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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214/79-9 G/SO 214 (33-27)  
G/SO 214 (53-24)  
ISR 7/2013

2 August 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 15/21, 16/5, 17/2, 5/1, 17/5, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged campaign of judicial harassment and defamation, as well as allegations of torture or other cruel, inhuman or degrading treatment or punishment, against Mr. **Issa Amro**. Mr. Amro is a prominent Palestinian human rights defender and founding member of many non-violent human rights organizations in Hebron located in the occupied West Bank, including Youth Against Settlements (YAS). In 2010, he won the OHCHR 'Human Rights Defender of the Year in Palestine' award. He was previously the subject of a communication sent by the then Special Representative of the Secretary-General on the situation of human rights defenders on 1 February 2008. We regret that to date no reply has been received from your Excellency's Government to this communication.

According to the information received:

On 20 March 2013, Mr. Amro was taking part in a peaceful protest when he was allegedly arrested, along with other protesters and international activists. It is reported that during the demonstration, an Israeli settler attacked the protest. Nevertheless, instead of protecting peaceful protesters, Israeli Security Forces (ISF) allegedly used force against them.

On the same date, it is alleged that a letter sent from Israeli settlers to Israeli security forces accused Mr. Amro of terrorism and incitement, and warned that a failure by the Israeli authorities to remove him “could be costly”, and threatened “bloodshed”. In the letter, the mayor of the Jewish Hebron Municipal Council and the director general of the Hebron Jewish Community insisted that Israeli army commanders “use administrative detention until you are able to find a long-term solution to completely end this hostile and dangerous activity”, allegedly referring to Mr. Amro’s extensive work with various human rights groups.

According to sources, Israeli protesters who were also arrested at the demonstration on 20 March 2013 were released without bail on the condition that they not enter the area again for fifteen days, whereas Mr. Amro was not released. It is reported that Mr. Amro’s defense team submitted an urgent request for his release to the military court, and the arraignment took place the next day. According to a police statement, Mr. Amro had been arrested on suspicion of inciting others to demonstrate and assaulting Israeli soldiers and an Israeli settler. He was released on bail of 1,000 new Israeli shekels (NIS – approximately €210) on 21 March 2013, after the court rejected a police request for a higher bail.

Two days later, on 23 March 2013, Mr. Amro was summoned to the Israeli military police station and interrogated. Reportedly, whilst the interrogation was in relation to the 20 March 2013 demonstration, Mr. Amro was also presented with an edited *YouTube* video from January 2012 which shows a non-violent organizing of activists in Hebron. The police allegedly claimed that Mr. Amro had been seen near an Israeli settlement, within the closed Israeli military zone. The police requested that Mr. Amro pay an additional bail charge and when he refused to pay this, an arrest order of 96 hours was signed. Mr. Amro’s lawyers filed an urgent release request on the basis that he had never been indicted, that he was reportedly being targeted by the Israeli authorities, and that the conditions set on 21 March 2013 had been broken. At a hearing on 24 March 2013, this appeal was rejected. However, following an appeal before the military court, which took place on the same day, Mr. Amro was released without further conditions.

On 23 April 2013, Mr. Amro reportedly received an anonymous phone call during which the caller threatened to kill him if he did not halt his work. On 28 April 2013, sources allege that an Israeli settler in the Palestinian neighbourhood of Tel-Rumeida spat in his face and threatened to kill him. The incident reportedly happened in the presence of an Israeli soldier who allegedly testified to the Israeli Military Police when they arrived on the scene that Mr. Amro had provoked the

Israeli settler and that the settler never spat in his face, in contradiction of other sources informing that Mr. Amro did not provoke the settler.

It is alleged that since the publication of the above-mentioned letter from Israeli settlers, several websites issued calls for the execution of Mr. Amro, as well as publishing various pictures of his face marked by red circles. Moreover, various websites have reportedly branded him as a terrorist. According to sources, this campaign has led to the occurrence of incidents such as those outlined above.

On 6 June 2013, Mr. Amro received a summons from the Ofer Military Court, reportedly summoning him to appear at a hearing scheduled for 30 December 2013. He did not receive any reason for the summons.

On 10 June 2013, Mr. Amro delivered two statements to the 23rd session of the United Nations (UN) Human Rights Council. On 11 June 2013, he participated as a speaker in a side-event to the Human Rights Council entitled “Human Rights in Palestine”.

On 8 July 2013, when Mr. Amro came to the Old City of Hebron in order to guide a French television crew, it is alleged that he and the crew had their identity documents taken by Israeli soldiers surrounding the Ibrahimi Mosque compound. Later, it is reported that all identity documents were returned, except that of Mr. Amro. When Mr. Amro complained about this, it has reportedly been documented that he was transferred to the Israeli Military police station for “obstructing police work”. Upon his arrival at the station, it is alleged that Mr. Amro was beaten, including by blows to the spine, to the extent that he collapsed. Although Mr. Amro needed urgent medical attention, he was allegedly handcuffed and left lying on a stretcher for several hours. It is alleged that during this time, members of the ISF laughed at and took pictures of Mr. Amro, threatening that they would shoot him next time. After five and a half hours, he was taken to hospital and summoned to the same police station the next morning. On 9 July 2013, Mr. Amro was accused of “obstructing the work of the police”, “insulting a policeman” and “resisting arrest”, and was interrogated for three hours without any definitive outcome. This occurred despite the fact that his defense team had requested the postponement of his interrogation due to his weak condition.

On 25 July 2013, it is alleged that at least twelve Israeli soldiers invaded the YAS centre in the neighborhood of Tel Rumeida. After taking the persons who were present at the centre completely by surprise, the soldiers reportedly harassed them, destroyed property and retreated into the next house at around 10pm.

On 26 July 2013, sources report that Mr. Amro was in front of the YAS centre with three others, when two live bullets were fired just above their heads. A complaint has been filed regarding the incident. On 28 July 2013, several olive trees in the vicinity of the centre were set alight.

Serious concern is expressed at the allegations of ongoing judicial harassment against Mr. Issa Amro and intimidation directed against him and members of Youth Against Settlement (YAS). Further serious concern is expressed at the possibility that this could be as a result of Mr. Amro's co-operation with UN bodies. Profound concern is expressed for Mr. Amro's life, physical and psychological integrity, given the seriousness of the recent attacks against him and the YAS centre. Deep concern is expressed at the fact that Mr. Amro's treatment while in custody, if proven to be accurate, would amount to torture.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Amro. 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 (UDHR), the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Israel on 3 October 1991.

With regard to the allegations concerning the torture and ill-treatment of Mr. Amro at the Israeli Military Police station on 8 July 2013, including the denial of medical care for several hours, 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."

With regard to the death threats Mr. Amro receives as well as the public calls for his executions by various websites as well as the recent events in the vicinity of the YAS center involving Israeli soldiers on 25 and 26 July 2013, we would like to refer your Excellency's Government's attention to paragraph 8 (a) of Resolution 16/23 of the Human Rights Council, which stated that "Intimidation and coercion, as described in article 1 of the CAT, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture;".

With regard to the fact, that several of the incidents named above, involve Israeli settlers, who are considered non-state actors, we would like to refer your Excellency's Government's attention to paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), where the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be

considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission.

Furthermore, we would also like to draw your Excellency's Government's attention to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;"

We would also like to remind your Excellency's Government that everyone has the inherent right to life and no one shall be arbitrarily deprived of his life, as set forth in article 6(1) of the ICCPR. Principle 4 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, further states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

With respect to the particular allegation that soldiers also threatened to shoot Mr. Amro, we would like to underline that the Human Rights Committee stipulated that "The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6(1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces."

We would further 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, that Israel ratified on 3 October 1991, 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."

With respect to the reported invasion of the YAS centre and the intimidation of its members, we appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the ICCPR, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

In addition, we would 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)” (OP 3).

Regarding the judicial proceedings against Mr. Amro, we would like to refer your Excellency's Government to the international human rights standards on fair trial and due process guarantees, in particular article 14(1) of the International Covenant on Civil and Political Rights, which states: “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

In this connection, we would like to refer your Excellency's Government to General Comment No. 32 of the Human Rights Committee, in which the Committee stated: “The provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military. [...] While the Covenant does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.”

Principle 5 of the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985, and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, also states: “Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.”

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. Amro 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. Please provide the details, and where available the results, of any investigation, 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 information concerning the legal grounds for the arrest and detention of Mr. Amro and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
4. Please provide information on the legal grounds for the summons issued to Mr. Amro by the Ofer Military Court and how these measures are compatible with international norms and standards, in particular the right to a fair trial and due process guarantees, as stated, inter alia, in the UDHR and the ICCPR.
5. Please provide the full details of any protective measures put in place to ensure the life, and physical and psychological security and integrity of Mr. Amro, his family and members of YAS.
6. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment in the West Bank, particularly the City of Hebron, and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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 Mr. Amro 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.

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opinion and expression

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