

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 ISR 6/2017

12 May 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 25/2, 25/18 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 arrest and charges brought against Mr. **Badie Dweik**, Mr. **Anan Dana**, and Mr. **Younes Arar** by a military prosecutor, allegedly for having participated in a peaceful demonstration in the city of Hebron.

Mr. Badie Dweik is a human rights defender working in Hebron, and a member of the Human Rights Defenders Network. He currently leads the 'Dismantle the Ghetto, Take Settlers out of Hebron' peaceful campaign against the development of Israeli settlements in the Occupied Palestinian Territories. He also documents human rights violations, and provides training on protection for human rights defenders.

Mr. Anan Dana is a human rights defender and member of the Hebron Defense Committee, an organization peacefully campaigning against Israel's settlement policy in the Occupied Palestinian Territories. He is also a founding member of the 'Dismantle the Ghetto, Take Settlers out of Hebron' campaign.

Mr. Younes Arar is a human rights defender also taking part in the 'Dismantle the Ghetto, Take Settlers out of Hebron' campaign. He is the director of the Hebron section of the Colonisation and Wall Resistance Committee of the Palestine Liberation Organisation.

According to the information received:

On 30 March 2017, Mr. Dweik, Mr. Dana, and Mr. Arar were arrested by Israeli authorities following their participation in a peaceful demonstration commemorating Land Day in Palestine, as part of the 'Dismantle the Ghetto, Take Settlers Out of Hebron' campaign against Israeli settlements in Hebron. They were first taken to an Israeli police station in the settlement of Kiryat Arba and then transferred to the Etzion Detention Centre in Asyoun, where the detention

facilities were allegedly inadequate, lacking showers and mattresses, and with cockroaches and mice in the cells.

On 31 March 2017, Mr. Dweik and Mr. Dana were taken to a hospital in Jerusalem for a medical assessment concerning pre-existing medical conditions. Upon his return to the Etzion Detention Center, Mr. Dweik was reportedly denied necessary medication by the prison's authorities.

On 2 April 2017, Mr. Dweik, Mr. Dana, and Mr. Arar were brought before the Ofer Military Court where a military prosecutor accused them of taking part in a demonstration considered illegal by Israeli authorities, and of blocking a street that had been declared a closed military zone by the Israeli Army. The accused, however, claim to have evacuated the street upon the Army's determination. During the hearing, the military prosecutor requested that Mr. Dweik, Mr. Dana, and Mr. Arar remain in administrative detention on the basis of secret evidence against them.

On 3 April 2017, Mr. Dweik, Mr. Dana, and Mr. Arar were released on bail of 3,500 ILS (approximately 970 USD) by the Ofer Military Court.

Serious concern is expressed regarding the arrest, detention and prosecution of Mr. Dweik, Mr. Dana, and Mr. Arar, which appear to be directly connected to their legitimate exercise of their right to freedom of expression through their participation in peaceful demonstrations against Israeli settlements in the Occupied Palestinian Territories, and to their legitimate work promoting and defending human rights. We express also concern at the fact that Mr. Dweik, Mr. Dana, and Mr. Arar, three civilians, are being tried before a military court. Finally, concern is expressed at the broader effects of the intimidation faced by Palestinian and Israeli human rights defenders.

Palestinian human rights defenders face a myriad of challenges including significant prohibitions on peaceful protests, and arrest and prosecution before military courts, which hinders the legitimate exercise of their activities defending and promoting human rights, and curtails their right to freedom of expression. Israeli human rights groups are increasingly targeted through legislation and other barriers seeking to delegitimize and obstruct their human rights work.

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 comment(s) you may have on the above-mentioned allegations.

2. Please provide additional information on the charges against Mr. Dweik, Mr. Dana and Mr. Arar, including the evidence for the crimes allegedly committed. In this connection, please explain how these prosecutions are compatible with Israel's obligations under international human rights law.
3. Please provide information concerning the reasons for conducting the trials against Mr. Dweik, Mr. Dana and Mr. Arar before military courts, and explain how this is compatible with Israel's obligations under international human rights law.
4. Please provide additional information concerning the conditions under which Mr. Dweik, Mr. Dana and Mr. Arar were detained from 30 March to 3 April 2017, including the measures adopted to guarantee adequate access to healthcare, including medication.
5. Please provide information on the measures adopted by the Israeli Government to guarantee the exercise of the right to freedom of expression in the Occupied Palestinian Territories as well as to guarantee a safe and enabling environment for the work of Palestinian and Israeli human rights defenders.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

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

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

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

**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 to articles 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which establish the right not to be arbitrarily deprived of liberty, the right to be tried by a competent, independent and impartial tribunal and to freedom of opinion and expression, respectively.

We wish to reiterate as well the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3) including on discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Reference should also be made 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. Of particular relevance are 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. Article 5 (a), 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 (b) and c) provides that everyone has the right to freely 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 of these rights. article 12 (1) and (3), provides for the right to participate in peaceful activities against violations of human rights and fundamental freedoms, as well as for the right to be protected effectively under national law in reacting against, or opposing, through peaceful means, activities and acts that result in violations of human rights and fundamental freedoms.

In addition, with regard to the conduction of trials before military tribunals, we would like to recall that in its General Comment no. 32 on article 14 of the ICCPR, the Human Rights Committee noted 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. Likewise, the Basic Principles on the Independence of the Judiciary establish that everyone is entitled to be tried by ordinary courts (see Principle 5).