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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214/79-9 G/SO 214 (53-24)
ISR 5/2012

14 May 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolutions 15/18, 16/23, 5/1 and 16/4.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding Mr. **Bilal Diab** and Mr. **Thaer Halahleh** and the reportedly more than 1,500 Palestinian prisoners and detainees in Israeli prisons who are currently engaged in an open-ended hunger strike.

According to information received:

Mr. Bilal Diab and Mr. Thaer Halahleh began their hunger strike on 28 February 2012 and are both allegedly held in administrative detention. They have been on hunger strike for over 75 days, which is the longest period amongst those currently engaged in this open-ended hunger strike and is the longest hunger strike ever recorded. . Both Mr. Diab and Mr. Halahleh are at immediate risk of death. Reportedly, the prisoners have communicated the reasons for their hunger strike which prioritize ending solitary confinement, ending administrative detention and allowing all prisoners and detainees to receive family visits.

Of the over 4,000 Palestinians in Israeli detention, about 308 are currently administratively detained, i.e., being held without charge or trial. A large number of prisoners and detainees have been denied family visits since 2007. In addition, it is reported that excessive and abusive use of solitary confinement and prolonged

isolation, as well as forced strip searches of prisoners and their visitors have also been frequently carried out. The Israeli Prison System (IPS) have allegedly intensified their efforts to thwart the hunger strikes by adopting punitive measures against those involved. These measures reportedly include isolating hunger strikers; constantly transferring prisoners between different prisons; daily fines of up to 500 shekels (100 euro); cancelling programmed family visits for those prisoners authorized by the IPS to receive visits; denial of electricity and water supply; introducing new measures under the pretext of security, such as forced DNA sampling; and both directly and indirectly limiting access to lawyers and independent, external physicians. There are also reported cases of threats to deny regular medical treatment for pre-existing illnesses, unless those involved suspend their involvement in the hunger strike.

On May 7 the appeal of Mr. Diab and Mr. Halahleh's against their administration detention was denied by the High Court of Justice.

On 11 May 2012 the Israeli Supreme Court rejected an urgent petition submitted on behalf of Mr. Halahleh and ten other hunger strikers which asked that these individuals be transferred to a civilian hospital due to their condition and the inadequacy of medical facilities in the IPS.

Serious concern is expressed regarding the physical and psychological integrity of Palestinian prisoners and detainees who are currently on hunger strike. Further concern is expressed at the alleged adoption of punitive measures imposed on them. Grave concern is expressed at the dire and critical health condition of those on prolonged hunger strike, especially Mr. Bilal Diab and Mr. Thaer Halahleh, as well as those who have been on hunger strike for over 40 days.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." Moreover, the Human Rights Committee has further clarified that the right to freedom of expression includes "the expression and receipt of communications of every form of idea and opinion capable of transmission to others" and protects all forms of expression, including spoken, written, sign language and other non-verbal expression (CCPR/C/GC34, paras.11-12). The Special Rapporteur on the promotion and protection

of the right to freedom of opinion and expression thus considers hunger strike as a legitimate form of expression.

Furthermore, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress States have the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Furthermore, Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.)

We would further 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 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 the above-mentioned persons in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?

3. 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.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

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.

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

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression