

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

Ref.: UA ISR 2/2025
(Please use this reference in your reply)

22 January 2025

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolution 1993/2A.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received indicating that **Dr. Hussam Abu Safiya, a paediatrician and director of the Kamal-Adwan hospital in the north of Gaza, has been detained by the Israeli military forces since 27 December 2024, and deprived of access to his lawyer and family since his arrest.**

According to the information received:

On 27 December 2024, the Israeli military forces launched a major operation against the Kamal Adwan hospital in Mashrou' Beit Lahiya in the occupied Gaza strip. During this operation, Dr. Abu Safiya and other medical staff and patients were arbitrarily arrested and detained. Since his arrest, the whereabouts of Dr. Abu Safiya are unknown.

On 2 January 2025, a human rights organization submitted a request on behalf of Dr. Hussam Abu Safiya's family to obtain information and facilitate the visit of a lawyer. The Israeli military responded that they have no record of his detention or indication of his arrest.

On 9 January, the Israeli Magistrate's Court in Ashkelon extended his detention without charge, under the Unlawful Combatants Law, until 13 February; and they extended the ban on Dr. Hussam Abu Safiya meeting a lawyer until 22 January. They continue to refuse to disclose his whereabouts. Palestinians recently released from Sde Teiman detention centre told the media that they saw Dr. Hussam Abu Safiya in the detention centre.

Two hospital directors are among the 54 who were killed while in Israeli custody post October 2023. In addition, the attacks on hospitals, their premises, and on ambulances have continued until now. Active military operations in and around hospitals have created additional challenges. As a result, the healthcare system has been brought to its knees, with only 16 hospitals remaining partially functioning and 20 hospitals out of the functions as fuel has run out, electricity and water cut and rationed, and medicines, medical disposables, equipment and other supplies running out. Here, I would like to recall that hospitals are specifically protected under international humanitarian law, provided they are not used to commit acts harmful to the enemy, beyond their humanitarian function. So are medical personnel - who are civilians - and who serve a critical

function, particularly in wartime. They enjoy special protections under international law, provided they do not commit acts harmful to the enemy.

Dr. Abu Safiye's abduction and arbitrary arrest and detention is part of a broader assault against civilians in Gaza of the past 15 months that has spared nothing and no one. Israeli occupation forces have killed more than 1,057 Palestinian health and medical professionals and arbitrarily arrested and abused many.

While I do not wish to prejudge the accuracy of these allegations, 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. These reports raise serious concerns regarding his right to due process and physical well-being. It is important to underscore the need to ensure that conditions of detention are compatible with the Nelson Mandela Rules, the Bangkok Rules, and that detainees receive adequate medical attention and legal counselling when needed.

In my legal analysis, this is part of a pattern to continuously bombard, destroy and fully annihilate the realisation of the right to health in Gaza, which is in turn a pattern of creating conditions of life calculated to bring about. This constitutes a genocide, for which your Excellency's government and State institutions are responsible. Consolidated jurisprudence support liability for genocidal acts and entails both deliberate actions or omissions, including the failure to protect the group from harm.

In this context I wish to recall the International Court of Justice order of 26 January 2024, in which the Court indicated that the State of Israel must:

- in accordance with its obligations under the Genocide Convention, in relation to Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of article II of the Convention;
- ensure with immediate effect its military forces do not commit any act described as the commission of genocide;
- take all the measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip;
- take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip;
- take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of articles II and III of the Convention against members of the Palestinian group in the Gaza Strip;

- submit a report to the Court on all measures taken to give effect to its order.

Last but not least, while I appreciate your Excellency's government security concern and intend not to downplay the threat that may emanate from Palestinian armed groups who try to bring an end to Israel's unlawful presence in the occupied Palestinian territory, I urge you to consider other measures to secure Israel's security.

Resolution 45/130 adopted by the Third Committee on 14 December 1990, on the Importance of the universal realization of the rights of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights, in particular its operational paragraph 3, which "[r]eaffirms [...] the inalienable right of the Palestinian people and all peoples under foreign occupation and colonial domination to self-determination, national independence, territorial integrity, national unity and sovereignty without foreign interference"; and operational paragraph 6 which "[s]trongly condemns [...] the constant and deliberate violations of the fundamental rights of the Palestinian people, as well as the expansionist activities of Israel in the Middle East, which constitutes and obstacle to the achievement of self-determination and independence by the Palestinian people and a threat to peace and stability in the region".

It is critical to recall the International Court of Justice's advisory opinion of 19 July 2024 on the "Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem". The International Court of Justice declared Israel's presence in the Occupied Palestinian Territory unlawful and mandated Israel to terminate its occupation, dismantle all settlements, and the associated settlement regime, provide reparations to Palestinian victims, and facilitate the return of Palestinian people displaced in 1967.

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 as soon as possible on the steps taken by your Excellency's Government to safeguard the rights of Dr. Abu Safiya, including his right to access his lawyer and contact his family in compliance with international law.

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 information on the situation of Dr. Abu Safiya, including his health condition and steps taken to ensure his well-being and due process rights are protected.

3. 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 incident at Kamal Adwan hospital.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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

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