

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

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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 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 1993/2A, 42/22 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **deterioration of the health condition of several prisoners in administrative detention, held without a charge or trial, and currently on prolonged hunger strike to protest their detention conditions.**

Mr. **Kayed Al-Fasous**, 32 years old from Hebron who has been in administrative detention since July 2020 and has been on hunger strike for more than 68 days. Mr. Al-Fasous was reportedly previously held in harsh conditions in solitary confinement, whereupon he was taken belatedly to the Ramleh Clinic Prison due to his deteriorating health. This is his seventh consecutive transfer to Ramleh Clinic.

Mr. **Miqdad Al-Qawasameh**, 24 years old from Hebron, who has been on hunger strike for more 61 days in protest of his most recent administrative detention in January 2021. Mr. Miqdad Al-Qawasameh has been previously detained several times since 2015, and has already spent four years in Israeli prisons. On 5 September 2021, Mr. Al Qawasameh was transferred to Kaplan Hospital due to his deteriorating health conditions. On 13 September 2021, the Israeli High Court refused a petition against his administrative detention order for Miqdad. He was recently transferred to Kaplan hospital, due to his health condition.

Mr. **Alaa Al-Araj**, 34 years old from Tulkarm in the West Bank, who has been on hunger strike for 43 days. Since the announcement of his strike, in protest of his administrative detention, Mr. Al-Araj has reportedly been transferred to solitary confinement in Al Ramleh clinic prison due to his deteriorating health conditions. Mr. Al Araj was previously detained by Israeli Security Forces in June 2020, and has already spent over five years in prison.

Mr. **Hisham Ismail Abu Hawash**, 39 years old from Hebron, who has been on hunger strike for 35 days in protest of his arbitrary detention since October 2020. Mr. Abu Hawash has been previously arrested and detained by Israeli Security Forces, and has already spent a total of eight year in prison.

Mr. **Shadi Abu Akar**, 37 years old from Aida Refugee camps, who has been on hunger strike for 27 days, in protest of his administrative detention since

October 2020. Mr. Abu Akar was formerly detained and imprisoned for 10 consecutive years, whereupon he was released in 2012. Since then, he has placed him under administrative detention on three separate occasions. Mr. Akar has reportedly being placed in isolation under harsh conditions in Ofer prison.

While we do not wish to prejudge the accuracy of these allegations, we are particularly concerned about the deterioration of the health situation of the above-mentioned persons administratively detained. We are also seriously concerned by the increasing number of Palestinians who have been on hunger strike to protest their detention conditions, in particular the punitive collective punishment reportedly imposed on all prisoners following the escape of some from Gilboa prison, including the suspension of family visits, reduced outdoor time, reduced access to canteen, solitary confinement, threats of indefinite detention, reduction of essential hygienic items and clothing.

According to information received, issuance and confirmation of administrative detention orders by the Israeli Security Forces have drastically increased this year. In the year 2020, over 1,114 administrative detention orders were reportedly issued against Palestinians. As of 7 September 2021, 520 Palestinians were being held, without charge, under administrative detention.

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, the Committee Against Torture indicated that administrative detention does not conform to article 16 of the Convention Against Torture, because, among other reasons, it is used for "inordinately lengthy periods." Administrative detention thus deprives detainees of basic safeguards, including the right to challenge the evidence that is the basis for the detention (CAT/C/ISR/CO/4, para. 17). In this regard, the Committee urged the Government of Israel to "Urgently take the measures necessary to end the practice of administrative detention and ensure that all persons who are currently held in administrative detention are afforded all basic legal safeguards" (CAT/C/ISR/CO/5, para. 23 (a)).

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.

We are issuing this appeal in order to safeguard the rights of the above-mentioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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 above-mentioned persons’ arrest and detention of as well as the reasons for their prolonged administrative detention and how this meets due process guarantees;
3. Please provide data disaggregated by age sex and ethnic origin on the persons currently in administrative detention;
4. Please provide information with regards to the current health condition of the above-mentioned persons, along with information on what steps have been taken in order to ensure that they have appropriate access to health care;
5. Please provide detailed information on measures taken by your Excellency’s Government to ensure that legal and procedural safeguards are upheld and afforded to persons held in administrative detention, as well as measures taken to protect their physical and moral integrity in detention.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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 cases 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.

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

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

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