

Mandates of the Special Rapporteur on the independence of judges and lawyers; the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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(Please use this reference in your reply)

6 March 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers; Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 53/12, 51/8 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the reportedly **arbitrary detention of Ayman Sandoka**. In connection with social media posts, Ayman Sandokah was held without bail for months, was tried in a military court, and was transferred to a distant prison under harsh conditions.

Ayman Sandoka is a political activist and mathematics professor.

According to the information received:

General Context

Since October 2023, Jordanian authorities have intensified their repression of pro-Palestinian activists using allegedly vague and overly broad criminal provisions such as “disturbing the public order”, committing an act that “undermines the political regime or incites opposition to it”, or “disturbing relations with a foreign state”. These charges are codified in the Crime Prevention Law, the 1960 Penal Code, the Cybercrime Law, and the Counterterrorism Law of 2006.

Allegedly, authorities have frequently employed these provisions to arrest and charge activists for speech-related offences. In 2023, approximately 43 individuals were reportedly investigated or prosecuted for online expression under these laws. Additionally, at least 1,000 protesters and bystanders were allegedly arrested during pro-Gaza demonstrations in Amman between October and November 2023. By February 2024, reports indicated that more than 2,000 people had been arrested in connection with the pro-Palestinian protests.

Reports also indicate that Jordanian authorities have been using the State Security Court (SSC), a special military court, as a tool to crack down on freedom of expression, association and peaceful assembly. The State Security Court's legal framework allows for the detention of defendants for extended periods, allegedly up to five years, without a conviction.

Arrest and Prosecution of Ayman Sandokah

On 18 December 2023, Ayman Sandokah, a political activist, was allegedly summoned before the Prosecutor of the Amman Magistrate Court for Facebook posts expressing pro-Palestinian sentiments, including a call for a general strike in support of Gaza. Following his hearing, he was allegedly detained and transferred to Marka Prison in Amman.

On 21 December 2023, Mr. Sandokah was reportedly summoned again, this time to appear before the Prosecutor of the State Security Court, a military tribunal, in connection with a letter criticizing Jordan's diplomatic relations with Israel that he posted on Facebook in October.

On 23 January 2024, Mr. Sandokah was allegedly transferred from Marka Prison in Amman to Al-Tafilah Prison, approximately 300 km from his hometown. According to the information received, the transfer was conducted without justification and involved verbal humiliation and tight restraints by security forces, while the distance has made visits by his family and lawyer difficult. As of the latest reports, Mr. Sandokah remains in detention at Al-Tafilah Prison.

On 24 January 2024, a criminal court sentenced Mr. Sandokah to three months in prison on charges of "defaming an official body", under the new Cybercrime Law, for his Palestinian advocacy in various Facebook posts. According to the source, the judgment relied on an expansive interpretation of punitive provisions in the Cybercrime Law, which has been criticized for its vague and broad language.

On 12 February 2024, the State Security Court prosecutor added an additional charge against him for "incitement to oppose the political regime", under article 149 of the Penal Code.

According to the source, Mr. Sandokah has remained in detention since 18 December 2023, the framework of the military court system allowing his pre-judgment detention without a conviction. All requests for his release on bail would have been denied.

Additionally, Mr. Sandokah is allegedly unable to meet privately with his lawyer while in detention. Reports state that communication between Mr. Sandokah and his legal counsel has been limited to interactions through a glass partition in the prison's visiting booth and using a telephone receiver.

While we do not wish to prejudge the accuracy of these allegations, we would like to express our serious concern regarding the arrest and the pre-trial detention of Mr. Ayman Sandokah and his prosecution, which seem to be directly linked to his political activism and the exercise of his rights to freedom of expression. We also express concern regarding the alleged breaches of due process and fair trial standards, including the restrictions to Mr. Sandokah's right to a defense. We express particular concern in relation to the reported use of military courts to prosecute civilians.

As it relates to the right to a fair trial as guaranteed by article 14 of the ICCPR, we would like to underline the Human Rights Committee's concern that "the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned." The Committee further added, "Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional, i.e. 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, paragraph 22).

In her 2013 report to the UN General Assembly on the administration of justice through military tribunals, Former Special Rapporteur on the Independence of judges and lawyers, stated "the jurisdiction of military tribunals should be restricted to offences of a strictly military nature committed by military personnel." Additionally, she highlighted the obligation "incumbent on the State party resorting to military tribunals to try civilians to demonstrate, with regard to a specific class of individuals, the following: (a) that the regular civilian courts are unable to undertake the trials; (b) that other, alternative, forms of special or high-security civilian courts are inadequate for the task; and (c) that recourse to military tribunals ensures that the rights of the accused are fully protected pursuant to article 14 of the Covenant." (A/68/285, paragraph 51).

We are concerned that the prosecution of Mr. Sandokah before a military court fails to meet these criteria. Unless the State can demonstrate compelling and specific justifications, such as the regular civilian courts being demonstrably inadequate or unavailable for this trial, trying Mr. Sandokah before a military court for speech-related charges may violate the applicable international standards.

Finally, we share our deep concerns regarding Mr. Ayman Sandokah's reported lack of access to his lawyer and would like to recall that international standards on the right to a fair trial also provide that accused persons must have adequate time and facilities for the preparation of their defence and must be able to communicate with counsel of their choice. Such restrictions not only impede Mr. Sandokah's ability to mount an effective defense but also call into question the fairness and legitimacy of the proceedings against him.

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 clarify the legal basis for trying Mr. Ayman Sandokah before a military court, and whether such jurisdiction is necessary and justified

by objective and serious reasons in accordance with international human rights standards.

3. Please indicate the measures adopted by the State to ensure that the proceedings are in full conformity with international human rights law and standards and with the requirements for ensuring fair trial and due process guarantees, in particular those set out in articles 9 and 14 of the International Covenant on Civil and Political Rights.
4. Please indicate the measures taken to ensure that Mr. Ayman Sandokah has adequate access to legal counsel, including the ability to communicate privately and confidentially with his lawyer, in accordance with international standards on the right to a fair trial. Additionally, please specify the steps undertaken to guarantee that he has sufficient time and facilities to prepare his defence, as required under article 14 of the ICCPR.
5. Please provide information on the conditions of Mr. Ayman Sandokah's detention, including measures to ensure that they comply with international standards prohibiting cruel, inhuman, or degrading treatment.
6. Please indicate how the charges against Mr. Ayman Sandokah align with Jordan's obligations to uphold the right to freedom of expression under article 19 of the ICCPR, including whether the restrictions meet the tests of legality, necessity, and proportionality.

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

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Further, we would 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 the case 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.

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

Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 9, 14, 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Jordan on 28 May 1975, which guarantee the rights to liberty and security of the person, the right to a fair trial, as well as to freedom of expression and opinion, association and peaceful assembly respectively.

The right to a fair trial is protected in article 10 of the Universal Declaration on Human Rights, which guarantees everyone the "right to a fair and public hearing by an independent and impartial tribunal", while article 14 of the ICCPR stipulates that: "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law". Furthermore, in its general comment 32 (2007) on article 14, the Human Rights Committee emphasized that the right to equality before courts and tribunals and to a fair trial is an element key to the protection of human rights and serves as a procedural means to safeguard the rule of law. (CCPR/C/GC/32, paragraph 12). Article 14 provides in particular for the principle of equality before competent, independent and impartial courts and tribunals, the presumption of innocence, the granting of time and the facilities necessary for the preparation of the defence and the right of the accused to communicate with the counsel of their choice. Fair trial guarantees can never be subject to derogatory measures that would circumvent the protection of non-derogable rights (CCPR/C/GC/32, paragraph 6).

Access to counsel is an integral part of a fair trial. The Human Rights Committee has stated that "the availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way". The Committee has further indicated that "lawyers should be able to advise and to represent persons charged with a criminal offence in accordance with generally recognized professional ethics without restrictions, influence, pressure or undue interference from any quarter." (CCPR/C/GC/32, paragraphs 10 and 34).

As it relates to the trial of civilians by military courts, the Human Rights Committee also stated: "The provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military. [...] While the Covenant does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional, i.e. 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, paragraphs 22).

Principle 5 of the Basic Principles on the Independence of the Judiciary also states “Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.”

In her report on the administration of justice through military tribunals to the Sixty-eighth session of the UN General Assembly, Special Rapporteur on the Independence of judges and lawyers Gabriela Knaul recalled that “the Committee clarified that trials of civilians by military or special courts should be exceptional, in other words they should be limited to cases where the State party to the Covenant 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. It is therefore incumbent on the State party resorting to military tribunals to try civilians to demonstrate, with regard to a specific class of individuals, the following: (a) that the regular civilian courts are unable to undertake the trials; (b) that other, alternative, forms of special or high-security civilian courts are inadequate for the task; and (c) that recourse to military tribunals ensures that the rights of the accused are fully protected pursuant to article 14 of the Covenant. In its concluding observations on reports submitted by States parties under article 40 of the Covenant, the Committee has gone further still by calling on Governments in several countries to prohibit the trial of civilians before military tribunals.” (A/68/285, paragraphs 48 and 51).

The report also added “The Special Rapporteur would like to highlight that the trial of civilians by military or special courts has raised serious issues in relation to the independent administration of justice through military tribunals and respect for the guarantees stipulated in article 14 of the Covenant. She therefore believes that the jurisdiction of military tribunals should be restricted to offences of a strictly military nature committed by military personnel.”, and “The trial of civilians in military courts should be limited strictly to exceptional cases concerning civilians assimilated to military personnel by virtue of their function and/or geographical presence who have allegedly perpetrated an offence outside the territory of the State and where regular courts, whether local or those of the State of origin, are unable to undertake the trial.” (A/68/285, paragraphs 54 and 100).

We would also like to bring to the attention of Your Excellency’s government articles 19, 20 and 21 of the UDHR, which guarantee the rights to freedom of opinion and expression; freedom of thought, conscience and religion; and freedom of peaceful assembly and association. These rights are further expressed in all global and regional human rights treaties on civil and political rights, confirmed in declarations and resolutions, and are considered reflective of customary international law.

The ICCPR also guarantees these rights in articles 18, 19 and 21. The conditions for permissible restrictions of these rights are reflected in the UDHR, the ICCPR, and in numerous regional and global human rights treaties, which require that any such restrictions must meet the tests of legality, necessity, and proportionality. First, any restriction of the rights to freedom of opinion and expression; freedom of thought, conscience and religion; and freedom of peaceful assembly and association must pursue a legitimate objective. Article 29 of the UDHR, for example, limits those objectives

strictly, explaining that restrictions must be “solely for the purpose of” the specified objectives of “respect for the rights and freedoms of others and to meet just requirements of morality, public order and general welfare in a democratic society”. Secondly, as expressed in article 29 of the UDHR, as well as in global and regional human rights treaties, any restriction must be “determined by law”. The Human Rights Committee has explained that laws must be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public.” Third, restrictions must be necessary and proportionate. Article 30 of the UDHR, for example, prohibits the use of overbroad restrictions which would destroy the essence of the right itself. This has been interpreted as an expression of the principle of proportionality. That requirement further entails that the measure must be the least intrusive measure necessary amongst those options that might achieve their protective function in order to protect a specified legitimate objective. Lastly, States have the burden of proof to demonstrate that any restriction is compatible with the requirements under customary international law.