

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Ref.: AL ISR 13/2024
(Please use this reference in your reply)

8 July 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 52/4, 51/8, 52/9 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest, detention without charge and ill-treatment of five Palestinian human rights defenders, Mr. **Bassem Tamimi**, Ms. **Diala Ayesh**, Mr. **Omar al-Khatib**, Ms. **Baraa Awad Ahmad Odeh** and Ms. **Sumoud Mtair**, as part of ongoing attacks against peaceful human rights defenders we have previously raised concerns about.

Mr. **Bassem Tamimi** is one of the leaders of the Nabi Saleh Popular Struggle Committee in Ramallah, a non-violent group protesting against the illegal occupation and colonisation of Palestinian lands through weekly peaceful demonstrations. He was previously the subject of a communication to your Excellency's Government sent on 8 January 2018 ([UA ISR 1/2018](#)), regarding an escalating wave of arrests, physical attacks and judicial harassment targeting a number of human rights defenders in the West Bank. No reply to the communication was received.

Ms. **Diala Ayesh** is a Palestinian lawyer and human rights defender. She works with the NGO Lawyers for Justice and monitors and documents the detention conditions of Palestinian prisoners who are detained in the Israeli military prison system, including by organising and participating in visits to prisons alongside other Palestinian lawyers.

Mr. **Omar al-Khatib** is a Palestinian human rights defender from Jerusalem, campaigning against Israeli occupation and against the forced eviction of families in the Jerusalem neighbourhood of Sheikh Jarrah.

Ms. **Baraa Awad Ahmad Odeh** is a Palestinian human rights defender from Bethlehem who worked on strengthening youth well-being in the framework of a joint project with the German Development Cooperation *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ).

Ms. **Sumoud Mtair** is a Palestinian human rights defender from Hebron who is active in the Palestinian Anti-Apartheid Wall Campaign (Stop the Wall).

We have previously raised concern over the ongoing widespread arrests and detention of Palestinians, including human rights defenders, in cities and villages of the occupied West Bank, including east Jerusalem. The persons apprehended and detained were not treated in a dignified manner and the conditions of their detention fell below international standards. We raised concern that the widescale act of collective punishment against Palestinian detainees have been allegedly committed by Israeli authorities, on the basis of punitive legislative restrictions and amendments under the declared state of emergency in Israel ([UA ISR 9/2023](#)). After the heinous attack by Hamas on Israel on 7 October 2023, as a result of which some 240 persons were taken hostage by Hamas, which amount to acts tantamount to enforced disappearances and other crimes, it is reported that Israeli forces in the occupied West Bank, including east Jerusalem have been conducting widespread raids on homes, leading to arrests in various cities and villages.

According to the information received:

Regarding Mr. Bassem Tamimi:

On 28 October 2023, Bassem Tamimi was detained by Israeli forces at the King Hussein Crossing (also known as Allenby Bridge) while on his way to visit family in Jordan. He was taken to a hospital for a check-up due to elevated blood pressure, then to Ofer prison, near Ramallah in the occupied West Bank. He was not informed of the reason for his arrest and detention.

On 2 November 2023, Mr. Tamimi was questioned at the Ofer interrogation centre. He did not speak to his lawyer prior to the questioning, but it was not clear if he was prevented from doing so.

On 6 November 2023, an administrative detention order was issued, ordering Mr. Tamimi's detention for six months from the date of arrest, until 28 April 2024. Administrative detention is based on secret evidence without trial and can be renewed indefinitely.

On 15 November 2023, a judicial review of the administrative detention order before a military judge was held, *in camera*, in which the order was approved.

It is worth mentioning that a second person who was interrogated in relation to Mr. Tamimi's arrest and detention was released without charge after 25 days.

On 25 April 2024, three days prior to the expiration of the first administrative detention order against Mr. Tamimi, a new administrative detention order was issued, ordering his detention from 28 April 2024, until 27 October 2024.

On 7 May 2024, Mr. Tamimi was presented via video to a military court for judicial review. The judge scheduled an *ex parte* hearing with the prosecution and representative of the Shin Bet in order to review the secret material. The defence was not privy to the material or to any information regarding the hearing. The court ruled to shorten the administrative detention order against Mr. Tamimi until 9 June 2024. Mr. Tamimi was released from detention on 9 June 2024, following over seven months in detention, and his health condition had deteriorated significantly since his arrest.

Throughout his detention, Mr. Tamimi was not allowed to contact his family, and as administrative detention hearings have been held *in camera*, they did not have the opportunity to see him in court either. In addition, Mr. Tamimi only met with his lawyer once on a short visit. According to the information received, Mr. Tamimi was only granted some of the necessary medication to treat a chronic illness from which he suffers, and the specialised diet required to manage this condition was not granted.

Regarding Ms. Diala Ayesh:

On 17 January 2024, Ms. Ayesh was travelling from Ramallah to Hebron in the occupied West Bank. As she was passing through the military checkpoint known as the “Container” checkpoint, which separates the northern and southern parts of the West Bank, she was arrested without charge by Israeli military forces.

Following her arrest, Ms. Ayesh was transferred to Hasharon prison in Israel (Telmond prison). Ms. Ayesh was reportedly beaten and ill-treated during her arrest and transfer as she was placed in a very cold cell and Israeli soldiers insulted and spit on her. She was interrogated about alleged involvement in “terrorist” organisations. The day after her arrest, 18 January 2024, she was transferred to Damon prison in Israel with her hands and feet cuffed together.

During the first week of her detention, Ms. Ayesh was denied access to her lawyer and was not permitted any phone calls. Her lawyer was only able to see Ms. Ayesh on 23 January 2024.

On 25 January 2024, an administrative detention order of four months was issued against Ms. Ayesh, without any charges and without her having appeared before a judge. A judicial review of her detention order was scheduled to take place on 4 February 2024 but was postponed until 14 February 2024. Her four-month administrative detention order was confirmed at this review.

During her detention, Ms. Ayesh has been subjected to solitary confinement as a punishment for her complaints about the dire detention conditions in Damon prison. She has not been permitted to see her family and her access to her lawyer has been restricted.

On 16 May 2024, the Israeli authorities ordered an additional four-month administrative detention order against Ms. Ayesh, again with no charges or trial. Her lawyers appealed this order, but this appeal was rejected and her second detention order was confirmed by Ofer Military court on 23 May 2024. Ms. Ayesh was not allowed to leave Damon prison and only permitted to virtually attend the court session confirming this order.

Ms. Ayesh remains in detention in Damon prison and has not been permitted to see her family since her arrest on 17 January 2024.

Regarding Mr. Omar al-Khatib:

On 1 March 2024, Mr. al-Khatib was arrested by Israeli forces at Ben Gurion Airport on his way back from a personal visit abroad. No arrest warrant or reason for his arrest was presented. He was taken to al-Moscobiyya Interrogation Centre and Prison (the Russian Compound) in Jerusalem.

On 4 March 2024, Mr. al-Khatib was transferred to Ramleh prison in Israel (Ayalon prison), where he was beaten repeatedly and slapped on the face. He was then transferred to Ofer prison where he was interrogated for 15 minutes about his work and the meetings he had while abroad, without the presence of his lawyer. He was made to sign a document in Hebrew, which he did not understand. Mr. al-Khatib was allowed to meet his lawyer after the interrogation.

On the same day, Mr. al-Khatib was taken back to Ramleh prison in Israel, where he was reportedly subjected to beatings again.

On 5 March 2024, Mr. al-Khatib was taken again to al-Moscobiyya prison, before being transferred to Naqab prison in the Negev in Israel (Ketziot prison).

Mr. al-Khatib was informed that he would be held in administrative detention for four months, from 2 March 2024 to 1 July 2024. He is currently held in Naqab prison.

Regarding Ms. Baraa Awad Ahmad Odeh:

On 5 March 2024, Ms. Odeh was stopped by Israeli forces at a border crossing into the occupied West Bank after her return from Germany. Her passport was taken; she was made to wait for two hours before being questioned about her work. She was then informed that she would be detained. No arrest warrant or reason for her arrest was presented.

She was handcuffed, blindfolded and taken by car to an Israeli military camp near Jericho, in the occupied West Bank, where she was questioned by a doctor, to whom she mentioned her severe allergy to antibiotics and other medications. She was then taken to Ofer prison, where she was asked general questions without the presence of a lawyer and told that she was a 'threat to the nation's security'. She was allowed to meet her lawyer after the end of the questioning.

On the same day, Ms. Odeh was transferred to Hasharon, where she was allegedly beaten by a male Israeli guard, leaving marks on her body. She was then taken to a cell with two thin mattresses and a window with no glass pane, allowing cold air through. She was given the use of a soiled toilet and was allowed to be moved to a cleaner one the next day.

On 6 March 2024, Ms. Odeh was moved to Damon prison, where she was interrogated and forced to sign a document in Hebrew, which she could not understand. She was then blindfolded and handcuffed behind her back and taken to meet her lawyer. At that point her blindfold was removed, and her

hands were cuffed in front of her.

Ms. Odeh was informed that she would be held in administrative detention from 13 March 2024 to 4 June 2024. She remained in Damon prison until her release on 4 June 2024 after her appointed three months of administrative detention came to an end.

Regarding Ms. Sumoud Mtair:

On 7 March 2024, Israeli forces raided Ms. Mtair's home in Ramallah. They asked for her identification papers and her phone, inspected the house, arrested her and led her away, handcuffed. No arrest warrant or reason for her arrest was provided. She was then blindfolded, made to sit on the floor of the car and driven to a location where another woman was forced into the car and severely beaten. They were taken to a military camp; where their blindfolds were removed, and they were left to wait in a yard under the rain for six hours.

On the same day, Ms. Mtair was taken to Ofer prison, subjected to a routine search and interrogated. She was allowed to speak to her lawyer on speakerphone. The investigator informed Ms. Odeh's lawyer on the phone that she was placed in administrative detention for three months, from 7 March 2024 to 6 June 2024. She was interrogated for ten minutes before being taken to be photographed in a room with flags of the Popular Front for the Liberation of Palestine; when she refused, they removed the flags before taking her picture. She was then moved to a cell where her hands and legs were bound.

On the same day, Ms. Mtair was moved to Hasharon prison, and together with other detainees was placed in an unsanitary cell with a dirty toilet. Prison guards shouted at her that "our soldiers in Gaza don't have this," and took away her extra blanket. The following day, prison guards replaced the mattresses and blankets with wet bedding. She and the other detainees were given small and poor-quality meals consisting of two tomatoes, a cucumber and a piece of bread once a day, at 5 a.m.

On 10 March 2024, Ms. Mtair was transferred to Damon prison, where she remained until her release on 6 June 2024 after her appointed three months of administrative detention came to an end.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned about the information that points to the absence of due process rights of the five above-mentioned Palestinian human rights defenders, by being held without charge in administrative detention based on secret information, delays in access to lawyers and contact with their families, the forced signing of documents in a language they could not understand, and the absence of conditions for fair trial. We recall that the allegations occurred in the context of sustained, serious reports of widespread and systemic violations of fair trial guarantees, as documented by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 in her report to the 53rd session of the Human Rights Council (A/HRC/53/59), and for decades by Palestinian, Israeli, international organisations and multiple UN bodies.

We are also concerned by the allegations that Mr. Tamimi was not granted access to all necessary medications nor were the necessary dietary requirements fulfilled to manage his chronic illness while in detention. We are equally concerned by the allegations of excessive use of force and of cruel, inhuman and degrading treatment of Ms. Ayesha, Mr. al-Khatib, Ms. Odeh and Ms. Mtair, as well as the poor conditions of their detention, including in cold and unhygienic cells and with the denial of access to adequate food.

If verified, the allegations cited could amount to violations of every individual's right to physical integrity, and the absolute prohibition of forms of inhuman or degrading treatment or punishment and against arbitrary deprivation of liberty, as well as the right to a fair trial. We also express our great concern about the chilling effect the arrests, detention and maltreatment of human rights defenders has on all those wishing to exercise their freedom of expression and freedom of peaceful assembly.

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 the factual and legal grounds for the arrest and detention of the above-mentioned individuals and how these measures are compatible with international norms and standards.
3. Please provide detailed information on what measures were taken to ensure that Mr. Tamimi had full access to adequate medication and healthcare while in detention. If such measures were not taken, please explain why.
4. Please provide information on measures taken to ensure that Ms. Ayesha and Mr. al-Khatib are provided with authorization to communicate with and be visited by their family or third person and with their legal counsel on a regular basis.
5. Please provide information on measures taken to ensure that the rights of Ms. Ayesha and Mr. al-Khatib not to be subjected to cruel, inhuman or degrading treatment or punishment and to be treated with dignity while deprived of liberty, including with access to clean accommodation and adequate supply and quality of food.
6. Please indicate what measures have been taken to ensure that human rights defenders in the occupied Palestinian Territory are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats, physical attacks, or acts of

intimidation and harassment of any kind.

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 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. The Government is required to respond separately to the present communication and the regular procedure.

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.

Please be informed that a copy of this letter will also be sent to the Permanent Mission of the State of Palestine for their information.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Ganna Yudkivska
Vice-Chair on Communications of the Working Group on Arbitrary Detention

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

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 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 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, that everyone shall be granted these rights free of discrimination.

We would also like to highlight that article 14 of the ICCPR 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 express our deepest concern at allegations regarding the widespread and systematic use of administrative detention against Palestinians, as analysed in detail in the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to the 53rd session of the Human Rights Council (A/HRC/53/59). This report concludes that the aforementioned elements are constitutive of a serious crime under the Rome Statute of the International Criminal Court. We express our concern that, reportedly in the vast majority of cases, evidence remains classified and thus cannot be effectively challenged, and that detainees are held without trial or charge and without meaningful access to legal counsel (A/HRC/37/42).

We would like to remind your Excellency's Government that any arrested or detained person must be treated with dignity and accommodated in humane conditions, compatible with the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Israel ratified in 1991, and which is non-derogable even in a state of emergency (article 2(2)) has attained the status as an international norm of jus cogens, and as reflected inter alia, in Human Rights Council resolution 52/7 and 46/15, and General Assembly resolution 77/209.

We are also highly concerned that the issuance and entry into force of military ordinances or emergency regulations have reportedly undermined judicial guarantees. We underline that all persons, regardless of the gravity of the charges against them, have the right to a fair trial, recognised not only in human rights treaties but also in international humanitarian law, international criminal law, counter-terrorism conventions and customary international law, and to the rule of law (see A/63/223).

We remind your Excellency's Government that article 14 of the ICCPR establishes, inter alia, the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, the provision of

adequate time and facilities for the preparation of the defence and the right of accused persons to communicate with counsel of their own choosing. We respectfully remind your Excellency's Government that the Human Rights Committee has clarified that the right to a fair trial is non-derogable even during a state of emergency (CCPR/C/GC/35, para. 67) and that trials of civilians by military courts should be exceptional and strictly "limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials" (CCPR/C/GC/32, para. 22). Fundamental safeguards are also required under international humanitarian law.

With regard to the conditions of detention and the responsibility of States to provide health care for prisoners, we wish to reiterate rules 24, 25, 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. They also remind 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)).

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', 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), 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 because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19 (GC34 paragraph 23).

Finally, we would 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.