



RE: Complaint submission to the United Nations Working Group on Arbitrary Detention concerning the arrest and arbitrary detention of 22-year old Palestinian student, Ms Shatha Hasan

1. Lawyers for Palestinian Human Rights (LPHR) and Addameer Prisoner Support submit this joint complaint to the United Nations Working Group on Arbitrary Detention regarding the Israeli military authorities arrest and detention of Palestinian student and head of Birzeit University's student union's council, Ms Shatha Hasan.
2. At the outset of this complaint submission, LPHR and Addameer would like to draw your attention to Ms Hasan's young age and therefore, particular vulnerability, in this situation. Ms Hasan is 22 years old, a full-time undergraduate university student and lives with her family. Her family, particularly her parents and sister, are extremely concerned about Ms Hasan's well-being owing to the likely effect a harsh prison setting will have on a young female.
3. Ms Hasan's home was raided by Israeli occupation forces on 12 December 2019 at approximately 2am. She was transported to Ofer Prison, then to Hasharon Prison and finally to Damon Prison – the latter two facilities being inside the state of Israel - where she is presently detained. The transfer of a protected person outside of occupied territory for the purpose of detention constitutes a clearly apparent breach of the Fourth Geneva Convention.
4. Ms Hasan's military-ordered administrative detention, without charge or trial, has been renewed once to date, and remains subject to renewals. The present order permits her detention until 10 June 2020, and remains open to further renewals.
5. Ms Hasan's trial is one based on both open and secret evidence. Ms Hasan's legal representatives are therefore unable to fully address the prosecution's argument, which asserts Ms Hasan is a threat to public security.
6. LPHR and Addameer submit that Ms Hasan's administrative detention and deprivation of liberty is arbitrary in nature, falling under **categories II, III and V of the Methods of Work of the United Nations Working Group on Arbitrary Detention**. Ms Hasan's military-ordered administrative detention is therefore contrary to Article 9 of the Universal Declaration of Human Rights and Resolution 1991/42 on arbitrary detention, as clarified by Resolution 1997/50, in addition to other legal protections afforded to all individuals under international human rights law. We therefore request the United Nations Working Group on Arbitrary Detention undertake an urgent examination into this serious matter and take appropriate action.
7. LPHR is a lawyer-based legal charity in the United Kingdom that works on legal projects aimed at protecting and promoting Palestinian human rights.
8. Addameer is a Palestinian non-governmental, civil institution that works to support Palestinian political prisoners held in Israeli and Palestinian prisons.



Background information on Ms Shatha Hassan

9. Ms Shatha Hasan is a 22-year-old Palestinian student who attends Birzeit University in the occupied West Bank Palestinian city of Birzeit. Ms Hasan is in the fourth year of her undergraduate studies and lives with her parents at her family home along with her siblings. Ms Hasan is the head of Birzeit University's student union's council and is therefore a visible individual at the educational institute.
10. Ms Hasan has had no previous engagement with the law and this is her first experience with the Israeli military forces, courts and prisons.

Current alleged violations incident by Israeli police and military authorities against Ms Shatha Hassan

11. On 12 December 2019 at approximately 2am, Ms Hasan's home was raided by Israeli military. Ms Hasan was then searched and handcuffed, before being removed from her family home and into a waiting military jeep. It is unknown if there was a warrant for her arrest. There is video footage on the internet showing Ms Hasan being led away by members of the Israeli military. Her hands are behind her back and she calls to her family to pray for her. It is not possible to ascertain more from the brief footage as the members of the military shine bright torches towards the family home, making it difficult to record with adequate visibility.
12. Ms Hasan was then taken directly to Binyamin military camp. Whilst at the military camp, Ms Hasan was blindfolded and her hands were cuffed together. A few hours later, at an unknown time, Ms Hasan was taken to Ofer Prison in occupied West Bank. Whilst at Ofer Prison, Ms Hasan was confined to a windowless cell without bathroom facilities, including a toilet. Ms Hasan has stated that the walls of the cells were rough and she was therefore unable to lean against them.
13. Whilst at Ofer Prison, Ms Hasan was taken to an investigation room and was questioned by officers in relation to her student activity for approximately two hours. After this she was transferred to Hasharon Prison inside Israel, on an unknown date. Whilst at Hasharon Prison, Ms Hasan was subjected to poor detention conditions. Notably, the toilet flooded her cell 'constantly'. Further, Ms Hasan was placed in a cell next to criminal prisoners and has reported the noise from the prison to be distressing and upsetting.
14. On 15 December 2019, Ms Hasan attended a military court hearing and the assigned judge stated that her university activities, extending to and including her membership with Birzeit University's Islamic Society, had financial ties with Hamas. The judge emphasised an Israeli High Court decision (6404/08) which determines "there is no difference, or division between military and organizational activities." On this basis, the military judge extended Ms Hasan's detention period for 72 days for the express purpose of issuing an administrative detention order against her, without Ms Hasan's lawyer having sight of and the opportunity to test the secret evidence being used as a basis for her administrative detention.



15. On 18 December 2019, Ms Hasan received a three-month administrative detention order from the Israeli military commander of the West Bank. This detention order ended on 11 March 2020 but was subject to unlimited renewals.
16. Following a petition filed to the Israeli High Court by Ms Hasan's lawyer, Ms Hasan's case was granted a court hearing on 6 March 2020. Notwithstanding this imminent judicial review, Ms Hasan's military detention order was renewed on 4 March 2020 by the Israeli military commander of the West Bank for a further three months, due to end on 10 June 2020.
17. The High Court petition has since been withdrawn after Ms Hasan's lawyer was able to communicate with the office of the Israeli military commander of the West Bank. It is presently understood that, in the absence of further secret information confirming and/or supporting Ms Hasan is a threat to public security, the military commander does not intend to renew the detention order beyond 10 June 2020. This agreement is tenuous and serious apprehension is still held with regard to Ms Hasan's treatment and detention.
18. On 16 March 2020, a confirmation hearing was held before a military court with regard to the renewed extension order for the period 11 March 2020 to 10 June 2020. Ms Hasan's lawyer was only permitted to attend the first half of the session and was excluded from the second half. Ms Hasan did not attend the session herself.
19. In the court session, the judge reiterated the accusation that Ms Hasan is connected to Hamas, recruits students, and has financial relations with the group. The judge stated this accusation was based on secret information which could not be shared. Ms Hasan's lawyer was therefore unable to address the information nor defend Ms Hasan fully. Ms Hasan's lawyer emphasised to the court Ms Hasan's good character and lack of criminal record, requesting she be granted early release and be permitted to spend Ramadan or Eid with her family.
20. The High Court judge disclosed that the secret information giving rise to Ms Hasan's ongoing detention came from multiple sources and that Birzeit University's Islamic Society, of which Ms Hasan is an active member, transfers funds to Hamas. The judge stated that the threat posed by this activity justified her continued administrative detention, however, given the lack of intention to renew the detention order from the military prosecutor, Ms Hasan's detention may end on 21 May 2020 but only in the absence of further secret information.

International human rights law framework

21. Ms Hasan's involvement with various societies and unions at Birzeit University is both peaceful and lawful under international human rights law. Her student activities run in parallel with her tertiary-education studies and are only targeted as a result of an Israeli High Court ruling which allow for state actions clearly in breach of international human rights law.
22. LPHR and Addameer submit that the following human rights provisions under international human rights law, and pertinent to the Methods of Work of the United Nations Working Group on



Arbitrary Detention, are engaged by the current arrest and detention of Ms Hasan:

- i) Right to freedom of thought, conscience and religion (Article 18 of the International Covenant on Civil and Political Rights (ICCPR));
 - ii) Right to hold opinions without interference and right to freedom of expression under international human rights law (Article 19, ICCPR);
 - iii) Right to freedom of peaceful assembly and association (Articles 21 and 22 ICCPR); and
 - iv) Right to be equal before the law and to be free from discrimination under international human rights law (Article 26, ICCPR).
23. the International Covenant of Civil and Political Rights expressly state the guarantee of rights which have been infringed upon with respect to Ms Hasan. Further, Ms Hasan's exercise of her fundamental and civil rights are of direct relevance to her arrest and administrative detention.

Determining categories of arbitrary detention

24. It is against the above legal backdrop that LPHR and Addameer believe that Ms Hasan satisfies **category II** of the Methods of Work of the United Nations Working Group on Arbitrary Detention, given she has been targeted for being a Palestinian, and active in lawful and peaceful organisations, including those of a political and religious nature. Ms Hasan has clearly been subject to discrimination by the Israeli occupying forces as a Palestinian and equally, deprived of legal protection on the same basis.
25. The use of military orders to arrest and detain a civilian and the reliance on secret information rendering Ms Hasan's lawyer unable to adequately defend Ms Hasan amount to a non-observance of basic and fundamental international due process norms relating to the right of a fair trial. These breaches are of sufficient gravity so as to render Ms Hasan's detention as arbitrary. Consequently, Ms Hasan's detention satisfies **category III** of the Methods of Work of the United Nations Working Group on Arbitrary Detention.
26. For the reasons established in paragraph 24, Ms Hasan has faced discriminatory targeting and consequently, arbitrary detention, as a direct result of being Palestinian. **Category V** expressly prohibits the deprivation of liberty which constitutes a violation of international law when actively seeking to evade the equality of human rights.
27. LPHR and Addameer submit that Ms Hasan has been unlawfully detained with regard to these three categories of Methods of Work of the United Nations Working Group on Arbitrary Detention. It is an extremely serious concern that Ms Hasan is being illegitimately targeted and punished by Israeli military authorities, without charge or trial, as an apparent result of her peaceful and lawful student activity as a student council leader at Birzeit University. Ms Hasan's adminis-



trative detention can intimidate other students from exercising their fundamental civil and political rights for fear of similar punitive sanctions. It is relevant to note the wider context that Israeli forces have detained 74 Birzeit University students from September 2019 to January 2020, according to a public statement released by Birzeit university on 23 January 2020.¹

Further issues of concern and relevance

- 28.** Ms Hasan has continuously been subject to military orders, thus depriving her of international human rights law provisions which are guaranteed to her as a civilian. As a civilian, Ms Hasan's matter and accusations should be processed through an independent and impartial tribunal appropriate for civilians. In accordance with Principle No. 5 of the sixty-second session of the Commission on Human Rights in 2006: "Military courts should, in principle, have no jurisdiction to try civilians. In all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts." This principle was expressly adduced and applied by the UN Working Group on Arbitrary Detention in its Opinion No.15 2016², dated 3 June 2016, that found the deprivation of liberty of Ms Khalida Jarrar by Israeli military authorities to constitute an unlawful arbitrary detention.
- 29.** Further, Ms Hasan's renewed military detention orders similarly display an irreconcilable contradiction of values and conflict of interest, amounting in direct injustice. The independence of a military official, in this instance, the Israeli military commander of the West Bank, lacks the independence and impartiality required to justly prosecute a civilian. The consequential risk of breaching a civilian's fundamental and civil rights owing to a lack of independence and impartiality is heightened by the hierarchy of obedience within the military.
- 30.** It is unknown if Ms Hasan's arrest was with a warrant and whether she was informed of the reasons of her arrest. Following on from this, Ms Hasan continued to experience violations of international norms of due process and guarantees to a fair trial, as: she was placed under irregular detention; the court relied on secret information which was withheld from her lawyer; she was subject to a military administrative detention order; and was brought before a military court on 15 December 2019 and 16 March 2020 which lacked impartiality and independence.

Conclusion:

- 31.** Given the context of Ms Hasan's lawful and peaceful student activity as a student council leader at Birzeit University, we respectfully request that the United Nations Working Group on Arbitrary Detention urgently takes the following steps:

¹ Statement about the Israeli occupation's arrest of Birzeit University students, faculty members, 23 January 2020: <https://www.birzeit.edu/en/news/statement-about-israeli-occupations-arrest-birzeit-university-students-faculty-members>

² <https://lphr.org.uk/wp-content/uploads/2020/06/G1612808.pdf>



- i) Use this complaint as the basis of your own investigation into the arrest, detention and use of secret evidence against Ms Shatha Hasan;
 - ii) Intervenes in this matter through urgent contact with the government of Israel and ensure that Ms Hasan is immediately released in the absence of charges and a fair trial in accordance with full due process guarantees as provided by international human rights law;
 - iii) Considers urging the Israeli civilian and military authorities to not apply the Israeli High Court decision 6404/08 which determined “there is no difference, or division between military and organizational activities”, on the basis that it permits serious rights breaches to flow from it. This includes the capacity to substantially infringe upon fundamental civil and political rights of freedom of expression and assembly, contrary to international human rights law; and
 - iv) Calls for Ms Hasan’s immediate release; for the ending of the the use of administrative detention without charge or trial against Palestinians by Israeli authorities; and for the ending of the use of military courts to try civilians
- 32.** LPHR and Addameer are very willing to effectively assist the United Nations Working Group on Arbitrary Detention to provide further information on this matter and to facilitate access to Ms Hassan’s lawyer. LPHR’s Director, Tareq Shrourou, can be contacted directly for this purpose by email at contact@lphr.org.uk. Addameer’s Director, Sahar Francis, can be contacted directly by email at sahar@addameer.ps.

Thank you for your careful consideration of this matter.

Yours faithfully,

Tareq Shrourou (Director) and Aleisha Ebrahimi
Lawyers for Palestinian Human Rights

Sahar Francis (Director)
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