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## Human Rights Council

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Agenda items 2 and 7

### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

### Human rights situation in Palestine and other occupied Arab territories

## **Joint written statement\* submitted by Al-Haq, Law in the Service of Man, Al Mezan Centre for Human Rights, Cairo Institute for Human Rights Studies, Palestinian Centre for Human Rights, non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[01 February 2021]

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\* Issued as received, in the language(s) of submission only.



## **Israel's Medical Negligence Targeting Palestinian Prisoners and Detainees During COVID-19**

Since the start of the COVID-19 pandemic outbreak in the Occupied Palestinian Territory (OPT) in March 2020, Israel, the occupying power, has consistently failed to abide by its legal obligations to ensure the protection of Palestinian prisoners and detainees in Israeli prisons. The conditions inside Israeli prisons and detention centres have significantly deteriorated and Palestinian prisoners continue to be subjected to harsh detention conditions that do not align with the bare minimum of adequate living standards. Overcrowding, insufficient ventilation, and a lack of hygiene products for prisoners make it difficult, if not impossible, to contain spread of the coronavirus inside Israeli prisons, leaving Palestinian prisoners and detainees unprotected and exposed to the rapid spread of COVID-19. As of 27 January 2021, about 335 Palestinian prisoners and detainees in Israeli prisons have tested positive for COVID-19 since March 2020, 98 of whom remain infected.

### **Israel's Systematic Medical Negligence Policy**

Concerns regarding the deteriorating health situation of Palestinians in Israeli prisons and detention centres have been raised by Palestinian human rights organisations already before the start of the global pandemic.<sup>1</sup> Palestinian prisoners and detainees have systematically suffered from routine medical negligence policies and practices at the hands of the Israeli Prison Service (IPS). Violating Palestinian prisoners' rights to health and dignity, the IPS's deliberate medical negligence policy has become an integral part of Israel's oppression of Palestinian prisoners and detainees. In 2020 alone, four Palestinian prisoners died in Israeli prisons and detention centres.<sup>2</sup>

In addition to medical negligence, IPS further withholds the bodies of deceased Palestinian prisoners, refusing to return the bodies to their families for a dignified burial, in what constitutes unlawful collective punishment.<sup>3</sup> Currently, eight Palestinian prisoners' bodies continue to be withheld by Israel.

Despite the fact that serious illness amongst Palestinian prisoners in Israeli prisons is common, proper medical care is rarely provided by IPS, while available care entails long delays placing prisoners in need of urgent attention in further jeopardy, in violation of the right of Palestinian prisoners and detainees to health care guaranteed under international law.<sup>4</sup> Article 76 of the Fourth Geneva Convention, for example, affirms that prisoners and detainees "shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health," further emphasising that they "shall receive the medical attention required by their state of health." Nevertheless, specialised doctors and services are not regularly available for Palestinian detainees, and over-the-counter painkillers are administered as a remedy for almost all health problems.<sup>5</sup>

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<sup>1</sup> See Al-Haq, *Law in the Service of Man* (Al-Haq), "PHROC Condemns the Death of Palestinian Sick Prisoner Sami Abu Diyak," 26 November 2019, at: <https://www.alhaq.org/advocacy/16225.html>.

<sup>2</sup> Information provided by Addameer.

<sup>3</sup> Article 33, Fourth Geneva Convention. See also Al-Haq, "Human Rights Groups Submit to UN experts on the Israeli policy of withholding the mortal remains of indigenous Palestinians," 27 June 2020, at: <https://www.alhaq.org/advocacy/17033.html>, and United Nations (UN) Committee against Torture, *Concluding observations on the fifth periodic report of Israel* (3 June 2016), UN Document CAT/C/ISR/CO/5, paras. 42-43.

<sup>4</sup> Article 12(1), International Covenant on Economic, Social and Cultural Rights.

<sup>5</sup> Al-Haq, "Ongoing Violations of the Rights of Palestinian Prisoners," 17 April 2007, at: <https://www.alhaq.org/advocacy/7311.html>.

## Palestinian Prisoners and Detainees Amidst COVID-19 Pandemic

Despite calls by numerous civil society organisations<sup>6</sup> and United Nations experts<sup>7</sup> for the release of Palestinian prisoners and detainees in response to the COVID-19 pandemic, particularly those arbitrarily detained, including human rights defenders, Israel has taken no steps to adequately mitigate and prevent a COVID-19 outbreak in prisons nor to release vulnerable elderly or sick Palestinian prisoners, even while releasing some 400 ‘non-violent’ Israeli common law prisoners who were serving lighter sentences and nearing the end of their time in prison, selected on the basis of health condition and age.<sup>8</sup> Rather, Israel has taken further arbitrary measures, including the halting all family and lawyers’ visits for Palestinian prisoners for almost three months, postponing all trial proceedings in the military courts, preventing Palestinians who are undergoing pre-trial detention or interrogation from being brought to court for their detention extensions, and the use of solitary confinement, an internationally recognised form of torture, justifying these arbitrary measures as COVID-19 precautions, while refusing social distancing measures for Palestinians in Israeli prisons.<sup>9</sup>

With about 700 sick Palestinian prisoners and detainees in Israeli prisons and detention centres, 300 of whom have chronic illnesses, and at least 11 of whom are cancer patients, Israeli prison guards and IPS staff have continued to conduct daily searches and daily counts of prisoners, carried out five times a day, without taking proper precautions.

In December 2020, Israel commenced the roll-out of COVID-19 vaccines in a discriminatory, unlawful, and racist manner by completely disregarding its obligations, as occupying power, for the health and well-being of protected Palestinians. Throughout the OPT, excluding East Jerusalem, Israel has reserved access to the vaccine to the unlawfully transferred in settler population of Israelis in illegal settlements, and denied the vaccine to the Palestinian population.<sup>10</sup>

Following statements from the Israeli Public Security Minister Amir Ohana that Palestinian prisoners would be the last to get inoculated in the campaign to vaccinate all jailed persons,<sup>11</sup> five human rights organisations submitted a petition to the Israeli High Court against the aforementioned decision, and demanded that IPS prevent prioritising the vaccination of prison staff over prisoners and vaccinate the entire prisoner population according to the vaccination priority set by the Israeli Ministry of Health, with an emphasis on prisoners aged 60 and over, and those in high-risk groups.<sup>12</sup> On 18 January 2021, following the petition, IPS submitted an action plan to vaccinate all prisoners in Israeli prisons, including Palestinian prisoners, over the course of a week.

<sup>6</sup> See Al-Haq, “Addameer, Al-Haq, and CIHRS Send Follow-Up Urgent Appeal to UN Special Procedures on the Situation of Palestinian Prisoners and Detainees in Israeli Detention Centres, Highlighting Israel’s Failure to uphold its Legal Obligations,” 17 August 2020, at: <https://www.alhaq.org/advocacy/17228.html>.

<sup>7</sup> See Office of the UN High Commissioner for Human Rights (OHCHR), “Urgent action needed to prevent COVID-19 ‘rampaging through places of detention’ – Bachelet,” 25 March 2020, at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E>, and OHCHR, “COVID-19: Israel must release Palestinian prisoners in vulnerable situation, say UN experts,” 24 April 2020, at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25822&LangID=E>.

<sup>8</sup> The Jerusalem Post, “Israel releases 230 prisoners early to reduce crowding amid COVID-19 fears,” 29 March 2020, at: <https://www.jpost.com/breaking-news/israel-releases-230-prisoners-early-to-reduce-crowding-amid-covid-19-fears-622844>.

<sup>9</sup> Adalah, “Israeli Supreme Court rules: Palestinian prisoners have no right to social distancing protection against COVID-19,” 23 July 2020, at: <https://www.adalah.org/en/content/view/10063>.

<sup>10</sup> Al-Haq, “Racism and Institutionalised Discrimination in the Roll-Out of the COVID-19 Vaccine,” 18 January 2021, at: <https://www.alhaq.org/advocacy/17767.html>.

<sup>11</sup> Al Jazeera, “Israel to start vaccinating prisoners, including Palestinians,” 17 January 2021, available at: <https://www.aljazeera.com/news/2021/1/17/israel-says-it-will-start-vaccinating-palestinian-prisoners>.

<sup>12</sup> Adalah, “5 human rights groups petition against Israeli Public Security Minister Ohana’s refusal to vaccinate prisoners,” 11 January 2021, available at: <https://www.adalah.org/en/content/view/10214>.

According to Physicians for Human Rights, and up until 26 January 2021, 9,089 prisoners out of 12,360 prisoners, which constitutes 74 per cent of eligible prisoners,<sup>13</sup> have received the first dose of the COVID-19 vaccine. Since the start of the vaccine roll-out in Israeli prisons and detention centres, one Palestinian prisoner has passed away. The 45-year-old prisoner Maher Sa'sa' died on 20 January 2021 in Rimonim prison, one day after receiving his first dose of the COVID-19 vaccine. While there are no clear details yet about the cause of death, Maher suffered from hypertension and heart and lung problems and required monitoring after receiving the first dose.

## **Conclusion and Recommendations**

Amidst a global pandemic, our organisations are alarmed at the possible aftermath of Israel's policy of medical negligence in Israeli prisons. Many Palestinian prisoners and detainees fall victim to the IPS's policy of deliberately stalling the provision of specialised medical care. Accordingly, we call on Member States of the Human Rights Council to:

1. Fulfil their obligations, as High Contracting Parties, to ensure respect for the Fourth Geneva Convention in the OPT, particularly with regard to Israel's treatment of Palestinian prisoners and detainees during COVID-19;
2. Address Israel's human rights violations against Palestinians during COVID-19, including the human rights situation of Palestinian prisoners and detainees, with a view to establishing a commission of inquiry to investigate the legal implications of Israel's administration of justice for Palestinians, including their treatment while incarcerated amidst COVID-19, and Israel's long-standing policy of medical negligence;
3. Call on Israel, the Occupying Power, to release all Palestinian political prisoners and detainees from Israeli prisons and to ensure their safety from COVID-19, particularly those who are more vulnerable and more susceptible to the disease, including children, female prisoners, older persons, prisoners with underlying health conditions, and those suffering injuries; and
4. Call on Israel to ensure adequate and independent access to healthcare, hygiene facilities, and sanitary products for all prisoners and detainees, including by ensuring the provision of lifesaving COVID-19 vaccines to Palestinian prisoners and detainees incarcerated in Israeli prisons and detention centres under the supervision of international and Palestinian health committees.

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Addameer Prisoner Support and Human Rights Association, Aldameer Association for Human Rights, Community Action Center, the Civic Coalition for Palestinian Rights in Jerusalem, and the Palestinian NGOs Network (PNGO), NGO(s) without consultative status, also share the views expressed in this statement.

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<sup>13</sup> All prisoners are eligible for the vaccine, excluding those who are yet to be convicted, those under the age of 16, and those who will be released within 20 days.