

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Ref.: AL ISR 10/2022
(Please use this reference in your reply)

18 May 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 41/12, 43/16 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of the criminal prosecution before a military court of human rights defender **Sami Hureini**, affiliated to the Youth of Sumud (YoS), an activist group based in the South Hebron Hills (SHH), and a member of the Human Rights Defenders Fund, a non-governmental organisation registered in Israel.

Mr. Sami Hureini is engaged in accompanying children from the Palestinian village of Tuba to protect them from Israeli settler violence while on their way to school in the village of At-Tuwani; this is carried out in cooperation with the Israeli army up to a distance of 500 metres from the school.

As a member of YoS, Mr. Hureini has also engaged in documenting incidents of violence by nearby Israeli settlers from the illegal outpost of Havat Maon¹, and human rights violations by the Israeli military against Palestinian residents of the area; and in rehabilitating traditional cave homes that were damaged in 1990 in settler attacks on the village of Sarura, near At-Tuwani, and again in 2021.

Mr. Hureini was a recipient of the 2021 Front Line Defenders Award for Human Rights Defenders at Risk.²

According to the information received:

On 9 January 2021, Mr. Hureini was allegedly arrested from his home at night, after having participated in a peaceful demonstration the day before near the village of Ar-Rakeez, in the SHH region. Nobody was arrested at the demonstration itself, which was in protest at the shooting a week earlier of a resident of Ar-Rakeez, Harun Abu 'Aram.

On 13 January 2021, Mr. Hureini was released on bail of 10,000 Israeli shekels (approximately €2,511) by the Ofer Military Court, which imposed a precautionary restriction requiring him to report at a police station in Kiryat Arba every Friday for seven hours, from 08:00 to 15:00.

¹ Outposts are considered illegal under Israeli law. <https://www.un.org/unispal/document/israeli-settlements-in-the-opt-and-in-the-occupied-syrian-golan-report-of-the-un-high-commissioner-for-human-rights-a-hrc-49-85-advance-unedited-version/>

² <https://www.frontlinedefenders.org/en/2021-front-line-defenders-award-human-rights-defenders-risk>

Mr. Hureini was accused of assaulting a soldier, punishable by seven years in prison, obstruction and violation of a closed military zone, punishable by five years in prison each. However, as the alleged offences are a result of the same incident, the maximum punishment is for the most severe violation, and not a combined sentence.

Mr. Hureini's military trial has been ongoing, and his lawyers expect the prosecution and defence hearings to be completed in May, ahead of a ruling at an undetermined time. Although he has been freed of the precautionary measure, he is not allowed to participate in demonstrations.

Without wishing to prejudge the accuracy of the information received, we express serious concern as to the criminalisation of Mr. Hureini's legitimate work in promoting and defending human rights in the region of the Palestinian villages of At Tuwani and Ar-Rakeez. The area has for many years witnessed attacks by Israeli settlers from illegal outposts, with little intervention by the Israeli authorities to either prevent or punish these attacks, according to UN reports.

We are equally concerned that his arrest and prosecution appear to be directly connected to the exercise of his legitimate rights to freedom of expression, of association and of assembly through his participation in peaceful demonstrations.

We express concern also at the fact that Mr. Hureini, a civilian, is being tried before a military court, which may not provide guarantees for his right to a fair trial.

We are concerned by the broader effects of the intimidation faced by Palestinian human rights defenders, which hinders the legitimate exercise of their activities in defending human rights.

Finally, a serious concern on our part is also the protracted failure to ensure prevention of and accountability for violence committed by settlers, often in the presence of Israeli forces. Such accountability deficit creates an environment where, within the void of justice and redress, victims live in fear of violence, and impunity thrives, encouraging further abuses.

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 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 information on how Mr. Hureini's right to a fair trial and due process have been upheld.

3. Please indicate what measures have been taken to ensure that Palestinian human rights defenders are able to carry out their legitimate work, including through the exercise of their rights to freedom of opinion and expression, and of peaceful assembly and of association in a safe and enabling environment without fear of threat or acts of intimidation and harassment of any sort.
4. Please provide information on the measures that your Government intends to take to ensure accountability especially for the attacks and violence committed by the settlers in the occupied Palestinian territory.

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.

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.

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Francesca Albanese
Special Rapporteur on the situation of human rights in the Palestinian territory
occupied since 1967

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to articles 7, 9, 10, 14, 19 and 21 of the **International Covenant on Civil and Political Rights (ICCPR)**, ratified by Israel in 1991, which guarantee that no one should be subjected to torture, cruel, inhuman or degrading treatment or punishment, everyone has the right to liberty and security of person, to a trial within a reasonable time, to challenge the legality of the detention before the courts, to be released subject to guarantees to appear for trial, to a fair and public trial before an independent and impartial tribunal without undue delay and with legal assistance of their choosing, and that everyone shall be granted these rights free of discrimination. Articles 19 and 21 guarantee that everyone has the rights to freedom of opinion and expression and to freedom of peaceful assembly, respectively.

We also recall that according to article 21 of the ICCPR, “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” The ‘provided by law’ requirement means that any restriction ‘must be made accessible to the public’ and ‘formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly’ (CCPR/C/GC/34).

We would also like to highlight that article 14 of the Covenant requires that anyone facing criminal charges shall be granted adequate time and facilities for the preparation of his defence, to communicate with counsel of his own choosing, to be tried without undue delay and not to be compelled to testify against himself or to confess guilt.

We also recall the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Israel in 1979, which stipulates that ‘in compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:... (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution’.

We would like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms. The resolution further urges States to investigate complaints and allegations regarding threats or human rights violations perpetrated against human rights defenders in a prompt and effective manner and to initiate proceedings against perpetrators where appropriate.

Furthermore, we would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to

the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.

We would finally like to refer to articles 1, 2, 6 (a and b) and 12 (2) of the UN Declaration on Human Rights Defenders 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, that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, that everyone has the right to know, seek obtain receive and hold information on all human rights and freedoms and to disseminate, impart or publish such information and that States shall take all necessary measures to ensure the protection of everyone against any violence, threats and retaliation which arises as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.