

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; the Working Group on the issue of discrimination against women in law and in practice and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders; Working Group on the issue of discrimination against women in law and in practice and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, pursuant to Human Rights Council resolutions 33/30, 34/5, 15/23 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning an escalating wave of arbitrary and abusive behaviour, judicial harassment, smear campaigns, arrests and detention targeting human rights defenders and activists in the West Bank, the Occupied Palestinian Territory since December 2017, including Ms. Ahed Tamimi, Ms. Nariman Tamimi, Ms. Nour Tamimi, Ms. Manal Tamimi, Mr. Bassem Tamimi, as well as Mr. Munther Amira, Mr. Jamil Barghouti and Mr. Yousef Sharqawi.

Ms. **Ahed Tamimi** is a 16-year old Palestinian human rights defender from the village of Nabi Saleh in the occupied West Bank, who has protested against land confiscation and the exploitation of natural resources for settlement construction, particularly the well of Nabi Saleh. She is internationally known for her struggle against the illegal colonisation of the West Bank, and has spoken in Brussels, Istanbul, and Johannesburg about the human rights of Palestinians.

Ms. **Nariman Tamimi**, mother of Ms. Ahed Tamimi is a human rights defender documenting abuses committed by Israeli authorities against Palestinian protesters and villagers. She participates in peaceful protests in Ramallah as a medic to deliver help to injured protesters.

Mr. **Bassem Tamimi**, father of Ms. Ahed Tamimi is one of the leaders of the Nabi Saleh Popular Struggle Committee in Ramallah, a non-violent group protesting against the illegal occupation and colonisation of Palestinian lands through weekly peaceful demonstrations.

Ms. **Manal Tamimi** is an activist from Nabi Saleh and a family member of Ms. Ahed Tamimi. She is a member of the Popular Struggle Coordination Committee. She was subjected to harassment and tear-gas attack in January 2016. These allegations were addressed in a letter sent to your Excellency's Government by several UN independent experts on 10 March 2016 (JAL ISR 3/2016). To our regret, no response has been received to this letter.

Ms. **Nour Tamimi** is a family member of Ms. Ahed Tamimi.

Mr. **Munther Amira** is a human rights defender and the head of the Popular Struggle Coordination Committee, he lives in the Aida refugee camp near Bethlehem.

Mr. **Jamil Barghouti** is a human rights defender and the head of the Palestinian Authority committee against the separation barrier and illegal settlements in the West Bank.

Mr. **Yousef Sharqawi** is a human rights defender from Bethlehem and retired Major General.

According to the information received

Concerning Ms. Ahed Tamimi, Ms. Nariman Tamimi and Mr. Bassem Tamimi

On 19 December 2017 Ms. Ahed Tamimi, aged 16, was arrested by Israeli forces during a military raid on her home in the early hours of the day. Military officers allegedly broke into the family house and forced Ms. Tamimi into a military car. The soldiers reportedly physically assaulted Ms. Ahed Tamimi's mother, and her siblings. Electronic devices, including laptops, cameras, and mobile phones were confiscated during the raid.

Prior to her arrest, a video dated 15 December 2017, was posted on the Internet. The video depicts her as requesting two heavily-armed Israeli soldiers to leave the premises of her land and house, which they arbitrarily stood on, and then pushing them physically out of it. At one point she apparently tried to slap one of the soldiers. A few days earlier, a 14-year-old cousin of hers had been shot with a rubber-coated steel bullet in the face. After the posting and dissemination of the video, she was subject to an intense public smear campaign and intimidation, with leading political figures demanding the highest possible punishment for her.

On 20 December 2017, the detention of Ms. Ahed Tamimi was extended for five days by the Ofer military court.

On 19 December 2017, Ms. Nariman Tamimi, Ahed's mother, went to Binyamin Detention Centre to look for her daughter. She was arrested upon arrival as she requested to be present during her daughter's interrogation.

On 20 December 2017, Mr. Bassem Tamimi, father of Ahed, was interrogated for two hours while attending his daughter's arraignment in the court.

On 1 January 2018, Ms. Ahed Tamini was indicted on 12 charges including aggravated assault and incitement.

On the same day, her mother was indicted on 5 charges including incitement and assault. Ms. Ahed Tamimi and Ms. Nariman Tamimi, are currently detained at HaSharon prison in Israel.

The next hearing regarding the prosecution's request to keep Ms. Ahed Tamini in detention is scheduled to take place on 8 January 2018.

Concerning other members of the Tamimi family:

On 20 December 2017, Ms. Nour Tamimi, was arrested during a raid on her home on suspicion of being involved in the incident during which Ms. Ahed Tamimi slapped a soldier.

On 31 December 2017, an indictment was filed against Ms. Nour Tamimi, charging her with aggravated assault and interfering with soldiers. The judge decided to keep her in investigative detention for additional 100 days. Her lawyer has filed an appeal contesting this decision. On 4 January 2018, she was released on bail.

On 28 December 2017, Ms. Manal Tamimi, was arrested during a protest demanding freedom for her family members in front of Ofer military court. She is charged with participation in an illegal demonstration, obstructing the army's work and assaulting a soldier. On 3 January 2018, she was released on bail.

Concerning other human rights defenders

On 27 December 2017, Mr. Munther Amira, was arrested during a protest while demanding the release of the Tamimi family members. He is accused of participating in an illegal protest and stone throwing, although available video footage from the protest gives no evidence of stone throwing. In the video recording Mr. Amira can be seen holding up a sign with both hands during the protest. He is currently being held at Ofer military prison.

On 28 December 2017, during the same protest, Mr. Jamil Barghouti was arrested by Israeli forces. He is accused of participating in illegal demonstrations, attacking soldiers and hindering the army from doing its work.

On 2 January 2017, Mr. Barghouti was released on bail.

On 31 December 2017, Mr. Yousef Sharqawi was arrested by Israeli forces at a checkpoint east of Jerusalem. He is accused of incitement and is being held at Ofer military prison.

Without expressing at this stage an opinion on the facts of the case, we express serious concern at what appears to be an ongoing and escalating wave of judicial harrassment, smear campaigns, arrests and detentions targeting human rights defenders and other civilian activists protesting against the illegal occupation and colonisation of the West Bank and advocating for the rights of Palestinian people since December 2017. These acts appear to be directly connected to the legitimate and peaceful exercise of their rights to freedom of expression and freedom of peaceful assembly and of association.

We would like to appeal to your Government to take all necessary steps to secure the peaceful exercise of the rights to liberty, security, freedom of opinion, expression peaceful assembly and of association of all the people living in the occupied Palestinian territories in accordance with articles 19, 21 and 22 of the ICCPR, that Israel ratified on 3 October 1991. Article 19(2) provides that “[e]veryone 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”.

We also refer to Human Rights Council resolution 24/5, reminding “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 further refer 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 Recognised Human Rights and Fundamental Freedoms, and in particular articles 1, 2, 5, 6 and 12.

General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, express particular concern about systemic and structural discrimination and violence faced by women human rights defenders .

Finally, we would like to recall the legal obligation of the State of Israel to see to it that the rights not to be deprived arbitrarily of one’s liberty and to fair proceedings before an independent and impartial tribunal, are respected in accordance with articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR). Article 9 of the Convention of the Rights of the Child, ratified by Israel in 1991, establishes that any arrest, detention or imprisonment of a child (under 18) “shall be used only as a measure of last resort and for the shortest appropriate period of time”. We are also drawing your Government’s attention on the General comment No.35 of the Human Rights Committee regarding the right to be brought promptly before a judge as guaranteed by article 14(3) of the ICCPR.

The transfer of Ms. Ahed Tamimi, Ms. Nariman Tamimi and Ms. Nour Tamimi to HaSharon prison in Israel appears to be in contravention to article 76 of the Fourth Geneva Convention, ratified by Israel in 1951, which establishes that protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response at the earliest on the initial steps taken by your Government to safeguard the rights of the above-mentioned persons in compliance with international standards.

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 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 provide information concerning the factual and legal grounds for the arrest and detention of Ms. Ahed Tamimi, Ms. Nariman Tamimi, Ms. Nour Tamimi, Ms. Manal Tamimi, as well as Mr. Munther Amira, Mr. Jamil Barghouti and Mr. Yousef Sharqawi and how these measures are compatible with Israel's obligations under international human rights law.
3. Please provide information about the charges brought against Ms. Ahed Tamimi, Ms. Nariman Tamimi, Ms. Nour Tamimi, Ms. Manal Tamimi, as well as Mr. Munther Amira, Mr. Jamil Barghouti and Mr. Yousef Sharqawi. Please provide information about the measures taken to ensure that their right to a fair trial will be respected.
4. With regard to Ahed Tamini, who is 16 years old, please explain whether and what alternatives to detention have been developed. Please explain what measures are in place to ensure the best interest of the child, and how they are properly assessed by relevant authorities.
5. Please explain how the transfer of Ms. Ahed Tamimi, Ms. Nariman Tamimi and Ms. Nour Tamimi to a prison in Israel is compatible with Israel's obligations under international humanitarian law.
6. Please provide further details concerning the circumstances accompanying the raid carried out at the house of Tamimi family on 19 December 2017, the legal basis for confiscation of property as well as details of any investigations into the the physical attacks to which members of the Tamimi family have been subjected to during the raid.
7. Please indicate what measures have been taken to ensure that human rights defenders, and other civilians involved in the protection and promotion of the rights of Palestinians against the illegal occupation and colonisation of their lands, can carry out their legitimate activities without fear of harassment, stigmatisation or criminalisation or violence of any kind.

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 responsible of the alleged violations.

Your 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 urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case(s) of the person(s) referred to above through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

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Vice-Chair of the Working Group on Arbitrary Detention

Michel Forst
Special Rapporteur on the situation of human rights defenders

Alda Facio
Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice

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