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Foreign Secretary
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For the attention of: Right Hon William Hague MP

28 May 2014

Dear Mr. Hague,

Re: Arrest and detention of Palestinian human rights defender, Mr Murad Shtaiwi

As lawyers committed to the protection and promotion of Palestinian human rights, LPHR is deeply concerned by reports that the primary co-ordinator of the popular committee of Kufr Qaddum, Mr Murad Shtaiwi, is spending his fourth week in pre-trial Israeli military detention as part of a sweep of arrests by Israeli military authorities in the Palestinian village of Kufr Qaddum in the occupied West Bank.

LPHR and Addameer Prisoner Support and Human Rights Association (a partner human rights organisation based in Ramallah), recognises Mr Murad Shtaiwi as a prominent Palestinian human rights defender who is accordingly entitled to the human rights protections outlined in the European Union Guidelines for Human Rights Defenders (EU Guidelines), in addition to legal protections afforded to all individuals under international human rights law. We therefore request the British Government and the British Consulate in Jerusalem undertake an urgent examination and intervention into this serious matter.

Background information on the popular committee of Kufr Qaddum and its primary co-ordinator, Mr Murad Shtaiwi

The popular committee of Kufr Qaddum organises peaceful protests in the Palestinian village of Kufr Qaddum, in the occupied West Bank, to demand the reopening of the main road connecting the village to the city of Nablus, and to express their opposition to the Israeli military occupation and the expansion of illegal Israeli settlements. The majority of the village's lands have been expropriated by the Israeli military authorities for the purposes of building and servicing of the nearby illegal Israeli settlement of Qedumim. The Israeli military authorities closed off the village's main road to prevent Palestinians from travelling on roads designated for use only by Israeli settlers. The only alternative road is roughly six times longer than the previous route, disrupting the villagers' ability to attend university, their jobs, and other vital aspects of their economic and social wellbeing.



The Kufr Qaddum community began to organise their weekly protests in July 2011. Protests are well attended, drawing crowds of hundreds of local villagers and solidarity activists each week. The nature of the Israeli military authorities raids in the village appear to be focused on these protests: LPHR received unverified information in response to a questionnaire from Mr Murad Shtaiwi, in March 2014, stating that, “the arrests since July 2011 until now are because of the protests. This includes over 120 arrests, including 10 children under the age of 18.”

Mr Murad Shtaiwi has been arrested twice before during demonstrations and released without charge. His first arrest took place on 16 March 2013, after an Israeli security forces dog attacked his nephew Ahmad Shtaiwi during a demonstration. A video shows him asking soldiers to help his nephew and order the dog to stop attacking him. Israeli military authorities sprayed him in the face with pepper spray and arrested him. He was released after paying bail of around US\$1,500, and was not charged. He was assaulted and arrested again on 20 December 2013 during the demonstration in the village, and released four days later after paying bail of around US\$1,500; he was not questioned during this detention and was not charged. Mr Murad Shtaiwi has been injured a number of times by Israeli military authorities using excessive force. On one occasion, on 6 September 2013, a tear gas canister hit him directly in the leg during a demonstration, and he was treated in hospital for a broken leg.

Therefore, prior to the current incident described below, LPHR had basic information to raise concerns about the apparently targeted and systematic nature of harassment and arrests by Israeli military authorities against peaceful protesters in the Palestinian village Kufr Qaddum, and specifically against Mr Murad Shtaiwi, which would amount to a serious violation of the fundamental principle of the right to demonstrate guaranteed by international human rights law.

Israeli military arrests of Mr Murad Shtaiwi and four young men in Kufr Qaddum on 29 April 2014

According to publicly available reports, on the night of 28 to 29 of April 2014, the Israeli military authorities raided different houses in the village of Kufr Qaddum to arrest five people: Mr Murad Shtaiwi and four young men, Reslan Joma, Ream Harham, Mustafa Shtaiwi and Ahmad Hassan Shtaiwi.

Mr Murad Shtaiwi was held in a military camp and was not questioned until, after three days, his lawyer petitioned a military court for his release. The Israel Security Agency (ISA) only interrogated him briefly immediately before he was presented to a military court at Ofer camp near Ramallah on 2 May 2014, where he was charged with organizing a demonstration without a permit, causing a public disturbance, and throwing rocks during a demonstration. The remaining four youths have been charged with stone-throwing.

On Monday 12 May 2014, Mr Murad Shtaiwi was informed by Ofer military court that he would remain in remand until the next court hearing date of Monday 9 June 2014. A petition by his lawyer against the remand order was heard by the military court of appeals



on 18 May 2014 and rejected on 22 May 2014. The four remaining residents of Kufr Qaddum have been technically released on bail, but remain in detention as the state of Israel has appealed against this bail decision.

At this date, these five individuals remain under Israeli military detention in Meggido prison, which is located inside Israel. Their detention is therefore in violation of Article 76 of the Fourth Geneva Convention, which prohibits the transfer of detained persons outside of occupied territory.

Further sweep of Israeli military arrests of residents of Kufr Qaddum on 11 May 2014 and on 23 May 2014

According to publicly available reports, on the night of 11 May 2014, the Israeli military authorities carried out further night raids on homes in the village of Kufr Qaddum and made 14 arrests. Six of those arrested were released the following morning, while the other eight are currently under Israeli custody in Huwwara's military base. The names of the young men still under custody are: Sami Mofid Kamel Barham, Abdel Latif Atomi Hamdan, Harb Mashoor Jomma, Odai Samir Barham, Raed Tayzir Barham, Jafar Khaled Jomma, Anas Waled Barham and Misaab Dawod Shtaiwi. On 23 May 2014, three other residents of Kufr Qaddum were arrested during the weekly demonstration, including the media coordinator of the popular committee for Kufr Qaddum, Riyadh Shtaiwi.

Applying the European Union Guidelines on Human Rights Defenders

LPHR submits that Mr Murad Shtaiwi's role as the primary co-ordinator of weekly peaceful protests in his village of Kufr Qaddum against the adjacent illegal Israeli settlement of Qedumim and closure of the village's main road meets the UN and EU definition of a human rights defender as anyone who, either individually or in association with others, works through peaceful means for the promotion, protection and realisation of human rights and fundamental freedoms.

LPHR accordingly requests the British Government and the British Consulate in Jerusalem undertake an urgent review of Mr Murad Eshtewi's arrest and detention and consider the application of diplomatic representations and practical measures outlined in the EU Guidelines so to effectively provide full human rights protection for him. **We would specifically request that a British consulate official please attend the next court hearing for Mr Murad Shtaiwi, which we understand is listed for Monday 9 June 2014 at Salem military court, so to observe directly whether fundamental legal safeguards are respected.**

It should be noted that LPHR is aware that one of the three charges against Mr Murad Shtaiwi is for stone-throwing. Given the context of Mr Murad Shtaiwi's express commitment to peaceful protest, we are concerned that the evidence relied upon by the Israeli military authorities to substantiate this specific charge is made available to his lawyers for rigorous examination and testing as part of the military trial due process, in



line with Israel's duty under international law to protect Mr Murad Shtaiwi's right to a fair trial.

Additionally, LPHR also notes with concern that the other two charges against Mr Murad Shtaiwi is for organising demonstrations and causing a public disturbance. This brings into sharp focus the deeply problematic discrepancy between international law guarantees of freedom to peacefully protest and the draconian Israeli military order operating in the occupied West Bank which effectively prohibits and criminalises the fundamental right to protest.

Demonstrations under international human rights law

Freedom of demonstration is enshrined in Article 21 of the International Covenant on Civil and Political Rights, which also permits the balancing of this liberty against other interests. The article states:

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Demonstrations under Israeli military law

In August 1967, Military Order No. 101 - "Order Regarding Prohibition of Incitement and Hostile Propaganda Actions" - was signed. Since then, the order has been amended several times and is still valid in the occupied West Bank.

According to the order, any assembly, vigil, or procession of 10 or more persons requires a permit from the commander of the military forces in the area, if the gathering is intended for the purpose of "a political matter or one liable to be interpreted as political, or to discuss such a matter," or "for a political goal or for a matter liable to be interpreted as political." These provisions apply to any gathering – both in the public realm and in the private realm, including in a person's home. The military commander may order the closure of any place where a public gathering is taking place.

The order establishes that a person who violates its provisions shall be liable to 10 years' imprisonment, a fine, or both penalties together.

LPHR's concerns with the extremely restrictive nature of Military Order 101 has long been shared by Israeli and Palestinian human rights organisations. The leading Israeli human rights organisation, B'Tselem, has stated:

The provisions of Order No. 101 are contrary to Israeli law and international law, both of which recognize the importance and centrality of the right to demonstrate, and permit infringement of this right solely by way of an exception, when it clashes with other



interests that are also worthy of protection. Order No. 101, by contrast, does not recognize the right to demonstrate; instead, it focuses on establishing prohibitions and restrictions on various types of gatherings and expressions.¹

It is against this legal background that LPHR is concerned that the arrest and detention of Mr Murad Shtaiwi by the Israeli military authorities amounts to an illegitimate and grave interference with his fundamental right to demonstrate as provided for by international law.

Imperative need for examination and intervention into the detention of Palestinian human rights defender, Mr Murad Shtaiwi

Given the context described above of Mr Murad Shtaiwi's peaceful work to promote, protect and realise human rights and fundamental freedoms in accordance with international human rights law guarantees, we urge the British government and the British Consulate in Jerusalem to coordinate on adequate diplomatic representations and practical measures under the EU Guidelines to ensure that he is provided with full human rights protections during his detention.

In summary, we respectfully request the following steps are taken:

1. Consulate observation of his next court hearing date on **9 June 2014 at Salem military court**; and
2. The British government and the British Consulate in Jerusalem undertake an investigation into the disturbing pattern of harassment, arrests and detention of residents of the Palestinian village of Kufr Qaddum by Israeli military authorities in apparent retaliation for the commencement of peaceful protest activities since 2011.

LPHR and Addameer are willing to co-operate with the British Government and the British Consulate in Jerusalem to provide or facilitate access to information on this matter, and on the broader issue of the protection of all Palestinian human rights defenders in the Occupied Palestinian Territory.

We shall be grateful for your examination and intervention into this urgent matter and we look forward to potentially being of effective assistance.

Yours sincerely,

Tareq Shrourou
Director, Lawyers for Palestinian Human Rights

CC. British Consulate in Jerusalem

¹ The Right to Demonstrate in the Occupied Territories, B'Tselem Position Paper, July 2010, page 9