

Mandates of 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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22 October 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 pursuant to Human Rights Council resolutions 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 the alleged systematic harassment and persecution of human rights defender Mr. **Daoud Al-Ghoul**.

Mr. Daoud Al-Ghoul is a human rights defender who promotes the rights of Palestinians in occupied East Jerusalem through research, reporting and international advocacy, as well as through presentation of violations of the rights of Palestinians in the Occupied Palestinian Territory before international bodies. He is a coordinator of the Kanaan Network of Palestinian Civil Society Organizations, and of the Youth Program for the Health Work Committees in Jerusalem.

According to the information received:

On 19 November 2014, Mr. Daoud Al-Ghoul reported to the European Parliament on restrictions placed upon Palestinian health services in East Jerusalem by Israeli authorities, as part of an alleged policy of ethnic cleansing in the area.

On 30 November 2014, shortly after returning to occupied East Jerusalem, his hometown and the base for his work with the Health Work Committees (HWC), Mr. Al-Ghoul was informed by Israeli police that he had been banned from Jerusalem, and was ordered to leave immediately. No reason or charges were initially presented to Mr. Al-Ghoul to explain his expulsion. However, it was later communicated to his lawyer that the sanction had been issued by the Israeli Home Front Command, allegedly based on secret evidence and without a judicial review.

Following his expulsion from Jerusalem, Mr. Al-Ghoul moved to the West Bank, where the HWC offices outside Jerusalem are located. On 3 December 2014, he was subject to a second military order, forbidding his presence in the West Bank. Mr. Al-Ghoul then had to move to Haifa, 100 km north of his family and his employment place.

On 10 December and 28 December 2014, objections to the orders issued against Mr. Al-Ghoul were filed with the emitting military officials. The objections were subsequently rejected by the GOC Home Command.

On 9 February 2015 and 8 March 2015, separate petitions were filed at the Israeli High Court of Justice challenging the military orders made against Mr. Al-Ghoul. The petitions urged the Court to revoke the orders, arguing that they were of unreasonable duration and scope, issued without judicial hearings, and based on secret evidence, potentially obtained from informants in exchange for compensation.

In response to the legal petitions submitted in relation to the military orders made against Mr. Al-Ghoul, Israeli authorities reportedly claimed that Mr. Al-Ghoul was an activist in the Palestinian Front for the Liberation of Palestine (PFLP), an illegal political party, and that he had taken part in 'violent incidents'.

On 12 March 2015, a third military order based on 'security reasons' was issued against Mr. Al-Ghoul, prohibiting him from traveling abroad. It is claimed it was aimed at preventing Mr. Al-Ghoul's participation at the World Social Forum held in Tunisia.

On 25 March 2015, the Israeli High Court of Justice rejected the petitions challenging the military orders banning Mr. Al-Ghoul from Jerusalem and the West Bank, accepting the allegations against him in their entirety.

The initial military orders against Mr. Al-Ghoul were renewed upon their expiration, on 30 April 2015 and 1 June 2015 respectively.

On 25 June 2015, Mr. Al-Ghoul was summoned for interrogation at the Moskobiyya Detention Centre, and arrested. Upon his arrest, a gag order was placed on Mr. Al-Ghoul's case, preventing his attorney from releasing details about his legal case, and stopping the Israeli media from reporting on it. Mr Al-Ghoul was subsequently transferred to Megiddo Prison, where he remains detained.

On 7 July 2015, Mr. Al-Ghoul was charged with 'membership of an illegal association', the PFLP, on the basis of secret evidence linking the HWC to a second Palestinian civil society organisation that was forcibly closed in 2009 on the basis of reportedly unsubstantiated allegations of links to the PFLP. The activities listed in the indictment against Mr. Al-Ghoul to show his link to the

PFLP include leading tours of Israeli settlements in East Jerusalem, participating in summer youth camps and training courses, and organising social and awareness raising activities for families of detained Palestinians.

As both the HWC and the second Palestinian civil society organisation, with who it is alleged that Mr. Al-Ghoul has links to, have been declared forbidden by order of the Israeli Ministry of Defence, their alleged affiliation to the PFLP is not open to legal challenge and can be relied on as fact by the prosecutor in the case of Mr. Al-Ghoul.

Grave concern is expressed at the alleged harassment and persecution of Mr. Daoud Al-Ghoul, which appears to have been systematically orchestrated in order to halt his reporting on human rights violations in East Jerusalem and to cut his connections with the Palestinian community in the area by restricting his freedom of movement. Further concern is expressed at the nature of the judicial processes levied against him, in particular the reliance on secret evidence, immune from legal challenge, to substantiate the charge made against Mr. Al-Ghoul.

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. Please refer to the **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 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 detail how the expulsion orders and travel restrictions placed upon Mr. Daoud Al-Ghoul comply with international norms and standards as stated, inter alia, in the UDHR and the ICCPR, which Israel ratified on 3 October 1991.
3. Please provide information concerning the legal basis for the charge brought against Mr. Al-Ghoul, and how the judicial processes launched against him in connection with the charge, including the role played by secret evidence in their substantiation, are compatible with international norms and standards including the international human rights obligations contracted by Israel under the treaties it has ratified.
4. Please kindly indicate what measures have been taken to ensure that Palestinian human rights defenders are able to carry out their legitimate work in a

safe and enabling environment without fear of persecution or acts of intimidation and judicial harassment of any sort.

We would appreciate receiving a response within 60 days.

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(s) responsible for 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.

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 fundamental principles set forth in the International Convention on Civil and Political Rights, with particular reference to articles 9, 12, 14 and 17, which outline the right to a fair and public trial, to an effective defense, to be informed of the cause and nature of the charges, and to examine witnesses; the right to liberty of movement and freedom to choose residence; the right to liberty and security of persons; and the right not to be subjected to arbitrary interference with family and home life.

We also wish 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 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;

article 9, paragraph 4, point a), which provides for the right to unhindered access to and communication with international bodies.