

Mandates of 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 situation of human rights in the Palestinian territories occupied since 1967 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL ISR 2/2017

27 February 2017

Excellency,

We have the honour to address you in our capacities as 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 situation of human rights in the Palestinian territories occupied since 1967 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 32/32, 25/18, 1993/2A and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the arbitrary arrest, detention and criminal prosecution before military court of three human rights defenders, **Mr. Abdallah Abu Rahma**, **Ms. Lema Nazeeh**, and **Mr. Mohammed Khatib**.

Mr. Abdallah Abu Rahma is a human rights defender and the coordinator of the Bil'in Popular Committee against the Wall and Settlements. Mr. Abu Rahma has been the subject of three previous communications sent by various Special Rapporteurs on 8 February 2016, case no. ISR 8/2016, 27 January 2015, see A/HRC/29/50, case no. ISR 11/2014; 8 November 2010, see A/HRC/16/44/Add.1, paras. 1331 – 1347, case no. ISR 14/2010; and 5 March 2010, see A/HRC/16/44/Add.1, paras. 1302-1310, case no. ISR 3/2010.

We acknowledge the responses received from your Excellency's Government on 10 March 2015, 15 February 2011 and 26 November 2010. In your Excellency's Government response on 15 February 2011, it was stated that since violent protests were continuing, the sentence for Mr. Abu Rahma should be severe. However, it was also stated in that communication that the exact scope of Mr. Abu Rahma's actions was unclear and that there was no evidence of him engaging in violence toward soldiers during the protests. We wish to reiterate our concerns in the context of the information below.

Ms. Lema Nazeeh is the Deputy Chairperson of the Popular Struggle Coordination Committee (PSCC). The PSCC facilitates communication between, and helps to strengthen, the different popular committees in Palestinian villages who operate against what they call the 'apartheid wall', or 'security fence' as Israel refers to it, and who suffer human rights violations as a result of various aspects of the Israeli occupation.

Mr. Mohammed Khatib is a Palestinian lawyer and board member of PSCC.

According to information received:

On Friday 20 January 2017, between 50 and 70 Palestinian activists established a protest camp in a park in the illegal settlement Ma'ale Adumim to protest a proposed bill that would annex the settlement to Israel (the Knesset has delayed voting on the bill until after Prime Minister Netanyahu hold his first meeting with US President Trump in mid-February), as well as statements made by some US officials to move the US embassy from Tel Aviv to Jerusalem. The protest in Ma'ale Adumim was organized by the Popular Struggle Coordination Committee (PSCC). Shortly after the protest camp had been set up, the Israeli police, together with the border police, raided the camp and declared the area a closed military zone. At this stage, the protestors moved to a main road nearby.

During the course of this protest, six of the participants were arrested, including Ms. Lema Nazeeh and Mr. Mohammed Khatib.

Both Ms. Nazeeh and Mr. Khatib were accused of entering into Israel illegally despite the fact that they were in an area that is internationally recognized as part of the occupied Palestinian territory in East Jerusalem. They were also accused of participating in an illegal protest.

On the same day, at around 11 a.m., Ms. Nazeeh was beaten by Israeli soldiers upon arrest and was taken to Al-Maskubiyah prison in West Jerusalem – outside of occupied Palestinian territory. While in custody, it is alleged that she was subjected to ill-treatment, including beatings. Ms. Nazeeh was placed in a solitary dark cell and monitored by video cameras, including in the sanitary facilities. She was not provided with water and was deprived of sleep for prolonged periods of time. She was additionally denied to access a lawyer outside of occupied Palestinian territory. While in custody, it is reported that she was subjected to ill-treatment, including beatings. Ms. Nazeeh was placed in a solitary dark cell and monitored by video cameras, including in the sanitary facilities. She was not provided with water and was deprived of sleep for prolonged periods of time. She was additionally denied access to a lawyer.

On 23 January 2017, their case was heard in Ofer Military Court. The court decided that Ms. Nazeeh and Mr. al-Khatib, as well as others who had been arrested during the 20th January protest, should be released upon payment of between 3000 and 7,500 ILS.

Mr. Abdallah Abu Rahma was present at the hearing in his capacity as PSCC coordinator for the families of the detained. During the hearing, Israeli forces arrested him on suspicion that he had also taken part in the peaceful protest.

While in custody, it is alleged that Mr. Abu Rahma was reportedly subjected to ill-treatment, including being stripped naked and deprived of a body belt, which he was wearing for a medical condition. He was interrogated for several hours, and then transferred to Ofer military prison where he was held overnight. He

attended a hearing the next morning at which a judge ordered his release, at roughly 10 a.m., but he was not released until late that night.

All three human rights defenders were released on bail, pending trial. The next hearings regarding Mr. Abu Rahma's arrest was scheduled on 21 February 2017, 12 March 2017 and 13 May 2017. Trial dates are currently pending for Mr. Khatib and Ms. Nazeeh.

On 25 January 2017, on the night following Mr. Abu Rahma's release, Israeli soldiers raided his and his brother's houses in the middle of the night. Mr. Abu Rahma, was not allowed to move meanwhile soldiers checked mobiles and confiscated Mr. Abu Rahma's laptop. The raid was already the second within a few months.

We express concern regarding the arrest, detention and criminal prosecution of the three aforementioned individuals, particularly as these measures appear to be linked to their legitimate exercise of rights to freedom of expression, as well as their rights to freedom of assembly and association. We express equal concern at the treatment in detention of Ms. Lema Nazeeh and Mr. Abdallah Abu Rahma which may amount to torture and other cruel, inhuman and degrading treatment, their lack of access to counsel and the fact that their case is being tried before a military court. Finally the two raids raise concerns regarding adherence to protocol such as if they were conducted with warrants to gather intelligence.

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

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Mr. Abdallah Abu Rahma, Ms. Lema Nazeeh, and Mr. Mohammed Khatib and how these charges are compatible with international human rights law, in particular with articles 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR).
3. Please provide details, and where available, the results of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case, especially, regarding allegations of ill-treatment of the aforementioned individuals while detained.

4. Please provide information about the legal grounds for entering into Mr. Abdallah Abu Rahma and his brother's house, as well as for checking their mobile phones and confiscating Mr. Abdallah Abu Rahma's laptop.
5. Please provide information about the legal basis for trying the cases of the three aforementioned individuals before military courts.
6. Please explain what measures have been taken to ensure that peaceful protestors and human rights defenders in in the Occupied Palestinian Territory can carry out their peaceful and legitimate activities and express and protest freely without fear of harassment, stigmatization or criminalization of any kind.

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.

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst

Special Rapporteur on the situation of human rights defenders

Michael Lynk

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

Nils Melzer

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

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:

The above mentioned allegations appear to be in contravention with articles 7, 9, 17, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment; no one shall be subjected to arbitrary arrest or detention; no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence; the rights to freedom of expression and opinion and freedom of peaceful assembly and association shall be recognized. The allegations also appear to be in contravention with the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Israel ratified on 3 October 1991.

We would also like to refer to Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council “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.”

We would also like to refer to 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 articles 1 and 2 which provide that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Articles 5 and 6 of the Declaration provide for the rights of freedom of expression and peaceful assembly; and article 12, states that the State shall take all necessary measures to ensure the protection by the competent authorities 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.