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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE: UA Health (2002-7) G/SO 214/79-9 G/SO 214 (53-24) G/SO 214 (89-15)
ISR 4/2012

28 March 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 15/22, 5/1, 16/23, and 16/7.

We would like to draw the attention of your Excellency's Government to information we have received regarding the arrest and detention of Ms. [REDACTED], who has been allegedly sexually assaulted and tortured in detention. Ms. [REDACTED] started a hunger strike to protest her detention and was placed in solitary confinement as a result of this action. Ms. [REDACTED] had previously been held for over two years in administrative detention, without any charges or trial, before being released on 18 October 2011.

It is recalled that Ms. [REDACTED] was the subject of a press release on 14 March 2012 from the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, and that Ms. [REDACTED] was the subject of an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on 3 November 2010. At the time of preparing this letter, no reply to the Chair-Rapporteur and Special Rapporteur's appeal has been received from your Excellency's Government.

According to the information received:

On 16 February 2012, Ms. [REDACTED], a 30-year old Palestinian woman from [REDACTED] village near [REDACTED], in the West Bank, was arrested at her home by Israeli military forces. During her arrest, she was not given any details pertaining to the reasons for her arrest by the Israeli authorities. It is also reported that she and her

family were threatened and beaten when Ms. ██████ refused to be held by a male soldier.

Reports indicate that she was then taken to the Salem detention center, where she was reportedly beaten and sexually assaulted. The sexual assault was perpetrated by a male soldier with the assistance and in the presence of a female soldier. It is reported that Ms. ██████ was undressed, forcibly strip-searched and groped by a male soldier. She was also allegedly beaten by five soldiers while they held her to the ground with her hands and legs shackled.

Following the assault, Ms. ██████ began a hunger strike. She was then transferred to the Hasharon prison where she was placed in solitary confinement as a reprisal. It is alleged that she is facing psychological pressure and ill treatment from Israeli Prison Service to end her hunger strike.

Reports indicate that her detention is based on secret information collected by the Israeli Security Agency and available to the military judge but not to the detainee or her lawyers. It is reported that Ms. ██████ was being held under the suspicion that she was “planning military activities,” with no additional details provided. Ms. ██████ was allowed to see a lawyer on 23 February 2012, seven days after her arrest. Her lawyers subsequently?? met her on 27 February, 8 March and 16 March 2012.

On 1 March 2012, Ms. ██████’s lawyers filed a complaint with the Israeli Attorney General concerning her arrest and detention, as well as a complaint with the Israeli military prosecutor regarding the sexual assault. On 4 March 2012, Judge Dalya Kaufman dismissed the request by Ms. ██████’s lawyers to call on witnesses to testify on the assault and abuse inflicted to her and confirmed her administrative detention order, which was reduced from a six-month to a four-month period.

After an initial medical examination by the Israeli Prison Service, it is reported that Ms. ██████ has refused any treatment since 27 February. After negotiations with her lawyers, she received medical consultations from an independent doctor. On 19 March 2012, the independent doctor concluded that Ms. ██████ was in mortal danger and should be immediately transferred to a hospital for close observation. According to the information received, Ms. ██████ was transferred to the Meir Hospital on the night of 20 March 2012.

Concern is expressed regarding Israel’s use of administrative detention, by which the Government of Israel holds detainees for indefinitely-renewable six-month periods without charging them or allowing them to stand trial. In this regard, particular concern is expressed regarding the use of secret evidence as the basis for detention, especially the inability of Ms. ██████ or her lawyers to have access to and challenge the evidence against her. Further concern is expressed in relation to reports that beatings, insults, threats, sexual harassment and humiliation are techniques frequently used by Israeli interrogators to intimidate Palestinian detainees, including women, and coerce them into confessions.

While we do not wish to prejudge the accuracy of these allegations, we would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We would like to draw your Excellency's Government's attention to the report of the Special Rapporteur on torture, where he stresses that solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions. He finds solitary confinement to be contrary to one of the essential aims of the penitentiary system, which is to rehabilitate offenders and facilitate their reintegration into society. [...]. The Special Rapporteur calls upon States to respect and protect the rights of persons deprived of liberty while maintaining security and order in places of detention. He recommends that States conduct regular reviews of the system of solitary confinement. In this context, the Special Rapporteur reiterates that States should refer to the Istanbul Statement on the Use and Effects of Solitary Confinement as a useful tool in efforts to promote the respect and protection of the rights of detainees. (A/66/268, paras.79 and 82).

We would also like to draw your Excellency's Government's attention to paragraph 6 of General Comment 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights. (Adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged". (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

In this context and with respect to the allegations according to Ms. [REDACTED] was beaten and sexually assaulted while in Salem detention center we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

Regarding gender-based violence, we would like to draw Your Excellency's attention to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of

person; and (d) the right to equal protection under the law (Art.3). Article 4 (b) of the Declaration also stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women.

With regard to the right to the highest attainable standard of health, allow us to recall that this right is reflected, *inter alia*, in article 12 of the International Covenant on Economic, Social and Cultural Rights, which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all States parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. We would also like to refer your Excellency's Government to the World Medical Assembly's Declaration of Malta on Hunger Strikes (adopted in November 1991, revised in October 2006), which emphasizes the duty of all physicians to, *inter alia*, act ethically (Principles 1) and respect individuals' autonomy (Principle 2). The Declaration further states that: "Forcible treatment is never acceptable. Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment" (Guideline 13).

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person(s) responsible of the violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a prompt? response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with the above 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 cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please indicate whether compensation has been provided to the victim or the family of the victim.

5. Please provide details of any actions taken to ensure the enjoyment of the right to the highest attainable standard of health by Ms. [REDACTED].

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Anand Grover

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Richard Falk

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

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Special Rapporteur on violence against women, its causes and consequences