

Mandates of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the independence of judges and lawyers

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 1993/2A, 42/22, 42/16 and 44/8.

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 and administrative detention of [REDACTED].

According to the information received:

[REDACTED] (17 years old) was first arrested by Israeli Security Forces on 2 November 2020 near the city of Ramallah, close to an Israeli checkpoint. During his arrest, he was reportedly severely beaten and then detained on charges of stone throwing. After 40 days in detention, the Israeli military court of appeal confirmed his release on bail on account of his young age, physical and mental health. [REDACTED] has a number of health issues, including a rare disease called myasthenia gravis which is a neuromuscular disorder causing weakness in the skeletal muscles. [REDACTED] also recently underwent surgery to remove a tumor from his chest and since suffers from shortness of breath and headaches. Accordingly, and due to these his health condition, he requires specialized and continuous medical attention especially if complications arise. The spread of COVID-19 including in prisons also represents an additional serious health risk for [REDACTED].

On 21 January 2021, Israeli Security Forces again arrested [REDACTED] at his home in Ramallah. His detention was extended for 72 hours based on the military prosecutor's request at the Ofer Israeli military court. On 24 January 2021, the Military Comander in the West Bank ordered [REDACTED] to be put under administrative detention for a period of six (6) months. The court subsequently confirmed his administrative detention for the whole duration based on secrete evidence, without charge or trial, with the possibility of being renewed indefinitely.

According to reports by the UN and CSOs, children are regularly subjected to ill-treatment during arrest and detention in Israel including: night arrests; use of blindfolds, hand-ties and/or leg-ties; denial of food and water; denial of access to toilets; exposure to elements during initial detention; verbal abuse or physical violence.

In 2020, Israeli Security Forces (ISF) arrested over 540 Palestinian children mainly on charges of stone throwing. Palestinian children are prosecuted by military courts and rarely released on bail. In most cases, they plead guilty as part of a bargain to shorten their pre-trial detention and avoid harsher sentences. Since the outbreak of COVID-19 in March 2020, children in Israeli detention have faced additional hardship and suffering due to restrictions on family visits and access to legal counsel and proceedings.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our grave concern at the allegations of arbitrary detention of ██████████ and the current conditions of his detention. Further concern is expressed with regard to a number of health issues he has, and in relation to the availability of adequate medical attention under his current conditions of detention. Also of concern is his administrative detention for a period of six months based on "secret" evidence to which ██████████'s lawyer has no access, despite his initial release by the appeal court based on his age and health condition.

In connection with above alleged facts and concerns, 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.

Without expressing at this stage an opinion on the facts of the case, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, 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). Furthermore, according to articles 37 and 40 of the Convention on the Rights of the Child to which Israel is a State party, children should be detained only as last resort and for the shortest appropriate period of time (see also CRC/C/GC/24). When detained, they should never be subjected to violence and must be afforded fair trial guarantees.

We would also like to bring to the attention of your Excellency's Government provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Israel in 1991. Article 12 (1) establishes States parties' obligation to respect the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights reiterates that "States are obliged to respect the right to health by inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services." In particular, it states that States should refrain from "limiting access to health

services as a punitive measure, for instance, during armed conflicts in violation of international humanitarian law” (para. 34).

We would like to finally refer to the Mandela Rules, adopted unanimously by the UN General Assembly (A/RES/70/175) which recognize the responsibility of States to provide health care for prisoners, free of charge without discrimination (Rule 24), paying special attention to those with special healthcare needs or with health issues that hamper their rehabilitation (Rule 25) and indicate that prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (Rule 27).

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 on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

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 the observations of your Excellency’s Government 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 regarding the legal and factual bases for the arrest and detention of [REDACTED] as well as the reasons for his administrative detention. Please clarify how this justifies his administrative detention for a period of six months and meets due process guarantees.
3. Please provide information with regards to the current state of [REDACTED]’s health, along with information on what steps have been taken in order to ensure that he has appropriate access to health care.

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.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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 through its regular procedure in order to render an

opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudge 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.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
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