

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

Ref.: UA ISR 19/2024
(Please use this reference in your reply)

20 September 2024

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolution 51/21.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning allegations related to violations of international human rights law and international humanitarian law in the ongoing conflict in Gaza, and in the West Bank, particularly regarding the alleged attacks on hospitals and healthcare facilities and healthcare workers since the escalation of the conflict on 7 October 2023, as well as alleged arrests, detention, enforced disappearances, ill-treatment, torture, and deaths of healthcare workers at the hands of the Israeli authorities; including the killing of Suhaib Izz al-Deen 'Abed al-Fattah Abu Zaydah during an attack on Al-Ahli hospital on 5 December 2023, a pharmacist in November 2023, and at least five ambulance personnel in attacks in October 2023 and January 2024; the deaths of Dr. Ziad Mohammad Eldalou in March 2024 and Dr. Adnan Al Bursh in April 2024 and at least one other physician while being detained by Israeli authorities; and the arbitrary arrests, detention, ill-treatment and torture of health care workers including Izz al-Deen Abdelfetah Othmar and paramedic Walid Yousif Al Khalili, as well as the arbitrary arrests and continued detention, ill-treatment and torture of Dr. Midhat Abu Tabanga, Dr. Mourad El Koka, Dr. Khaled Elser, and Dr. Ahmad Mousa, *inter alia*.

Note that this Communication is related to ISR 11/2023, which I sent to your Excellency's Government on 4 December 2023, and for which I have not yet received a reply.

According to the information received:

In the Gaza Strip, at least 41,252 people have reportedly been killed since 7 October 2023. Another 95,551 have reportedly been injured and require access to urgent medical care.

More than 885 healthcare workers have reportedly been killed in Gaza and the West Bank since 7 October 2023. This includes nurses, paramedics, doctors, and other medical personnel. Many more have been injured. As of 20 August, the World Health Organization reported 1043 health attacks, in the Gaza Strip, West Bank, and East Jerusalem, with 164 health facilities and 489 ambulances affected. At least 775 people were killed, and another 1082 injured in these attacks on healthcare.

The Ministry of Health in Gaza reported that more than 300 healthcare workers have been arrested, with the World Health Organization reporting at least 128 healthcare workers detained by Israeli forces while on duty since

7 October 2023 who remain in custody.

Healthcare workers also continue to report challenges to provide medical care including the sustained lack of access to medicines, medical supplies, food, and water; fear and anxiety of remaining to treat patients; trauma from events witnessed including attacks on their own hospitals resulting in deaths of children and others; having to prioritize treatment of those that were most likely to survive, leaving many persons with life-threatening injuries untreated; and continuing to work injured themselves, while some require surgery. They have provided information on the breadth and depth of conditions of those they are treating including children with intestinal and blood diseases, pneumonia, and meningitis, and emergency surgeries on injured persons, including pregnant women, in the face of absolute and chronic shortages of medicine and supplies.

Information received details arrests and detention of health care workers by Israeli Forces demonstrating patterns of arrests of medical personnel while on duty, including being forced to evacuate hospitals and immediately being arrested; both healthcare workers and patients being made to immediately strip to underwear, kneel, be blindfolded, and be loaded into vehicles.

Alleged verbal and physical abuse, mistreatment, and torture from the outset of their detention, including but not limited to; being blindfolded and made to kneel all day, remaining blindfolded and handcuffed for days, even weeks at a time, not being allowed to sleep/lay down, being shackled with their hands above their heads for hours, being subjected to constant screaming and insults and exposed to excessively loud noises, being subjected to electric shocks, hit with batons, and being subjected to dog attacks and dogs urinating on detainees. Beatings and sexual harassment are often most severe during transfers between locations. Detainees are given little clothing, even in rain, light mattresses, and are not being allowed to speak to each other, some places they are not allowed to use the bathroom.

Witnesses attested to detainees having undergone amputations after developing injuries and infections due to tight shackles while detained. Alleged provision of inadequate food and detainees reportedly experiencing constant hunger. Detainees are provided with no or little access to medical treatment, both for preexisting conditions and for injuries resulting from violence in detention. Information was received from witnesses of further deaths in detention, both from violence and lack of access to healthcare. Information was also received regarding maltreatment and abuse of youth detainees and older persons detained, as well as maltreatment of persons with disabilities, including removal and/or non-provision of necessary medical aides such as wheelchairs.

Information demonstrated apparent arrests and detention of healthcare workers to phish for information, with no accusation of charges against them and interrogation upon arrest and in detention often focusing on whether they had treated Israeli hostages, and questions regarding hospital infrastructure, or other healthcare workers.

Further information received also demonstrates alleged targeted attacks on hospitals and healthcare facilities, including on Kamal Adwan Hospital in December 2023, Al-Ahli Hospital in October and December 2023, and the Anglican Hospital in Gaza City in December 2023, and various attacks on ambulances, *inter alia*. As well as the killing of doctors, hospital administrators, and other health care workers in raids and attacks by Israeli Forces on hospitals and health clinics, including upon refusal to evacuate and leave their patients.

Information has also been received regarding other healthcare workers detained by Israeli forces whose whereabouts remain unknown.

Ambulance Personnel

Information has been received regarding various cases of ambulance drivers, paramedics, and other ambulatory personnel being targeted, including killings while on duty, and arrested and detained, including some whose whereabouts are currently unknown.

Information received reports of killings of paramedics on duty, and in uniform, by attacks from Israeli forces on ambulances. Information was received from ambulance personnel themselves injured in attacks by Israeli Forces. Ambulance personnel also report being detained while on duty, in uniform, and maltreatment in detention.

One paramedic reported carrying ten dead bodies and 50 injured in one attack in the al-Trans area on 9 October 2023, which resulted in 80 dead and dozens injured. Other information received regarding the killing of three Palestinian Red Crescent Society ambulance personnel on 11 October 2023, from the alleged targeting and air attack on the ambulance they were travelling in at the customs checkpoint leading to the Erez crossing. This information is further to the killings of two Palestinian Red Crescent Society paramedics killed in January 2024 as described by Special Procedures Mandate Holders in their communication AL ISR 4/2024 in March 2024.

Individual Cases

Dr. Ziad Mohammad Saleh Eldalou

Doctor Ziad Mohammad Saleh Eldalou was an internal medicine physician at Al Shifa Hospital in Gaza City. On 18 March 2024, Israeli Forces arrested and detained Dr. Eldalou during a raid on Al Shifa Hospital, along with other healthcare workers. He had been on duty at the time. He died in detention on 21 March 2024.

Dr. Adnan Al Bursh

Doctor Adnan Ahmad Ateya Al Bursh, 50, was the head of the Orthopaedic Department at Al Shifa Medical Complex in Gaza City. On 18 December 2023, Dr. Al Bursh was arrested by Israeli Forces while at Al Awda Hospital, North Gaza, along with three other doctors and one other healthcare worker.

Prior to his arrest, Dr. Al Bursh was in good health and had been performing his normal duties at the hospital, despite a minor injury he had suffered a few days before his arrest.

While in detention, Dr. Al Bursh's condition had deteriorated, with alleged signs of torture on his body. Dr. Al Bursh had allegedly been beaten while in detention, to the point he was unable to use the toilet independently.

Dr. Al Bursh reportedly died on 19 April 2024 in Ofer Prison, run by the Israeli Prison Service (IPS) in the West Bank. Dr. Al Bursh was reportedly first detained by the military and then transferred to facilities run by the IPS.

No information was received on any charges against Dr. Al Bursh, whether there was an autopsy, nor any official reports containing details of his death by Israeli authorities. At the time of drafting, no information had been received regarding the release of Dr. Al Bursh's body to his family nor any information on the whereabouts of the four other healthcare workers detained with Dr. Al Bursh.

Paramedic Walid Yousif Al Khalili and a pharmacist

Walid Yousif Al-Khalili, 35, is a paramedic at the Palestine Medical Relief Society.

On 13 November 2023, Israeli forces opened fire on Mr. Al Khalili and the doctor-pharmacist he was with, while they were en route to the Palestine Medical Relief Society (PMRS) office in Gaza City. They had been providing medical treatment to wounded civilians in Tal Al Hawa neighbourhood.

The doctor was first shot in the abdomen and then in the forehead, reportedly by Israeli snipers.

Mr. Al Khalili was also shot at despite wearing his PMRS paramedic uniform at the time. He continued moving and hiding for fear of his life. He hid behind a truck there until early morning 14 November when he managed to reach an empty residential building where he stayed until midnight 15 November. During that night the building he was in was hit with explosives. He managed to hide inside and later leave the building, taking refuge in a nearby villa.

At 3.30 p.m. on 15 November 2023, Israeli forces raided the villa where Mr. Al Khalili was and arrested him. He was ordered to remove his clothes and was blindfolded and handcuffed. While being moved from one to another location, he was interrogated and subjected to beating, humiliation, threats and other forms of torture and ill-treatment including electrical shocks and water torture.

He was severely beaten and made to make false confessions under threat. His ribs were broken and he received head injuries. He was thrown on the ground and spat and urinated on and put in a diaper. He was also forced to take a hallucinatory drug without his consent. Mr. Al Khalili was made to sleep on a floor covered in glass, hung upside down with his head dunked in water, and had freezing water throw on him, *inter alia*. He was released back into Gaza

on 23 December 2023.

Suhaib Abu Zaydah, and attacks on Al-Ahli Arab Hospital

Al-Ahli Arab Hospital was bombed by Israeli Forces (IF) on 14 October 2023, 17 October 2023, and 5 December 2023. In the 14 October attack, the clinic's building was partially destroyed. On 17 October the hospital was struck with a high-explosive missile, reportedly killing approximately 170 persons and injuring another 350, and severely damaging medical infrastructure including ambulances. On 5 December the hospital was bombed again, with a missile falling next to the laundry room inside the hospital. Suhaib Abu Zaydah, a healthcare worker, was injured in that attack, and later died from his injuries. Mr. Abu Zaydah was a coordinator of works on a new area of the hospital and was also a healthcare worker at Augusta Victoria Hospital in Gaza. There were approximately 1400 displaced people sheltering in the hospital at the time of the attack.

Izz al -Deen Abdelfetah Othmar

Izz al-Deen Abdelfetah Othmar is a director of the emergency and ambulance services department at Al-Ahli Arab Hospital in Gaza. He is also father of the aforementioned Suhaib Abu Zaydah who died further to an attack on Al-Ahli Hospital.

On 18 December 2023, Israeli Forces surrounded Al-Ahli Hospital with military vehicles, tanks and bulldozers and conducted a raid. They ordered medical staff and personnel out of the hospital via loudspeaker. Mr. Othmar and another hospital administrator attempted to speak with the IF to advise them that only medical personnel, patients, and other civilians were in the hospital. The IF ordered them to take off all clothes except underwear and took photos. There were approximately 40 healthcare workers and other people arrested, including at least three women. They were ordered to put on white overalls and were blindfolded. Their hands were tied with plastic zip ties. They were then transferred to a military site. During the transfer they were kicked and beaten. Mr. Othmar was thrown to the ground, falling on his back and injured.

Upon arrival at a military site, Mr. Othmar was interrogated violently. He was then taken to a barrack with plastic zip ties around his wrists. With the others in his barrack, he remained handcuffed and blindfolded for four days. They were made to kneel or be punished. They were provided with three light meals a day. There was not adequate water.

Mr. Othmar developed severe pain in his right hand. His ties were loosened, and the following day he was taken to the doctor as his hand was swollen and black. He was seen by a doctor and taken to a hospital within the site. There, he underwent surgery to restore blood flow to his hand. He then stayed in the hospital for ten days during which his limbs were tied to the bed. He was detained for another approximately five days. On 4 January 2024, he was brought outside with four other detainees. He was then driven in a bus and his handcuffs and blindfold removed. He was then released at Kerem Shalom crossing.

Dr. Midhat Abu Tabanga

Doctor Abu Tabanga was detained at the Hamad City checkpoint near Khan Younis on 3 March 2024 while he was traveling with his wife and children. He was stripped of all clothing and given a small cover. He was forced to enter a small military vehicle along with 20 other people, all of whom were handcuffed and blindfolded. They were all taken to a pool in Khan Younis and were kept there until night, during which they were beaten throughout. They were then transferred to a military base near Karam Abu Salem checkpoint. There, Dr. Abu Tabanga was forced to kneel for many hours, and later transferred to Sde Tieman detention camp in the Negev desert. During that transfer he and other detainees were continuously beaten with batons and subjected to electric shocks. He sustained two broken ribs.

Dr. Abu Tabanga was held for 86 days in Sde Tieman before being transferred to Ofer Military Detention Camp. During his first weeks at Sde Tieman, Dr. Abu Tabanga was held in a corral with approximately 100 other detainees during which they faced daily violence including beatings, attacks by dogs, and being urinated on by dogs. They were made to kneel all day. Dr. Abu Tabanga was cuffed and blindfolded for weeks. Dr. Abu Tabanga was interrogated and asked about patients he had treated. He was not charged with any crimes. After a few weeks Dr. Abu Tabanga was chosen as a “Shawish”, who is responsible to assist the other detainees with food and going to the toilet. At that time, he was allowed to remove his blindfold. After making a complaint about a soldier taking pictures of him, Dr. Abu Tabanga was severely beaten and electrically shocked. He was later transferred to Ofer military Camp. Dr. Abu Tabanga did not receive medical treatment and continues to suffer breathing difficulties due to his broken ribs.

At the time of drafting Dr. Abu Tabanga was believed to still be in Ofer Military prison.

Dr. Mourad El Koka

Doctor Mourad El Koka was detained at Al Shifa Hospital in Gaza on 18 March 2024, with approximately 50 other people, including patients and staff. After a few hours they were transferred to Sde Teiman detention camp. Dr. El Koka was beaten until he lost consciousness. He suffered injuries to his face and eye. During the transfer the detainees had their hands and legs tied, their eyes were blindfolded, and they were subjected to constant physical and verbal abuse. Upon reaching Sde Teiman camp they were forced to remove their clothes. Soldiers beat them while naked. A few hours later they were able to put their clothes back on.

Dr. El Koka was interrogated three times at Sde Teiman, but never charged with anything. After two months he spoke with a judge by phone and advised he would be held for an unknown period of time. He was not provided access to legal counsel at the time nor translation during the call.

In early June Dr. El Koka was transferred to Ofer Military Prison. He is reportedly being held with 25 other detainees in a room that is approximately

five by ten meters with not all having beds and several sleeping on the floor. He is reportedly provided with his daily medicine for hypertension but has not been seen by a doctor since being transferred to Ofer.

At the time of drafting Dr. El Koka was believed to still be in Ofer Military prison.

Dr. Khaled Elser

Doctor Khaled Elser was detained from Al Nasser Hospital in Khan Younis on 25 March 2024, along with several other healthcare workers. They were stripped of their clothing and forced to remain naked for several hours. They were then taken to a vacant civilian house in Gaza where Israeli soldiers tied their hands with plastic zip ties.

Dr. Elser and the others were held there for five days, during which they were subjected to constant verbal and physical abuse, including being hit with rifles in their chests and backs. Their hands and legs were constantly tied and they remained blindfolded. They were not given access to medical care including upon request, after being injured from the aforementioned attacks.

During these five days Dr. Elser was mainly asked about information regarding the hospital and medical staff and was not charged with any charges.

After five days in detention in Gaza, Dr. Elser and the others were transported two hours away to Sde Teiman detention camp. They were abused for the duration of the transport; soldiers cursed and insulted them and sat on them with their boots in their faces, their hands and legs were tied tightly, and the soldiers hit them with their hands and rifles. Dr. Elser suffered injuries from this abuse.

Alleged punishments to detainees in Sde Teiman camp included severe public beatings; a detainee would be taken to the courtyard and beaten in front of the others on a daily basis, including on their chest, genitals, eyes, including pepper spray directly in eyes. They were subjected to insults and verbal abuse, electric shocks, and sound bombs. They were also sexually assaulted by baton and subjected to attacks by dogs whilst naked. Adequate medical attention to detainees was not provided, although in some severe cases detainees were taken to hospital for urgent treatment.

In June 2024, Dr. Elser was transferred to Ofer Military prison. He did not receive medical treatment for his injuries sustained during his detention.

Dr. Elser was interrogated both in Gaza and in Sde Teiman. He was not advised of the reason for his arrest or detention, nor was he charged with any charges.

At the time of drafting Dr. Elser was believed to still be in Ofer Military prison.

Dr. Ahmad Mousa

Doctor Ahmad Mousa was detained from Al Nasser Hospital in Khan Younis on 16 February 2024. He was then transported to Sde Teiman. Throughout the transfer his hands were cuffed and eyes covered. He was subjected to verbal and physical abuse throughout the transfer; he was constantly cursed at, insulted, made by soldiers to bark like a dog, hit with rifles and batons, stomped on with military boots, and repeatedly punched in the head.

Dr. Mousa was detained in Sde Teiman for 52 days. Detainees were kept with their hands tied and eyes covered. Soldiers allegedly allowed dogs to urinate on detainees, and random punishments were given including forcing detainees to stand with hands raised above heads for prolonged periods of time. Special forces known as “Force 100” would arrive and randomly subject detainees to severe beatings. Detainees were also subjected to sexual harassment.

After 52 days at Sde Teiman, Dr. Mousa was transferred to Ofer military prison. Since arriving at Ofer prison he was subjected to beatings, causing fractured ribs and bones. Dr. Mousa did not receive medical attention for his injuries, including fractured ribs and other bones. These conditions have had a major impact on his mental health. Dr. Mousa is reportedly in a barrack with 23 other detainees, and they are only provided with thin mattresses from 9 p.m.-6 a.m.

Dr. Mousa has been allegedly interrogated at least 18 times, each time being forced to sign a document in Hebrew without translation to a language he understands. On the 60th day of being detained, he was presented to a court, which included him being kept in the sun for eight hours from 8 a.m.-4 p.m. During this time, he was handcuffed, blindfolded, beaten, and soldiers threw rocks at him. Dr. Mousa has not been charged with any charges but was allegedly advised he would remain in detention until the end of the war.

At the time of drafting Dr. Mousa was believed to still be in Ofer Military prison.

While I do not wish to prejudge the accuracy of these allegations, they indicate a *prima facie* violation of the right of every individual to life and security and not to be arbitrarily deprived of his or her life, and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *inter alia*, as set forth in International Human Rights Law (IHRL). The aforementioned cases raise serious concerns regarding a possible pattern of targeting and indiscriminate killing of civilians, including healthcare workers, by Israeli forces, and concerns regarding the arbitrary arrests and detention, enforced disappearances, torture and ill-treatment against Palestinian individuals, including healthcare workers, deprived of their liberty by Israeli authorities.

I wish to remind Your Excellency’s Government of its obligations to promote, protect, and respect the human rights of all individuals, particularly the foundational right to life upon which all other human rights are dependent. As the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and a licensed medical doctor, I urge Your Excellency’s Government to further bear in mind the essential nature of the right to

health. Central to access to quality healthcare is access to doctors and other healthcare workers, and the ability of those individuals to exercise their profession in safety.

I would like to appeal to Your Excellency's Government to take all necessary measures to guarantee the right to life of the civilians within Gaza, the West Bank, and East Jerusalem in accordance with article 3 of the Universal Declaration of Human Rights, and article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991. Article 6(1) of the ICCPR, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life.

I 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 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. 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).

With regards to the allegations of arrests of healthcare workers and treatment during detention, if established, the above allegations would implicate the prohibition of torture and/or other cruel, inhuman or degrading treatment or punishment, set forth in article 5 of the Universal Declaration of Human Rights (UDHR); article 7, read alone and in conjunction with article 2(3), of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel in 1991; and at least, articles 1, 2, 15 and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), also ratified by Israel in 1991. The prohibition against torture is absolute. International law does not allow for any derogation from this prohibition, including during times of armed conflict or any other security situation or state of emergency (article 4(2) of the ICCPR; and article 2(2) of the CAT). States have a duty to prevent any acts of torture or other cruel, inhuman or degrading treatment or punishment (articles 2 and 16 of CAT).

The conditions of detention described above suggest conditions set out in the UN Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules"), adopted unanimously by the UN General Assembly (A/RES/70/175) are not being met. These rules establish States' responsibility to provide healthcare for prisoners (rules 24 to 35) and to evaluate, promote and protect the physical health of detainees, as well as prompt access to medical attention in urgent cases and to specialized treatment where needed (rule 27.1).

Further, the allegations related to detention above, if established, may also violate international humanitarian law, which prohibits torture and other cruel, inhuman or degrading treatment or punishment. With regards to the above allegations regarding treatment of Palestinians detained by Israeli authorities, as referred by my

colleague the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in communication ISR 10/2024, if established, there may be an emerging pattern of differentiated treatment, including humiliation of Palestinian detainees.

I wish to remind Your Excellency's Government that the Palestinian territory, including Gaza, is currently under occupation by Israel, to which international humanitarian law applies, as confirmed by the International Court of Justice in its 19 July 2024 Advisory Opinion (at paras. 104-110). In its Advisory Opinion, the Court found the continued presence of Israel in the Occupied Palestinian Territory violates the fundamental principles of international law and is illegal (paras. 261-281).

Israel is bound by the obligations of an occupying Power set out in the Fourth Geneva Convention and customary international law, including the Convention respecting the Laws and Customs of War on Land, throughout the occupied Palestinian territory. The applicability of international human rights law in a situation of armed conflict or occupation concurrently with international humanitarian law has been widely affirmed. A situation of armed conflict or occupation does not release a State from its human rights obligations.

Medical personnel are civilians and have special protections under international humanitarian law (IHL). They are not legitimate targets for attack, nor can they legitimately be detained for exercising their profession. An intentional attack on a healthcare facility or medical personnel may also constitute a war crime according to International Humanitarian Law (IHL). There are minimum standards of medical care during armed conflicts, and healthcare workers must be able to provide this medical care. Parties must not only not interfere with the functioning of health systems, but as occupying powers, must support the health system, and even organize health services if necessary (Fourth Geneva Convention, articles 55, 56).

According to IHL and IHRL, personnel engaging in medical tasks must always be respected and protected and the wounded and sick under their care remain protected. Article 56 of the fourth Geneva Convention explicitly states that *Medical personnel of all categories shall be allowed to carry out their duties*. In times of armed conflict, IHL provides rules to protect the access of healthcare services. The targeting of healthcare workers, hospitals, and healthcare facilities, including ambulances, contravenes the fundamental right of individuals to access essential healthcare services, a matter of acute significance during times of conflict. Additionally, under occupation, intentional assaults on healthcare facilities have the potential to expose individuals to cruel, inhuman, and degrading treatment and may constitute a war crime.

Common art. 3 of the Geneva Conventions, art. 75(2) (a) (i) of the Additional Protocol I, and art. 4(2) (a) of the Additional Protocol II of the Geneva Conventions prohibit wilful killing or murder of civilians, which occurs where a party to an armed conflict, in the context of and associated with the conflict, intentionally kills one or more persons; and such persons are civilians who are taking no direct part in hostilities; and the perpetrator is aware of the factual circumstances establishing this civilian status.

The intentional killing of civilians represents a war crime in both international armed conflict and non-international armed conflict. The allegations of indiscriminate

killings of doctors and healthcare workers may constitute a breach of Common article 3 to the four Geneva Conventions which provides that persons taking no active part in hostilities shall be treated humanely and should not be subject to violence to life and person, in particular murder of all kinds.

Further, parties to a conflict must distinguish between the civilian population and combatants and uphold the principle of proportionality. Indiscriminate attacks are prohibited under IHL and parties to conflicts must do everything feasible to verify that targets are military objectives and take all precautions to avoid and minimize incidental loss of life.

According to IHL allegations concerning an attack against civilians must be investigated, and where there is sufficient evidence, persons responsible for the commission of the offence or ordering of the offence must be prosecuted. States bear a duty to conduct thorough, prompt, and impartial investigations of all suspected cases of extra-legal or arbitrary killings and the obligation to bring to justice all persons identified by the investigation as having participated in those crimes. All victims of both humanitarian and human rights law, including cases of torture, are entitled to remedies and reparations, including fair and adequate compensation within a reasonable period of time, and accountability should lead to the adoption of measures to prevent future violations.

In its Advisory Opinion, the International Court of Justice concluded that “*a broad array of legislation adopted and measures taken by Israel in its capacity as an occupying Power treat Palestinians differently on grounds specified by international law.*” (para. 223). The Court was of the view that the current regime imposed by Israel on Palestinians in the Occupied Palestinian Territory constitutes systemic discrimination “*Accordingly, the Court is of the view that the régime of comprehensive restrictions imposed by Israel on Palestinians in the Occupied Palestinian Territory constitutes systemic discrimination based on, inter alia, race, religion or ethnic origin, in violation of articles 2, paragraph 1, and 26 of the International Covenant on Civil and Political Rights, article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, and article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination*” (para. 223). It found that an effect of these policies and practices breach Israel’s obligation to respect the right to self-determination of the Palestinian people. (para 243). A People’s inability to fully exercise their right to self-determination impacts the enjoyment of all their fundamental rights, including the right to the enjoyment of the highest standard of health.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 any additional information regarding the reasons for and conditions of detention of the above-mentioned individuals, including details surrounding the deaths of those who perished in detention.
3. Please provide any additional information regarding healthcare workers currently in detention by Israeli authorities.
4. Please indicate measures taken to reduce civilian casualties during Israel's military operations, including air operations in Gaza, in line with its obligations under international humanitarian law and human rights law.
5. In the above context please indicate the measures taken by the Israeli Forces to adhere to the principles of distinction, precaution and proportionality in their military operations in Gaza, including any special measures taken to provide special protection for medical personnel during the armed conflict.
6. Please inform of steps taken to increase access to essential healthcare services within Gaza and the West Bank during the hostilities, including access to doctors and other healthcare workers.
7. Please inform if the Government of Israel has undertaken or intends to undertake or would facilitate an independent, impartial, and transparent investigation into the above-referenced incidents.

While awaiting a prompt and detailed reply to this communication, I appeal to Your Excellency's Government to immediately cease any attacks aimed at civilians, including healthcare workers, and all those that would have a disproportionate impact on the rights to health and life. I implore all efforts to ensure the immediate respect and protection for the right to life and the right to health, including unhindered access to acceptable healthcare and restored continuity of essential health services.

Furthermore, I urge Your Excellency's Government to agree to a permanent ceasefire and immediately end hostilities. I respectfully recommend Your Excellency's Government to immediately take necessary measures to facilitate an independent, impartial, and transparent investigation into the above-mentioned incidents in order to deliver justice to the victims.

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

I 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.

Please be informed that a copy of this letter has been sent to the Permanent Observer Mission of the State of Palestine to the United Nations Office and other international organizations in Geneva.

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

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