

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group of Experts on People of African Descent; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: AL ISR 2/2024
(Please use this reference in your reply)

20 March 2024

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Working Group of Experts on People of African Descent; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on trafficking in persons, especially women and children and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 54/14, 45/24, 51/8, 53/4, 52/9, 51/21, 52/4, 53/12, 1993/2A, 52/36, 49/10, 53/9 and 50/7.

We would like to bring to the attention of your Excellency's Government information we have received concerning allegations of human rights violations in Gaza in response to the attack by Hamas on Israel on 7 October 2023. The allegations concern the enforced disappearance of human rights defenders, journalists, healthcare workers and students, including women and children, who are deprived of their liberty and held in secret prisons and military camps, outside the protection of the law. Since 7 October 2023, at least nine Palestinian prisoners from Gaza are reported to have died in custody in Al Naqab prison, Megiddo Prison and Ofar Prison, reportedly from

the harsh conditions of detention, in particular excessive use of force by prison guards.

Concerns regarding the alleged arbitrary detention and enforced disappearance of Palestinian civilians in the occupied West Bank including East Jerusalem have been raised by Special Procedures mandate holders in a previous communication dated 22 November 2023 (UA ISR 9/2023). Furthermore, concerns regarding the detention, extrajudicial executions of Palestinian women and girls and the reported subjugation of Palestinian female detainees to sexual assaults and threats of rape, have also been raised by Special Procedures mandate holders in a previous communication dated 7 February 2024 (AL ISR 1/2024). We regret that no replies to the above communications have been received from your Excellency's Government.

According to the information received:

Over the past few months, there has been a reported escalation of enforced disappearances, detentions and ill-treatment of Palestinians, including human rights defenders, journalists, healthcare workers, students, women and children in the Gaza Strip by the Israeli authorities. Since 7 October 2023 and as of February 2024, the number of Palestinian detainees has been reported as 8,926. According to information received, this figure includes 3,484 administrative detainees, as well as 606 Palestinians residents of the Gaza Strip held as "unlawful combatants". Most of those detainees' fate and whereabouts remain unknown. The reported arrests have been facilitated by changes in the law, which have included activation by the Israeli army, Military Order No. 1651 (2009), which sets out procedures for arrest "in a military campaign to combat terrorism," and by other legislative acts passed by the Knesset and other Israeli authorities. Hundreds of persons arrested in the Gaza Strip are reportedly being held in prisons and military camps under suspicion of having ties to "terrorism".

Access to detainees by family members, lawyers of their choice and persons with legitimate interest have reportedly been made extremely difficult, when not virtually impossible. Reportedly, persons associated with the detainees have no information on the state of health of their loved ones, their fate or whereabouts, which amounts to an enforced disappearance. Detainees are allegedly isolated from the outside world and placed outside the protection of the law. Pursuant to the allegations received, there are many instances where lawyers, family members and human rights organizations have made repeated attempts to visit detention facilities, including Nafhla prison, Majedo prison, and Ramon prison, but have been forced to wait outside for hours, after which, officers turned them away stating that there was an emergency or that the persons concerned had been transferred to another prison. No details were allegedly provided on the said transfers or victims' subsequent whereabouts. There has been a reported unusually high number of cases of detainees repeatedly being transferred abruptly within the prison system.

Journalists and human rights defenders

Reportedly, dozens of journalists covering the violations in Gaza have been arrested since 7 October 2023, with many remaining in detention. Several mandates have previously expressed concern about the targeting of journalists

through a letter to the Israeli Government (ISR 12/2023), to which no reply was received to date.

According to the reports received, on 7 December 2023, at approximately 10 a.m., Israeli military forces stormed the Beit Lahia area and detained hundreds of Palestinian men, along with a few women and children. Among them was journalist, human rights defender and member of the Palestinian Centre for Human Rights, Mr. Ayman Lubad. The detainees were allegedly subjected to ill-treatment, stripped of their clothes, blindfolded, and had their hands tied behind their backs before being moved to detention camps in the “Zikim” area, to the north of the Gaza Strip.

On 14 December 2023, Mr. Lubad was reportedly released after over a week of being held *incommunicado*, and being allegedly subjected to interrogations and ill-treatment, which could amount to torture. Reportedly, during the time that Mr. Lubad was detained, his fate and whereabouts were not known by his family and lawyers. Regardless of the duration, a deprivation of liberty followed by denial or concealment of the fate or whereabouts of the person amounts to an enforced disappearance.

Furthermore, on 17 December 2023, Israeli military officers allegedly unlawfully detained and forcibly disappeared Mr. Ahmed Muhanna, a human rights defender and head of Al Awda Hospital, located in the Northern Gaza Strip. Mr. Muhanna was allegedly taken from the hospital, with twenty-one other people, including staff members. Reportedly, while in detention, they were subjected to ill-treatment which could amount to torture, being bound, stripped of their clothes, and released after several hours of interrogation, except for Mr. Muhanna, who remained in custody.

On 18 December 2023, military officers returned to the Al Awda Hospital with Mr. Muhanna, and arrested a further 11 people, including five staff members of the hospital. Mr. Muhanna and those arrested were reportedly taken to an unknown location. At the time this letter is written, the fate and whereabouts of Mr. Muhanna remain unknown.

Students

University students from all parts of the West Bank and occupied territories have allegedly been especially targeted in arrest operations by Israeli forces for their involvement in student movements. The recorded number of arrests of Palestinian university students up to date is unknown but has reportedly surpassed 100 students. Student movements in Palestinian territories specifically have been declared illegal by Israeli university authorities, citing that students’ posts on social media in support of Palestine violate the university's disciplinary regulations by either "supporting terrorism" or "sympathizing with terror organizations". These measures have led to students facing disciplinary measures, interfering with individuals’ freedom of expression and specifically targeting student activists and human rights defenders, making them more vulnerable to detention and at risk of being subjected to enforced disappearances.

Women and children

An undetermined number of women and children, including girls, have gone missing, and are believed to have been forcibly disappeared by the Israeli military forces. A Palestinian detainee reportedly released in January 2024 from Israeli custody after being detained with his family for a month and removed from their home in the Zaytoun neighborhood in the south of Gaza, reported that the fate and whereabouts of his wife and two children remain unknown. The reported number of Palestinian children arrested by Israeli authorities exceeds 355, many of them are orphaned and are allegedly deprived of their liberty, while their fate and whereabouts are unknown.

Conditions of detention

In the context of the said alleged arbitrary and violent arrest operations, military officers are reportedly using excessive force and subjecting detainees to ill-treatment which could amount to torture, and which has led in some cases to death in custody. Seven detainees have been reported to have died in prisons and detention centres under Israeli authorities' jurisdiction. There is also a reported hike in the number of detainees who died in custody and whose remains have not been returned to their family for burial.

The detainees held in camps such as Be'er Al Sabe' and Sde Teman military camp are reportedly excessively restricted in their movement, held in overcrowded cells, sleeping almost unclothed and exposed to the harsh winter cold, kept constantly blindfolded and subjected to torture at almost every hour of the day.

In some prisons, since 7 October 2023, the prison authorities have allegedly completely halted detainees' yard time. While in others, detainees are reportedly only let out of their holding cells for 10 minutes a day individually. Detainees reportedly no longer meet fellow detainees and are unaware of the well-being of others. Furthermore, individuals are allegedly restricted from leaving their cells within a particular section, which has effectively transformed these rooms into isolation cells.

Pursuant to the reports received, all electrical appliances and tools have been confiscated, along with pillows, blankets, and clothes. In some cells, the windows were allegedly removed by the Israel Prison Service (Shabas), which exposes detainees to the elements. Given the insufficient supply of winter clothes and blankets in the rooms, these spaces have become uncomfortably cold, placing the detainees' health at risk.

Reportedly, meals in prisons have been reduced from the regular three daily meals to two. These meals are not only limited in quantity but also of poor quality, and the meals are delivered in significantly fewer numbers than the actual count of prisoners in many detention facilities. Water refrigeration inside the prisons was also halted, forcing detainees to drink tap water, which is not clean and yellowish in colour.

Allegedly, there has been an escalation of brutal beatings and attacks on detainees within their cells on a daily basis. Raids into the cells are frequent and detainees are reportedly subjected to torture and ill-treatment during interrogations, irrespective of their age or health condition. Among the torture methods used, it is reported that detainees are beaten with weapons and iron rods, attacked by muzzled dogs, and subjected to spitting and humiliation. It is reported that since 7 October 2023, at least nine Palestinian prisoners from Gaza are reported to have died in custody in Al Naqab prison, Megiddo Prison and Ofar Prison, reportedly from the harsh conditions of detention, in particular excessive use of force by prison guards.

The detainees are allegedly prevented from accessing medical services, consulting with doctors, or receiving their prescribed medications, despite their pleas to the detention authorities. Women were reportedly denied menstruation pads.

While we do not wish to prejudge the accuracy of the aforementioned allegations, we express serious concern at what appears to be a widespread and escalating practice of unlawful detention, torture, and subsequent enforced disappearance of Palestinian citizens, in particular those living in Gaza, including journalists, human rights defenders, healthcare workers, students and children, under the pretext of alleged violations of the Israeli Counter Terrorism legislation, including Israeli Military Order No. 1651 (2009). In this regard, if confirmed, the above-mentioned allegations would be violations of articles 3, 5-11, 18, 19, 26 and 27 of the Universal Declaration of Human Rights (UDHR), articles 4, 6, 7, 9, 10, 14, 16, 19, 21, 22, 24 and 26, read alone and in conjunction with article 2(3), of the of the International Covenant on Civil and Political Rights (ICCPR), as well as articles 2.2, 12, 13 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both ratified by your Excellency's Government in 1991. Furthermore, the allegations would also be violations of articles 1, 2, 6, 11, 12 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Israel in 1991, and of articles 2, 3, 6, 16, 24, 27, 28, 37, 38 and 40 of the Convention on the Rights of the Child. Moreover, if corroborated, the allegations here reported would amount to a violation of articles 1, 2, 3, 7, 9, 10, 13, 17 and 19 of the Declaration on the Protection of all Persons from Enforced Disappearance, adopted by the General Assembly resolution 47/133 of 18 December 1992 ('the Declaration'). In addition, the allegations would involve violations of the applicable international humanitarian law rules governing detention and conditions of detention. We would also like to recall that under the Rome Statute of the International Criminal Court, imprisonment or other severe deprivation of physical liberty and denial of the rights to a fair trial may amount to crimes against humanist when committed as part of a widespread or systematic attached against civilian population.¹

We herewith would like to remind your Excellency's Government of the prohibition of arbitrary detention provided in article 9 of the ICCPR and articles 3 and 9 of the UDHR. In addition, as reiterated by the Working Group on Arbitrary Detention (WGAD), a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination, including discrimination based on gender or political or other opinion (A/HRC/36/38, para. 8(e)). We further stress

¹ [A/HRC/53/59](#), para 22 to 25

that *incommunicado* detention prevents prompt presentation before a judge and inherently violates article 9(3) of the ICCPR (CCPR/C/GC/35, para. 35). Depending on its duration, conditions and other facts, *incommunicado* detention may also violate other rights under the ICCPR, including articles 6, 7, 9, 10, 14 and 16, read alone and in conjunction with article 2(3), and article 16 of the CAT, as well as the rules of customary international humanitarian law governing detention.

Additionally, we underscore the *jus cogens* nature of the prohibition of enforced disappearance, which is absolute and non-derogable (articles 2 and 7 of the Declaration on the Protection of all Persons from Enforced Disappearance; also see A/HRC/51/31/Add.3). We stress that enforced disappearances has attained the status of international norm of *jus cogens*² and prohibited under customary international humanitarian law (ICRC customary international humanitarian law, rule 98) and are considered to fall within the remit of ill-treatment prohibited by CAT. In this regard, we are seriously concerned that the authorities reportedly failed to promptly inform the families and lawyers about the fate and whereabouts and the state of health of persons deprived of their liberty. Further, the Declaration establishes that any person deprived of liberty shall be held in an officially recognised place of detention (article 10.1) and, that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention (article 10.3). In this connection, we stress that a failure to acknowledge deprivation of liberty by State agents and refusal to acknowledge detention amount to enforced disappearance, irrespective of their duration.

Furthermore, we would like to also bring to the attention of your Excellency's Government, articles 2.2 and 12 of the ICESCR. These articles enshrine the right of everyone, including people prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health without discrimination of any kind.

The ongoing deprivation of liberty and enforced disappearance of persons belonging to groups particularly protected during an armed conflict, such as children, journalists and human rights defenders is of extreme concern (rules 34, 98, 134 and 135 of customary international humanitarian law). In this regard, we would like to bring to the attention of your Excellency's Government article 20 of the Declaration, which establishes the obligation to protect the best interests of children and the specific obligations when enforced disappearance of children is at stake. The general comment of the Working Group on Enforced or Involuntary Disappearances on children and enforced disappearances (A/HRC/WGEID/98/1, paras 1 and 6) emphasises that child victims of enforced disappearance suffer particularly severe harm in these situations and the separation of children from their families has specific and especially serious effects on their personal integrity that have a lasting impact and causes great physical and mental harm. Moreover, "any custody determination must take into account a child's best interest, protect the child from discrimination, and respect the child's views concerning the matter" (para. 21). We emphasize the chilling effect of the disappearance of journalists and human rights defenders and make reference to the Working Group study on Enforced disappearance and economic, social and cultural rights (A/HRC/30/38/Add.5), in particular paragraphs 33-37. Furthermore, we wish to recall to your Excellency's Government the General comment on women affected by enforced disappearances adopted by the Working Group on Enforced or Involuntary Disappearances.

² Human Rights Council Resolution 52/7 and 46/15, and General Assembly Resolution 77/209.

We are extremely concerned about the conditions of detention outlined above, as the reports mention lack of adequate food, water, clothing and facilities, despite the cold weather and the pleas of those deprived of their liberty to detention authorities. In this regard, we wish to underscore the obligation of your Excellency's Government to provide adequate medical care and to uphold the detainees' right to health, as established by the Mandela Rules (rules 24, 25, 27) adopted unanimously by the UN General Assembly (A/RES/70/175). Additionally, we wish to draw the attention of your Excellency's Government to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

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 detailed information on the fate and whereabouts and state of health of Mr. Ahmed Muhanna. Moreover, please explain how the factual and legal grounds for the arrest and detention of Mr. Ahmed Muhanna and Mr. Ayman Lubad are compatible with international law related to the right to liberty and security of the person, enshrined in article 9 of the ICCPR.
3. Please indicate how detention under Military Order No. 1651 (2009) is consistent with international humanitarian law governing detention in armed conflict, read in conjunction with international human rights law.
4. Please indicate what measures have been taken to ensure that the conditions of detention in Israeli detention facilities and military camps which are being used to hold persons deprived of their liberty do not amount to torture and other cruel, inhuman or degrading treatment or punishment and meet the Nelson Mandela Rules. Please also provide information on the fundamental safeguards provided by your Excellency's Government, including access to lawyers of choice, medical care and contact with family members.
5. Please provide information on the steps taken by your Excellency's Government to ensure that the death of a person during his/her deprivation of liberty is subjected to prompt, impartial, independent, thorough and effective investigations, including examinations and autopsies to determine the cause of death, in accordance with the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, commonly known

as the Minnesota Protocol.

6. Please also provide information on the measures taken to ensure that, in the event of death of a person during his/her deprivation of liberty, his/her family and legal counsel are informed about the circumstances and cause of death and the destination of the mortal remains. Moreover, kindly inform on the measures taken by your Excellency's Government to ensure that the mortal remains are respected, dealt with dignity and returned to the families of the deceased.
7. Please indicate in detail which effective measures the Government of Israel has taken, or intends to take, with a view to prevent the enforced disappearance, in particular, of human rights defenders, journalists, healthcare workers, students and children and the prompt, impartial, independent, thorough and effective investigation of these cases, as well as the identification of those responsible, their prosecution and, where appropriate, sanction. Moreover, kindly inform on the measures adopted to ensure that victims of enforced disappearance (thus including those disappeared and any other person having suffered direct harm as a consequence of the enforced disappearance) obtain compensation and integral reparation for the harm suffered. If no such measures have been undertaken, please explain why and how this is compatible with international law.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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 prevent irreparable harm to the life and personal integrity of Mr. Ahmed Muhanna and to establish and disclose without delay his fate and whereabouts, as well as 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.

We would also like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit cases through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. Similarly, the Working Group on Enforced or Involuntary Disappearances may also transmit the individual cases through its standard humanitarian procedure. The Government is required to respond separately to the allegation letter and the regular procedures of each Working Group.

Please be informed that a copy of this letter has been also sent to the Government of State of Palestine.

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

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Barbara Reynolds
Chair-Rapporteur of the Working Group of Experts on People of African Descent

Matthew Gillett
Vice-Chair on communications of the Working Group on Arbitrary Detention

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Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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

K.P. Ashwini
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ben Saul
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

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 the international human rights standards, the norms of international humanitarian law, and the obligations to which Israel is bound and which are applicable regarding the present allegations:

(i) Detention of civilians

Regarding the widespread and systematic use of detention since the declared state of emergency in the country, we would like to reiterate to your Excellency's Government article 9 of the ICCPR guarantees the right not to be subjected to arbitrary arrest or detention, and that the prohibition of arbitrary detention is absolute.

We are further drawing your Excellency's Government's attention to the rules of customary international law, in armed conflicts, in particular prohibiting enforced disappearance (rule 98), arbitrary deprivation of liberty (rule 99), all civilians and persons *hors de combat* be treated humanely (rule 87), prohibiting collective punishment (rule 103).

(ii) Journalists, Human rights defenders and students

Journalists must be respected and protected during times of armed conflict as enshrined in customary international humanitarian law (rule 34). It should be stressed that, as civilians, journalists are entitled to the fundamental guarantees set out in international humanitarian law. If they are accused of spying, for example, they must not be subjected to arbitrary detention (see rule 99) and must be granted a fair trial (rule 100).

We would like to recall that article 19 of the ICCPR guarantees the right to opinion and expression. In the general comment 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse', subject only to admissible restrictions as well as the prohibition of propaganda for hatred and incitement to hatred, violence and discrimination. Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3) of the ICRC, that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant.

An attack on a person, including arbitrary arrest, torture, threats to life, because of the exercise of his or her freedom of opinion or expression in solidarity with Palestinians, cannot be compatible with article 19, and may amount to discrimination on the grounds of race or national origin. The Human Rights Committee has also held that restrictions on the operation of websites, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3. The Human Rights Committee clarified that permissible restrictions should generally

be content-specific; generic bans on the operation of certain sites and systems are not compatible with paragraph 3 (CCPR/C/GC/34, para. 23). Further, we wish to stress that, in accordance with the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention as punishment for the legitimate exercise of such freedom of opinion and expression is arbitrary.

We would also like to refer your Excellency's Government 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 Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration 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 and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We would also like to make specific reference to article 12(2) of the Declaration, which states that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

(iii) Children

We respectfully remind your Excellency's Government that, in the context of armed conflict, children are specifically vulnerable and shall be protected (rule 135 of the customary international law) article 38 of the CRC expressly imposes on States parties to the Convention to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child. It also determines that, in accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Moreover, we would like to remind your Excellency's Government that the UN Human Rights Committee has on several occasions expressed its deep concern about the continuing practice of administrative detention of Palestinians, including children, without charge or trial and without the guarantees of fundamental legal safeguards (CCPR/C/ISR/CO/5, paragraphs 34 and 35), including adequate disclosure of adverse allegations.

Further to these concerns, we would like to raise our concerns concerning the fact that, when targeted in armed conflict or detained, children's rights to education, health, social and cultural rights are violated. In this regard, we recall the obligations of your Excellency's Government established in the ICESCR ratified by Israel in 1991.

(iv) Women

With regard to the detention of women and girls, we wish to recall to your Excellency's Government the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)

which states, in Basic Principle 1, that “In order for the principle of non-discrimination embodied in rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners in the application of the Rules...” In addition, “Adequate attention shall be paid to the admission procedures for women and children, due to their particular vulnerability at this time. Newly arrived women prisoners shall be provided with facilities to contact their relatives; access to legal advice; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; and, in the case of foreign nationals, access to consular representatives as well. Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children (Rule 2).” In addition, Rule 10 (b) expressly addresses the need to provide Gender-specific health-care services.”

Furthermore, we wish to recall to your Excellency’s Government the General comment on women affected by enforced disappearances adopted by the Working Group on Enforced or Involuntary Disappearances (A/HRC/WGEID/98/2), which states in the preamble that “gender equality in the area of enforced disappearances primarily requires that all individuals – regardless of their sex or gender – enjoy without discrimination the rights enshrined in the Declaration for the Protection of All Persons against Enforced Disappearances.”

(v) Death in Custody

We would like to refer your Excellency's Government to articles 6 of the ICCPR which guarantee the rights to life, read alone or in conjunction with article 2(3). In this regard, we would like to recall general comment no. 36 of the Human Rights Committee, wherein the Committee underlined that the duty to protect the right to life requires State parties to take “special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence” and that such persons “include human rights defenders”.³ The Committee also highlights that State parties to the Covenant have an obligation, “where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents.”⁴ Such investigations must be independent, impartial, prompt, thorough, effective, credible and transparent. States are also under the obligation to prevent the occurrence of similar violations in the future.

We also refer your Excellency’s Government to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on death in prisons (A/HRC/53/29), in which emphasizes that States assume direct responsibility for the lives of individuals deprived of liberty and therefore have a duty to prevent and investigate deaths of people under the control of a detaining authority. Furthermore, according to principle 9 of the Principles of the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, there is an obligation to conduct thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death. The Minnesota Protocol on the

³ Human Rights Committee, *General Comment No. 36*, CCPR/C/GC/36, para 23

⁴ *Ibid.*, para 27

Investigation of Potentially Unlawful Death which in 2016 updated the original UN Manual on the Effective Prevention of Extra-legal, Arbitrary and Summary Executions of 1991; and the UN Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989), states that an investigation must be a) prompt; b) effective and thorough; c) independent and impartial; and d) transparent.

Lastly, customary international humanitarian law (rule 114), provides that with respect to the return of the remains of the deceased, there is an obligation to return the remains and personal effects of the dead.

(vi) Enforced disappearance

We reiterate that enforced disappearance is prohibited under customary international law applicable in armed conflicts (rule 98) and its absolute and non-derogable prohibition has attained *jus cogens* status. As explicitly stated in the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances (article 2) and that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7). Within the context of the escalating practice of detention and subsequent enforced disappearance of civilians in the Gaza Strip, the Working Group on Enforced or Involuntary Disappearances, in its General Comment on the right to recognition as a person before the law in the context of enforced disappearance,⁵ noted that, when the deprivation of liberty of a person is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The inherent consequence of an enforced disappearance is that a person is placed outside of the protection of the law and placed in a legal limbo, deprived of due process rights and judicial safeguards, and other fundamental rights and freedoms.

The Declaration on the Protection of All Persons from Enforced Disappearances, also proclaims that each State shall ensure the right to be held in an officially recognized place of detention, in conformity with national law, and to be brought before a judicial authority promptly after detention; and accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest (article 10).

We respectfully recall that, by apprehending and detaining individuals, including activists and human rights defenders (A/HRC/30/38/Add.5, see paragraphs 33-37), the State assumes responsibility for their lives and physical integrity. Due to the heightened duty of care, States must take the necessary measures to protect the lives and bodily integrity of all individuals deprived of their liberty. Additionally, the Working Group has also observed that the enforced disappearances of human rights activists and persons actively promoting the enjoyment of economic, social and cultural rights, are used as a repressive tool to deter the legitimate exercise, defence or promotion of the enjoyment of these rights. Due to their collective character, such measures also violate their economic, social and cultural rights, the rights of others engaged in related activities, and of the larger community of people who relied on the disappeared person to represent and fight for their rights.⁶

⁵ [A/HRC/19/58/Rev.1](#)

⁶ [A/HRC/30/38/Add.5](#)

In respect to children, the State must protect the best interests of children and the specific obligations when enforced disappearance of children (article 20), as well as child victims of their parents' enforced disappearance as they are prevented from exercising their rights, including their economic, social and cultural rights, due to the legal uncertainty created by the absence of the disappeared parent. Given the continuous nature of the crime of enforced disappearance, its specific effects on a child could continue well into adulthood (A/HRC/WGEID/98/1). The effect of enforced disappearances on women has also been elaborated on by the Working Group on Enforced or Involuntary Disappearances in its General Comment (A/HRC/WGEID/98/2), both as victims and as relatives of those men who disappeared and note that they face additional vulnerabilities. States are obliged to facilitate the full implementation of the provisions of the Declaration from a gendered perspective.

(vii) Treatment of persons detained under Israeli jurisdiction

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the CAT and other Cruel, Inhuman or Degrading Treatment or Punishment and Article 7 of the ICCPR, provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." We also refer to paragraph 28 of the General Assembly resolution 68/156 (2014) which emphasizes that conditions of detention must respect the dignity and human rights of persons deprived of their liberty and calls upon States to address and prevent detention conditions that amount to torture or cruel, inhuman or degrading treatment or punishment. We would also like to refer to the CCPR General Comment No. 20 of the Human Rights Committee in which it states that the aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.

The Code of Conduct for Law Enforcement Officials and the Basic Principles for the Treatment of Prisoners, adopted by the UN General Assembly without a vote in 1979 and 1990 respectively, require, in particular, that the health of persons deprived of their liberty be protected. It should be noted that lack of adequate food, water or medical treatment for detained persons amounts to inhuman treatment (see commentary to rule 90).

With regard to the conditions of detention and the responsibility of States to provide health care for persons deprived of their liberty, we wish to reiterate rules 24, 25 and 27 of the Mandela Rules, adopted unanimously by the UN General Assembly (A/RES/70/175). The Special Rapporteur on torture stresses the importance for the application of the Mandela Rules as general standards for both remand and convicted persons. In this regard, we wish to recall that the conditions and standards of treatment in places of deprivation of liberty should have differentiated approaches with respect to persons belonging to certain groups, not least women and girls (United Nations Rules for the Treatment of Women Prisoners and non-custodial measures for Women Offenders (Bangkok Rules), children and youth (Committee on the Rights of

the Child, GC No. 24 (2019) on children's rights in the child justice system), and LGBTQI+ persons.

We would also like to bring to the attention of your Excellency's Government provisions of the ICESCR, ratified by Israel in 1991. Article 12 of the ICESCR guarantees the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Article 12(1), coupled with article 2.2 (non-discrimination) establishes States parties' obligation to respect the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health, including prisoners and detainees. 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 stresses 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). It also indicates 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."

Moreover, we wish to refer to the report of the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in which he makes reference to the fact that "[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life" and that "[v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty". The Special Rapporteur also stressed that "for the right to health to be enjoyed in detention centres, health-care facilities, goods and services must be available, accessible, acceptable and of good quality". In addition, the Special Rapporteur urged States to "[f]ully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons". Furthermore, we wish to stress that the right to health is interpreted by the CESCR Committee as "an inclusive with extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition" among others (CESCR, general comment no. 14, para. 11).