

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

REFERENCE:  
AL ISR 5/2017

28 March 2017

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, pursuant to Human Rights Council resolutions 33/30, 34/19 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **arbitrary arrest of Mr. Saed Faqih in his home in Burin, Nablus, West Bank of the Occupied Palestinian Territory, and his subsequent torture and ill-treatment in the Huwarra detention centre and the Petah Tikva detention centre, in Israel.**

Mr. Saed Faqih is a 31-year-old Palestinian construction worker. He lives in the village of Burin, Nablus, West Bank of the Occupied Palestinian Territory.

According to the information received:

In the early morning of 3 March 2016, soldiers of the Israeli Defence Forces (IDF) raided Mr. Faqih's home in Burin, Nablus, West Bank of the Occupied Palestinian Territory. Mr. Faqih was handcuffed, blindfolded, beaten up and arrested. He was not informed of the reasons for his arrest. Mr. Faqih was then taken to the Huwarra detention centre, situated in Huwarra military base, an Israeli military facility in the West Bank. In the vehicle, the soldiers repeatedly kicked him in various parts of the body.

This brutal treatment lasted for the duration of the transportation to Huwarra detention centre. On the way to the interrogation room, and while he was still blindfolded and handcuffed Mr. Faqih was hit in the stomach which caused him to throw up on the floor. In the interrogation room, he was subjected to three consecutive strip searches, to severe beating and was held in stressful positions.

A few hours later, Mr. Faqih was transferred to the Petah Tikva detention centre, located in the Yafo governorate, Israel. In that military-administered centre, five officers believed to belong to Israel Security Agency took turns questioning him over a period of 17 days. The first interrogation lasted for 18 continuous hours. On 20 March 2016, he was transferred to the prison of Ashkelon in Israel, where he stayed for four days before being transferred back to Petah Tikva for another

19 days of intense interrogation. At no point during his detention in Petah Tikva and Ashkelon was Mr. Faqih allowed to meet with a lawyer or to receive visits from his family.

Throughout the interrogation period, Mr. Faqih's interrogators routinely used torture for the purposes of forcing him into confessing. The methods used included extreme psychological pressure, sleep deprivation, beatings, slapping and kicking - all of which were aimed at creating sensory isolation. Mr. Faqih was also reportedly forced to sit on an iron chair in one position for several days. In protest against that treatment, Mr. Faqih went on a hunger strike for six days. He was then taken to a clinic and given calming pills. One of the interrogators attempted to force Mr. Faqih to sign a pre-written statement that he was not subjected to any form of torture or ill-treatment.

On 11 April 2016, Mr. Faqih was transferred to Gilboa Prison, Israel, where he is awaiting trial. He has been allowed to receive visits from his family and to meet with his lawyer only once, on 8 November 2016.

While we do not prejudge the accuracy of the information received, serious concern is expressed at the alleged torture and cruel, inhuman and degrading treatment of Mr. Faqih during his arrest, interrogation and detention by Israeli soldiers and security officers.

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.

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 factual and legal grounds for the arrest and detention of Mr. Faqih and how his deprivation of liberty is 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 information related to the decision to transfer Mr. Faqih from the Occupied Palestinian Territory to Israel, and how this is compatible with international humanitarian law, specifically Articles 76 and 49 of the Fourth Geneva Convention.

4. Please provide details, and where available, the results, of any investigation, medical examination, and judicial or other inquiries conducted into the allegations of torture and severe ill-treatment.
5. Please provide information on any measures taken to ensure the physical and psychological integrity of Mr. Faqih since his arrest, and as long as he will remain in detention.

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.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such allegation letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to allegation letters and the regular communications procedure.

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

José Guevara  
Vice-Chair of the Working Group on Arbitrary Detention

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

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

## **Annex**

### **Reference to international law**

While we do not wish to prejudge the accuracy of the information received, we would like to draw the attention of your Excellency's Government to the relevant international norm and standards that are applicable to the issues brought forth by the situation described above.

We would like to recall the obligations of your Excellency's Government under international human rights law, especially the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as provided in articles 2 and 16 of the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and article 7 of the International Covenant on Civil and Political Rights (ICCPR), which Israel ratified on 3 October 1991.

In this context, we would also like to draw the attention of your Excellency's Government 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.

In addition, we would like to recall Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that "[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force [...]. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result." Principle 15 further stipulates that law enforcement officials shall not use force on persons in custody or detention "except when strictly necessary for the maintenance of security and order within the institution or when personal safety is threatened."

We would like to refer to Article 76 of the Fourth Geneva Convention, which provides that "protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein." Similarly, Article 49 of the Fourth Geneva Convention prohibits the transfer of individuals from the occupied territory to the territory of the Occupying Power, regardless of the motive.