therefore unable to challenge it.

Furthermore, on several occasions during the trial the military prosecutor explicitly informed the judge that if Ms. Jarrar were to be released on bail, she would be once again placed on administrative detention.

On 24 August 2015, the first hearing for witness testimonies was held. Three of the prosecution’s witnesses attended the hearing, but only two presented their testimonies due to time constraints. These two witnesses described conditions under which their confessions were obtained. They stated that, during investigation, they were subjected to ill-treatment including sleep deprivation, being tied in stress positions for long hours, being threatened with torture. Subsequently, the prosecution requested the witnesses to be considered “hostile witnesses”, which was granted by the court. The prosecution claimed that the confessions obtained were genuine, and the witnesses were making false statements in the courtroom. The witnesses were reportedly denied access to their lawyer for long periods. On 20 September 2015, another witness, who was

imprisoned by Israeli forces, was declared as a “hostile witness” for denying all allegations against Ms. Jarrar.

On 7 December 2015, Ms. Jarrar decided to accept a guilty plea on two of the 12 charges, reportedly due to a number of reasons, including her mistrust of the military justice system, the high conviction rate and the expressed intention of the prosecutor to place her under administrative detention even if the court released her. The two charges were membership of an illegal organization and incitement to kidnap Israeli soldiers. The sentence was set to 15 months’ imprisonment, with a fine of 10,000 NIS (\$2,515) and a suspended sentence of 12 month within 5 years. Ms. Jarrar is serving her 15 months imprisonment in Hasharon prison (Central District) in Israel.

According to the information received in relation to Ms. Manal Tamimi:

On 15 January 2016, at approximately 3:30 p.m., an hour after the weekly protest against the nearby settlement took place, Israeli soldiers entered the village of An Nabi Saleh in the Occupied Palestinian Territory. After being informed that soldiers had entered the village, Ms. Tamimi, her husband and children proceeded up to the rooftop of the house to see what was happening. Shortly after, an Israeli troop carrier stopped in front of the house of Ms. Tamimi, soldiers came out and started firing teargas canisters in all directions, including at Ms. Tamimi’s house without any provocation emanating from her house.

As the Tamimi family retreated back downstairs they heard the sound of breaking glass inside the house, which was rapidly filled up with teargas. A rubber bullet was fired through a bathroom window causing it to shatter. In order to escape the gas, Ms. Tamimi exited the premise, whilst her husband attempted to ventilate the building by opening the windows.

As soon as Ms. Tamimi stepped out of her house, she encountered more soldiers who threw additional teargas canisters in her direction. As Ms. Tamimi attempted to make her way to her brother’s house, approximately 20 metres away, a soldier threw another teargas canister in front of her. As soon as Ms. Tamimi arrived at her brother’s house she reportedly collapsed and turned nearly unconscious.

Subsequently, Ms. Tamimi was taken by her family to hospital for treatment, where she was treated for breathing difficulties.

Concern is expressed at what appears to be the increasing harassment and targeting of women human rights defenders in the Occupied Palestinian Territory and that the above allegations may be an attempt to intimidate and restrict the legitimate exercise of their right to freedom of expression and opinion. Further concern is expressed at the sentencing of Ms. Jarrar by the military court on highly disputed charges and following months of administrative detention. Concern is also expressed about the court’s reliance on secret files, which were not accessible to Ms. Jarrar and her lawyer, and about the

alleged subjection of witnesses to ill-treatment and denial of access to their legal counsel. A further concern is raised about the alleged connection of the administrative detention, trial and sentencing of Ms. Jarrar to her long-standing human rights work. The apparent unprovoked attack on Ms. Tamimi and her family, which resulted in her hospitalization, and that this act may be directly related to her legitimate human rights work is of further concern. Additional concern is expressed about the broader effect of the above-mentioned allegations, which may have a chilling effect on human rights defenders and civil society as a whole, particularly those with dissenting opinions, exercising their rights to freedom of association and freedom of expression.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and the administrative detention of Ms. Jarrar, and how they are compatible with international human rights law.
3. Please provide detailed information concerning the judicial proceedings against Ms. Jarrar. Please explain, in particular, how Ms. Jarrar's trial by a military court is compatible with international human rights standards, and why neither Ms. Jarrar nor her lawyer had access to the secret materials that had been presented against her during the trial.
4. Please provide detailed information concerning the legal grounds and justification for the use of teargas, without apparent provocation, inside and around the house of Ms. Tamimi, causing her injury as a result.
5. Please indicate what measures have been taken to ensure that women human rights defenders in the OPT are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment or persecution of any sort.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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 persons responsible for the alleged violations.

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

Eleonora Zielinska
Chairperson-Rapporteur of the Working Group on the issue of discrimination against
women in law and in practice

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Makarim Wibisono
Special Rapporteur on the situation of human rights in the Palestinian territories occupied
since 1967

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer your Excellency's Government to the International Convention on Civil and Political Rights, ratified by Israel on 3 October 1991, with particular reference to articles 9, 14, 19, 21 and 22 which provide for the right to a fair and public trial, to an effective defence, to be informed of the cause and nature of the charges, the right to examine witnesses; the right to a fair and public hearing by a competent, independent and impartial tribunal established by law; the right to liberty and security of persons, the right to be tried without undue delay, the right to freedom of expression and opinion, the right to peaceful assembly, and the right to freedom of association with others.

We would also like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a) which provides for the right to meet or assemble peacefully;
- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 8 (1), which provides for the right to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
- article 12 (2 and 3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would also like to refer to the Convention on the Elimination of all Forms of Discrimination against Women ("CEDAW Convention") (article 7(c)), which provides for

the right of women to participate in non-governmental organizations and associations without discrimination. In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW), in its General Recommendation No. 19 (1992), concludes that gender-based violence is a form of discrimination against women as defined in article 1 of the CEDAW Convention, whether perpetrated by a State official or a private citizen, in public or private life.

We would like to draw your attention General Assembly resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. (OP5, 19 and 20)

We also wish to recall paragraph (z) of its 2013 Agreed Conclusions (E/2013/27-E/CN.6/2013/11), whereby the Commission on the Status of Women has recommended that States “support and protect those who are committed to eliminating violence against women, including women human rights defenders in this regard, who face particular risks of violence.”

We would like to further refer to the 2012 report of Working Group on the issue of discrimination against women in law and in practice on political and public life (A/HRC/23/50), which mentions that for women to have the capacity to participate in political and public life on equal footing with men, including to build autonomous movements for their own empowerment, they must be able to exercise their rights to freedom of thought, conscience, religion, expression, movement and association. It is imperative to recognize and secure these rights as individual rights for women’s effective participation in political and public life, in the light of the complex tensions between collective rights and women’s rights” (para. 34). The Working Group further recommended States to “accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women’s human rights and to improve the enabling conditions for women’s participation in political and public life” (para. 97 (i)).

We would also like to draw your Excellency’s Government’s attention to article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women, which notes that States should recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women, and should, moreover, facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels.