

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 situation of human rights in the Palestinian territory occupied since 1967**

Ref.: UA ISR 1/2022  
(Please use this reference in your reply)

1 February 2022

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 42/22, 44/5, 42/16 and 1993/2A.

In this connection, we would like to follow up to the Urgent Appeal (UA ISR 2/2021) sent to your Excellency's Government on 25 February 2021, to which we have received no response. Mr. Nakhleh was also the subject of opinion No. 60/2021 of the Working Group on Arbitrary Detention, where the Working Group found his deprivation of liberty to be arbitrary under categories I, III and V and called upon the Government to ensure his immediate release.

We would like to bring to the attention of your Excellency's Government new information we have received concerning the administrative detention and health situation of **Amal Nakhleh**.

According to the information received:

Amal Nakhleh was first arrested on 2 November 2020 when he was 16 years old near the city of Ramallah near an Israeli checkpoint. After a detention of 40 days on charges of stone throwing, he was released on bail based on his young age, physical and psychological health.

On 21 January 2021, Israeli Security Forces again arrested Mr. Nakhleh when he was 17 years old from his home in Ramallah. On 24 January 2021, the Military Commander in the West Bank ordered to put Amal Nakhleh under administrative detention for a period of six (6) months. The military court subsequently confirmed his administrative detention for the whole duration based on secret evidence, without charge or trial, with the possibility of being renewed indefinitely. Since then, his administrative detention has been renewed on several occasions, including recently on 13 January when the military commander renewed his administrative detention until 18 May 2022. Mr. Nakhleh and his lawyer have not had access to any information regarding the secret evidence, nor the reasons for the continued renewal of his administrative detention.

Mr. Nakhleh turned 18 years old on 16 January 2022 and was transferred to the adults section of the Ofer prison on 17 January 2022.

Mr. Nakhleh suffers from a severe autoimmune disease called myasthenia gravis which is a neuromuscular disorder causing weakness in the skeletal muscles, that requires continuous medical treatment and monitoring. During his detention, his medication doses have been reduced to half without the completion of the medical blood tests required to adjust the medication for this severe disease. Mr. Nakhleh also underwent surgery to remove a tumor from his chest and since suffers from shortness of breath and headaches.

On 25 January 2022, Mr. Nakhleh was tested positive to Covid-19. He contracted the disease in the Ofer prison, representing an additional life-threatening risk for him.

While we do not wish to prejudge the accuracy of these allegations, we wish to reiterate our grave concern at the arbitrary detention of Amal Nakhleh as well as the allegations as to his current detention conditions. Of particular concern is the fact that his detention, which is based on secret evidence to which Mr. Nakhleh and his lawyer have no access, is an added serious risk for Mr. Nakhleh's life given his chronic health condition that requires ongoing medical treatment, as well as his current infection to Covid-19 in the Ofer prison.

According to information received, issuance and confirmation of administrative detention orders by the Israeli Security Forces have drastically increased last year. In the year 2021, 1,595 administrative detention orders were reportedly issued against Palestinians. As of 31 December 2021, 500 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.

We would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right to life, his right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 3, 9, 10 and 11 of the Universal Declaration of Human Rights, and articles 6, 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In its General comment No. 35<sup>1</sup>, the Human Rights Committee indicated that "to the extent that States parties impose security detention (sometimes known as administrative detention or internment) not in contemplation of prosecution on a criminal charge, such detention presents severe risks of arbitrary deprivation of liberty. Such detention would normally amount to arbitrary detention as other effective measures addressing the threat, including the criminal justice system, would

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<sup>1</sup> CCPR/C/GC/35

be available. If, under the most exceptional circumstances, a present, direct and imperative threat is invoked to justify the detention of persons considered to present such a threat, the burden of proof lies on States parties to show that the individual poses such a threat and that it cannot be addressed by alternative measures, and that burden increases with the length of the detention. States parties also need to show that detention does not last longer than absolutely necessary, that the overall length of possible detention is limited and that they fully respect the guarantees provided for by article 9 in all cases. Prompt and regular review by a court or other tribunal possessing the same attributes of independence and impartiality as the judiciary is a necessary guarantee for those conditions, as is access to independent legal advice, preferably selected by the detainee, and disclosure to the detainee of, at least, the essence of the evidence on which the decision is taken.” In this regard, the Human Rights Committee urged the Government of Israel to “End the practice of administrative detention and the use of secret evidence in administrative detention proceedings and ensure that individuals subject to administrative detention orders are either promptly charged with a criminal offence, or released. (CCPR/C/ISR/CO/4, para. 10 (b)).

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 also wish to refer your Excellency’s Government to article 37 of the Convention on the Rights of the Child, ratified by Israel in 1991, which requires that children should only be deprived of their liberty as a measure of last resort, should not be unlawfully or arbitrarily detained and should not be subjected to torture and other cruel, inhuman or degrading treatment or punishment.

We would also like to bring to the attention of your Excellency’s Government provisions of the Geneva Convention (IV) on the Protection of Civilian Persons in Times of War, ratified by Israel on 06 July 1951. Article 78 states that “If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.” In its authoritative commentary on Article 78, the ICRC stressed that “such measures can only be ordered for real and imperative reasons of security; their exceptional character must be preserved.”

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](http://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(s) 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 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 regarding the legal and factual bases for the arrest and detention of Amal Nakhleh, reasons for his prolonged administrative detention and how this justifies his administrative detention for a period of 16 months, as well as how this meets due process guarantees.
3. Please provide information with regards to the current state of Amal Nakhleh’s health, along with information on what steps have been taken in order to ensure that he has adequate access to medical care for his chronic health condition, as well as for his current infection to Covid-19, including access to a hospital, a specialist and appropriate medication.
4. Please provide detailed information on measures taken by your Excellency’s Government to ensure that legal and procedural safeguards are upheld and afforded to Amal Nakhleh, as well as measures taken to protect his 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.

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

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Chair-Rapporteur of the Working Group on Arbitrary Detention

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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