

23rd May 2017

H.E. Mr António Guterres
Secretary-General of the United Nations
Executive Office of the Secretary-General
S-3800, United National Secretariat Bldg
New York, NY 10017

Re: Open Letter to U.N. Secretary-General António Guterres to urge Israel to Comply with the U.N. Standard Minimum Rules for the Treatment of Prisoners and International Law on Detention

Your Excellency,

Approximately 1,500 Palestinians held in Israeli prisons have entered the 37th day of their Freedom and Dignity hunger strike. The demands of those on hunger strike include calls for Israel to end the use of administrative detention; permit more family visits; ensure adequate medical services (including specific services required by women); end the use of solitary confinement; install public phones to improve telecommunications with families; and, improve access to education and other services. The prisoners' strike arises in the context of Israel's 50 year occupation of Palestinian territory, and its transfer of thousands of Palestinians from the Occupied Palestinian Territory into prisons within Israel, in violation of international humanitarian law.¹

We urge you to publicly call for the State of Israel to ensure that its arrest and detention policies are in full compliance with its obligations under international human rights and humanitarian law, including the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment as well as relevant international standards, including the U.N. Standard Minimum Rules for the Treatment of Prisons.²

On the one month anniversary of the start of the Freedom and Dignity hunger strike, May 16th, the U.N. Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, called on Israel to comply with international law and international standards for detention.³ In his public statement he commented that he is

¹ See, e.g., United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, 19 May 2017 '*No end in sight, says UN human rights expert after five decades of Israeli occupation of the Palestinian territory*'. Available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21639&LangID=E>.

² International Covenant on Civil and Political Rights and the Convention Against Torture and Other, Cruel Inhuman or Degrading Treatment. Available at:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>. See also: United Nations Standard Minimum Rules for the Treatment of Prisons (1957). Available at:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx>

³ United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, 16 May 2017 '*UN Special Rapporteur on OPT calls on Israel to comply with international law on detention*' ('UN Special Rapporteur on OPT statement on Detention'). Available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21624&LangID=E>

“particularly concerned with Israel’s use of administrative detention, which involves imprisonment without charge, trial, conviction or meaningful due process, as well as the possibility of unrestricted renewal of their detention” and noting that “administrative detainees are imprisoned on secret evidence that neither they nor their lawyers can review or challenge.”⁴ Mr. Lynk reported that this application of administrative detention “is not in compliance with the extremely limited circumstances in which it is allowed under international humanitarian law, and deprives detainees of basic legal safeguards guaranteed by international human rights law.”⁵ Mr. Lynk also expressed concern that prisoners are being held in solitary confinement;⁶ the U.N. Special Rapporteur on Torture has found that detention for prolonged periods in solitary confinement can constitute cruel, inhuman or degrading treatment, or torture.⁷

While it is uncommon for the International Committee of the Red Cross (ICRC) to do so, on May 3rd the ICRC released a public statement in relation to the hunger strike.⁸ The ICRC called on Israel to “shoulder their full responsibilities under International Humanitarian Law,” with particular reference to ensuring family contact for Palestinians held in Israel.⁹ The ICRC statement points out that “Palestinians are detained in Israel, rather than within the occupied territory as required by the law of occupation. As a consequence, family members have less access to their detained relatives. They need special permits and have to undertake long trips to see their loved ones, with checks and waiting times when crossing terminals or at the prison.”¹⁰ These are issues Mr. Lynk also identified in his statement as “significant barriers” created for Palestinian families trying to access their relatives.¹¹

In light of the recent events within the Israeli prisons, the ICRC statement expressed concern with Israel’s “systematic suspension” of family visits for those on hunger strike and affirmed that under the Fourth Geneva Convention of 1949, “Palestinians are entitled to these visits, which can only be limited for security reasons, on a case by case basis, but never for strictly punitive or disciplinary purposes.” Mr. de Maio, head of the ICRC delegation in Israel and the occupied territories, stated that “families are paying the price for this situation.”¹²

Improved health services are central to the demands of those on hunger strike. Rather than taking steps to improve health services for those on hunger strike, credible Israeli media sources have reported recently that Israeli authorities are considering hiring non-Israeli doctors to force-feed those on hunger strike, since the Israeli Medical Association (IMA) has called on Israeli physicians not attempt to force-feed anyone participating in the hunger strike.¹³

⁴ UN Special Rapporteur on OPT statement on Detention.

⁵ UN Special Rapporteur on OPT statement on Detention’.

⁶ UN Special Rapporteur on OPT statement on Detention’.

⁷ Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, U.N. Doc. A/66/268 (5 Aug. 2011) (by Juan Méndez) at para. 58.

⁸ International Committee of the Red Cross, 3 May 2017 ‘*News release: Detainees’ contacts with families are Israel’s obligation under IHL*’ (‘ICRC News release’). Available at: <https://www.icrc.org/en/document/detainees-contacts-families-are-israels-obligation-under-ihl>

⁹ ICRC News release.

¹⁰ ICRC News release.

¹¹ UN Special Rapporteur on OPT statement on Detention’.

¹² ICRC News release.

¹³ See: The Times of Israel, May 4, 2017 ‘*Israel said considering bringing foreign doctors to force feed hunger strikers*’. Available at: <http://www.timesofisrael.com/israel-said-considering-bringing-foreign-doctors-to-force-feed-strikers/>

The position of the IMA is in line with long-standing international medical standards related to the force-feeding of prisoners. Relevant authoritative guidelines are contained in the 1975 World Medical Association Declaration of Tokyo, which state that “where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially.”¹⁴ As noted by a specialist on the medical aspects of detention with the International Committee of the Red Cross has stated, “doctors should never be party to actual coercive feeding...Such actions can be considered a form of torture and under no circumstances should doctors participate in them on the pretext of saving the hunger striker's life.”¹⁵ This approach also aligns with U.N. Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁶ In 2006, a group of U.N. Special Procedure mandate-holders examined practices of force-feeding and other conduct by U.S. authorities against detainees held in Guantanamo Bay, and found that these aforementioned “internationally agreed ethical norms are implied in, and form an essential part of, the right to health. Compliance by health professionals with such ethical standards is essential to realizing the right to health.”¹⁷

The international laws and standards concerning the treatment of people detained in any prison or detention facility are the same as what is required of the treatment of Palestinians held by the State of Israel – there is no exception or derogation permitted on the grounds of nationality or political affiliation – and it is the inherent right of any person detained in poor or unlawful conditions to engage in a non-violent hunger strike in an effort to ensure those in authority respect, protect and fulfill their human rights while in custody.

While these legitimate non-violent actions focus specifically on the appalling treatment of Palestinians within the Israeli prison system, it is also incumbent upon the United Nations and the international community as a whole to address the collective and widespread denial of the human rights of all Palestinians living under a 50 year occupation. As Addameer Prison Support and Human Rights Association brought to the world’s attention through their public statements on April 17th when the hunger strike began, “*the issue of Palestinian prisoners and detainees*

[hunger-strikers/](#); Haaretz, May 5, 2017 ‘Doctors refusing to force treatment on Palestinian hunger strikers must find their own replacement’. Available at: <http://www.haaretz.com/israel-news/.premium-1.787483>

¹⁴ World Medical Association (1975) *Declaration of Tokyo: Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*. Available at: https://ama.com.au/sites/default/files/documents/WMA_Declaration_of_Tokyo.pdf

¹⁵ Reyes, H. (1998) International Committee of the Red Cross, ‘*Maltreatment and Torture*’, *Research in Legal Medicine* (Vol. 19). Available at: <https://www.icrc.org/eng/resources/documents/article/other/health-article-010198.htm>

¹⁶ U.N. General Assembly (1982) *Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/MedicalEthics.aspx>

¹⁷ U.N. Econ. & Soc. Council [ECOSOC], Comm’n on Human Rights, Situation of Detainees at Guantanamo Bay, P 82, U.N. Doc. E/CN.4/2006/120, p. 82. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G06/112/76/PDF/G0611276.pdf?OpenElement>

*held in Israeli prisons and detention centers transcends one of individual human rights; it is also one of collective rights of an entire people – the Palestinian people, who continue to be deprived of the right to self-determination and sovereignty – basic fundamentals of international law.*¹⁸

We strongly urge you, as the U.N. Secretary General, to publicly seek a timely assurance from the State of Israel that it will a) adhere to all relevant international law and standards concerning the treatment of Palestinians held in Israeli prisons, including the prohibition of transferring prisoners from occupied territory and in particular, b) adhere to the reasonable demands of those on hunger strike which align with these international laws and standards, and c) refrain from any attempt to force feed any Palestinian involved in the hunger strikes.

Sincerely,

Center for Constitutional Rights
International Association of Democratic Lawyers
International Federation for Human Rights
National Lawyers' Guild
Palestine Legal

¹⁸ Addameer, 17 April 2017 'Take Action: Palestinian political prisoners launch mass hunger strike'. Available at: <http://www.addameer.org/news/take-action-palestinian-political-prisoners-launch-mass-hunger-strike>. Addameer (the Arabic word for 'conscience') is a Palestinian civil society organization supporting Palestinian prisoners held in Israeli and Palestinian prisons with free legal aid, legal representation and advocacy since 1992.