



**RE: Complaint submission to the United Nations Working Group on Arbitrary Detention concerning the arrest and continuing arbitrary detention of three young female Palestinian students: Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi**

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 arbitrary detention of three young female Palestinian university students from the occupied West Bank: Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi aged 23, 21 and 20 respectively. They have been in continuous military detention since 8 June, 1 July and 9 July 2020, and are awaiting trial after being charged with participation and affiliation with a democratic student political group at Birzeit University.**
2. At the outset of this complaint submission, LPHR and Addameer would like to draw your attention to the young ages of all three female students as the likely adverse effect a harsh prison setting will have on young females is considerable. All three female students are in full-time education at Birzeit University in the occupied West Bank. It is notable that all were arrested and detained within the timeframe of a month, indicating a possible systematic pattern of targeting of female students from Birzeit University. There has been a systematic and intensifying targeting of Palestinian university students since August 2019 (please see more below at paragraph 58).
3. All three female students have been arrested and presented with identical charges for: i) affiliation with an illegal group; ii) being present during an illegal gathering; and iii) allegations of stone throwing. Excessive and punitive military orders have been used to underpin these charges. The first two charges have been applied to the peaceful exercise of basic and fundamental human rights: participating in democratic university student groups.
4. All three female students were arrested by Israeli occupation forces. Ms Layan Kayed was arrested at a checkpoint on 8 June 2020 and Ms Elyaa Abu Hijla and Ms Ruba Asi were both arrested following raids of their family homes at midnight on 1 July 2020 and at 2am on 9 July 2020 respectively. Upon arrest, all three female students were subjected to: body searches, handcuffing with the use of iron cuffs and the imposition of face and eye masks to block their vision. Two of the female students were arrested in terrifying night-time arrest raids on the family home.
5. Following interrogations, the three female students remain detained and are all presently held in Damon Prison. Damon Prison is within the state of Israel and is the prison where all Palestinian female prisoners are incarcerated. The transfer of protected persons outside of occupied territory for the purpose of detention constitutes a clearly apparent breach of the Fourth Geneva Convention.
6. As referenced above, all three female students have been charged with 'affiliation with an illegal group', namely a student group at Birzeit University: the Democratic Progressive Student Pole,



which is a leftist group and does not affiliate with a political party. Despite the peaceful activity of the university student group, the Israeli authorities have criminalised all political groups under repressive military law (please see more on this below at paragraph 42-49) that are being utilised to target, arrest and arbitrarily detain university students.

7. Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi are all being held in remand under pre-trial military detention in an incarceration facility inside Israel and have trial dates scheduled for 12 October, 11 November and 23 September 2020 respectively. The arrest, military detention and criminal charges against the three young female students fall within a clear and intensifying pattern since August 2019 to arrest and detain Palestinian university students for peaceful exercise of their basic and fundamental human rights of freedom of assembly, association and expression. It is a particular concern that female students are being systematically targeted, as indicated by the three cases in this complaint.
8. LPHR and Addameer submit that Ms Layan Kayed's, Ms Elyaa Abu Hijla's and Ms Ruba Asi's detention and deprivation of liberty is arbitrary in nature, falling under **categories II and V of the Methods of Work of the United Nations Working Group on Arbitrary Detention**. The military detention of the three young female students 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.
9. LPHR is a lawyer-based legal charity in the United Kingdom that works on legal projects aimed at protecting and promoting Palestinian human rights.
10. Addameer is a Palestinian non-governmental, civil institution that works to support Palestinian political prisoners held in Israeli and Palestinian prisons.
11. In accordance with the Working Groups' guidelines, we are submitting a joint complaint for the three above-named students, in order to streamline the submission process. For ease of reference, we approach each student in turn and then address the relevant international human rights law framework which is applicable and relevant to all three students collectively.

#### **Background information on Ms Layan Kayed**

12. Ms Layan Kayed is a 22-year-old Palestinian student who attends Birzeit University to study Sociology in the occupied West Bank Palestinian city of Birzeit. Ms Kayed recently completed the final year of her undergraduate studies (but is still to formally graduate) and lives with her parents at her family home.



13. Ms Layan Kayed 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 Layan Kayed**

14. On 8 June 2020 at approximately 8:30am, Ms Layan Kayed was arrested at Za'tara checkpoint near Nablus whilst travelling to Ramallah with her mother in their private car. Ms Layan Kayed was then searched and cuffed with restraints on both her hands and legs, before being transferred to a nearby facility where she was asked a number of questions regarding her medical situation. It is unknown if there was a warrant for her arrest. Ms Kayed was then returned to the Za'tara checkpoint where she was given food and water, but the soldiers refused to uncuff her when she was eating or when she went to the toilet.
15. Ms Layan Kayed was then transferred outside of the occupied West Bank to Hasharon Prison in -side Israel, and taken to a section that holds both civil (common-law) Israeli prisoners and also Palestinian political prisoners. Ms Layan Kayed was placed in a cell in the same section of the prison as other Israeli male and female detainees who subjected her to abuse, which caused her distress.
16. Whilst at Hasharon Prison, Ms Layan Kayed was confined to a cell with twenty-four-hour camera surveillance and subjected to poor detention conditions. The cell and the blankets in it were dirty, and there was an exposed toilet without a door. Ms Layan Kayed has stated that she was never provided with clean clothes and received only two meals a day. Ms Layan Kayed has de-scribed the food as inedible, and though she would force herself to eat it, it caused her to vomit on several occasions.
17. At nearly all times, Ms Layan Kayed was confined in the cell with another Palestinian female de-tainee, although this was not always the same detainee, as Ms Layan Kayed or the other detain-ee would be regularly moved from one cell to another. Ms Layan Kayed stated that one of the female detainees whom she shared a cell with suffered from suicidal ideation, and another re-quired psychological treatment, which caused distress to Ms Layan Kayed.
18. Whilst at Hasharon prison, Ms Layan Kayed was taken to Ofer Prison in the occupied West Bank for interrogation and investigation on 10 and 11 June 2020. **All three female students were in-terviewed without a lawyer present, in accordance with Israeli military orders which prohibit the presence of legal representatives, strongly indicating a lack of due process and a worrying disregard for international human rights standards.**
19. On 10 June 2020, Ms Layan Kayed was interrogated for approximately one and a half hours, dur-ing which time she was cuffed to a chair. Ms Layan Kayed was also forced to undertake a DNA test.
20. On 11 June 2020, Ms Layan Kayed was interrogated for a second time for approximately two to three hours.



21. Whilst at Ofer Prison, Ms Layan Kayed was confined to a windowless cell, and then transferred to another cell without bathroom facilities, including no toilet. Ms Layan Kayed's initial requests for food, water and use of a toilet were refused. Ms Layan Kayed stated that she was finally given water and a small cup of yoghurt, however, this was only given to her after she began to shout. Ms Layan Kayed was then taken to the toilet by a female security guard. Before using the toilet, Ms Layan Kayed requested the guard to uncuff her hands as she was on her period, but the guard refused. Approximately an hour and half later, Ms Layan Kayed was taken to a transfer vehicle where she was subjected to further degrading treatment, as she was unable to get into the vehicle with her legs cuffed. As a result of this, Ms Layan Kayed fell over and Israeli male soldiers laughed at her, providing no assistance to help her into the vehicle.
22. On 18 June 2020, ten days after her arrest and detention, Ms Layan Kayed was provided with a list of the following charges, including university activism "affiliated to the illegal group of the Democratic Progressive Student Pole":
  - Item 1: affiliation to the illegal group of the Democratic Progressive Student Pole contrary to Section 85(1)(b) under the Defence (Emergency) Regulations (1945);
  - Item 2: present in an illegal gathering contrary to Section 85(1)(d) under the Defence (Emergency) Regulations (1945); and
  - Item 3: throwing stones contrary to Section 212(2) under military order 1651 (2009).
23. On 24 June 2020, Ms Layan Kayed was transferred to Damon Prison where she remains in custody with a scheduled trial date of 12 October 2020.

#### **Background information on Ms Elyaa Abu Hijla**

24. Ms Elyaa Abu Hijla is a 21-year-old Palestinian student who attends Birzeit University to study Law in the occupied West Bank Palestinian city of Birzeit. Ms Elyaa Abu Hijla is due to begin the fourth year of her undergraduate studies shortly and lives with her parents at her family home. Ms Elyaa Abu Hijla is on the honour list of Birzeit University and is therefore a visible individual at the educational institute.
25. Ms Elyaa Abu Hilja 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 Elyaa Abu Hijla**

26. On 1 July 2020, Ms Elyaa Abu Hijla's home in Ramallah was raided by Israeli military in the middle of the night. The soldiers searched Ms Elyaa Abu Hijla before asking her to change her



clothes. Ms Elyaa Abu Hijla was then handcuffed, before being removed from her family home and into a waiting military jeep. Once in the vehicle, the soldiers put a face mask on Ms Elyaa Abu Hijla's face and another mask on her eyes. It is unknown if there was a warrant for her arrest. Ms Elyaa Abu Hijla was transported in the military jeep for a period of time before arriving at what was suspected to be Ofer Prison. On arrival, Ms Elyaa Abu Hijla was questioned about her medical status by a doctor whilst still in the military jeep and asked to sign a document which she refused to do. Ms Elyaa Abu Hijla was then removed from the military jeep and taken to a room where she was kept for an hour and a half. During this time, she was forced to lean on her knees whilst on the floor, her request for a chair was refused. Whilst awaiting vehicle transfer, Ms Elyaa Abu Hijla was confined in a military surveillance tower for four hours. The temperature within the tower was very high. Ms Elyaa Abu Hijla was then transferred to Ofer Prison by military vehicle.

- 27.** On arrival at Ofer Prison, Ms Elyaa Abu Hijla was confined to a small windowless cell in the prison, before she was taken to an interrogation room and asked over thirty questions. After the interrogation, Ms Elyaa Abu Hijla was returned to the cell and later transferred by bus with another male prisoner to Hasharon Prison.
- 28.** Whilst at Hasharon Prison, Ms Elyaa Abu Hijla was subjected to poor detention conditions. Ms Elyaa Abu Hijla was provided with clothes only on occasion and she was never provided with any change of underwear. Ms Elyaa Abu Hijla has stated that both she and the other Palestinian detainee in her cell were constantly subjected to humiliating and threatening tactics. Notably, the prison guards threatened to move Ms Elyaa Abu Hijla to a cell with twenty-four-hour camera surveillance and to cuff her hands and legs to her bed.
- 29.** Ms Elyaa Abu Hijla suffers from hyperthyroidism, having been diagnosed in 2016, and requires 75mcg of thyroxin medication daily. Ms Elyaa Abu Hijla requires regular medical tests and evaluation for this condition every three months. Whilst in custody, Ms Elyaa Abu Hijla has stated that she has been given medication which is different to her usual prescription, with a higher dose of 100mcg.
- 30.** On 8 July 2020, eight days after her arrest and detention, Ms Elyaa Abu Hijla received a list of charges at Ofer military court, including university activism "affiliated to the illegal group of the Democratic Progressive Student Pole":
  - Item 1: affiliation to the illegal group of the Democratic Progressive Student Pole contrary to Section 85(1)(b) under the Defence (Emergency) Regulations (1945);
  - Item 2: present in an illegal gathering contrary to Section 85(1)(d) under the Defence (Emergency) Regulations (1945); and
  - Item 3: throwing stones contrary to Section 212(2) under military order 1651 (2009).
- 31.** On 15 July 2020, Ms Elyaa Abu Hijla was tested for COVID-19.



32. On 16 July 2020, Ms Elyaa Abu Hijla was transferred to Damon Prison where she remains in custody. Ms Elyaa Abu Hijla had a scheduled trial date of 14 September 2020, however, this was postponed on the day of the trial and a new trial date of 11 November 2020 has been scheduled. No definitive reason has been provided for the rescheduling of the trial and the subsequent lengthening of time spent in pre-trial detention. Ms Elyaa Abu Hijla will have been in pre-trial detention for five months by the time of the rescheduled hearing date and we are concerned that the effects of prolonged harsh detention conditions will sustain a serious effect on her in the interim.

#### **Background information on Ms Ruba Asi**

33. Ms Ruba Asi is a 20-year-old Palestinian student who attends Birzeit University to study Sociology in the occupied West Bank Palestinian city of Birzeit. Ms Ruba Asi was due to begin the fourth year of her undergraduate studies earlier this month and lives with her parents at her family home.
34. Ms Ruba Asi 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 Ruba Asi**

35. On 9 July 2020 at approximately 2am, Ms Ruba Asi's home was raided by Israeli military. Ms Ruba Asi was searched by two female soldiers who took her ID and phone. One of the soldiers grabbed Ms Ruba Asi with force and removed her from her home, without permitting her to say goodbye to her family or take a jacket with her. The soldiers then cuffed Ms Ruba Asi's hands with iron cuffs and forced her into a waiting military jeep. Once in the vehicle, the soldiers put a face mask on Ms Ruba Asi's face and another mask on her eyes. It is unknown if there was a warrant for her arrest.
36. Ms Ruba Asi was taken to an open space nearby where her body temperature was tested and she was asked to sign a medical form, but she refused. Ms Ruba Asi was then taken to a military officer who informed Ms Ruba Asi that she had been arrested due to her involvement with the Democratic Progressive Student Pole and Popular Front for the Liberation of Palestine. Ms Ruba Asi replied that she did not know what he meant by this. Ms Ruba Asi was then returned to the military jeep.
37. Ms Ruba Asi was left in an open yard for several hours before being transferred by private car to Ofer Prison. Whilst at Ofer Prison, Ms Ruba Asi was subjected to poor detention conditions. Ms Ruba Asi was confined to a windowless cell containing a bed made of concrete, a water tap, and a toilet, which was a hole in the ground next to the bed.
38. On 9 July 2020, Ms Ruba Asi was transferred to Hasharon Prison where she was searched again.



The soldiers also took pictures of Ms Ruba Asi and took her fingerprints. Ms Ruba Asi was then questioned and asked to sign a statement, but she refused to do so.

39. Whilst at Hasharon Prison, Ms Ruba Asi confirmed that she had been tested for COVID-19 on 19 July 2020.

40. On 21 July 2020, thirteen days after her arrest and detention, Ms Ruba Asi received a list of charges, including university activism “affiliated to the illegal group of the Democratic Progressive Student Pole”:

Item 1: affiliation to the illegal group of the Democratic Progressive Student Pole contrary to Section 85(1)(b) under the Defence (Emergency) Regulations (1945);

Item 2: present in an illegal gathering contrary to Section 85(1)(d) under the Defence (Emergency) Regulations (1945); and

Item 3: throwing stones contrary to Section 212(2) under military order 1651 (2009).

41. On 30 July 2020, Ms Ruba Asi was transferred to Damon Prison where she remains in custody with a scheduled trial date of 23 September 2020.

#### **Israel's military law and the international human rights law framework applicable to Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi**

42. Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi’s involvement with societies at Birzeit University is both peaceful and lawful under international human rights law. Their student activities run in parallel with their tertiary-education studies and they are being systematically targeted. The targeting is underpinned by abstract and excessive military orders (which constitutes Israeli military law) in addition to British emergency defence provisions from 1945 which are being misused and applied in a punitive and discriminatory manner. The targeting and punishment of Palestinian university students for exercising their basic and fundamental right to freedom of assembly, association and expression is clearly in breach of international human rights law.

43. Over the last 50 years, the Israeli army has used military orders to deprive Palestinians in the occupied West Bank of their basic civil rights, including the rights to free assembly, association and expression.<sup>1</sup> These military orders emanate from June 1967 when Israel's military occupation of the West Bank first took place and the Israeli army began to enforce the Defence (Emergency) Regulations of 1945, which British Mandatory authorities had enacted to maintain order and suppress dissent. Whilst the British formally revoked the Defence (Emergency) Regulations in May 1945 just before it terminated its Mandate for Palestine, the Israeli army considers the laws to never have been officially revoked and the Israeli Supreme Court has upheld this interpretation.

1 [https://www.hrw.org/sites/default/files/report\\_pdf/palestine1219\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/palestine1219_web_0.pdf).



- 44.** The Defence (Emergency) Regulations (1945) empower authorities, among other things, to declare as an “unlawful association” groups that advocate for “bringing into hatred or contempt, or the exciting of disaffection against” authorities. From the beginning of the occupation in June 1967 through July 2019, the Israeli Defence Ministry had classified 411 organisations as “hostile,” “unlawful” or “terrorist” associations.<sup>2</sup> Members of designated organisations can be criminally charged for their membership in or affiliation with the group. Among the organisations so classified are all major Palestinian political parties, including the ruling Fatah party, as well as the Palestine Liberation Organisation.
- 45.** It is clearly apparent from the charges against Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi that the student group they are affiliated with at Birzeit University has been classified by the Israeli military authorities as an “unlawful association” under the Defence (Emergency) Regulations. It should be highlighted here the clearly apparent unjust imposition of criminal charges against Layan, Elyaa and Ruba for affiliating with a legitimate university student group and for being present at one of its meetings.
- 46.** In 2010, the Israeli army promulgated Military Order 1651, which replaced 20 prior orders issued between 1967 and 2005. Section 212 (2) of Military Order 1651 provides that the throwing of an object, including a stone, “At a person or property, with the intent to harm the person or property will be sentenced to ten years imprisonment.” It is very concerning that Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Ali are all facing a ten-year prison sentence after being charged with throwing stones. It is unclear precisely what evidence there is to base these charges, however, it appears that the names of individuals correspond to those interrogated and tortured in 2019. Such evidence obtained under the duress of military interrogation should be inadmissible given it is inherently unreliable and is procured in alleged breach of the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment.
- 47.** The Defence (Emergency) Regulations of 1945 and Military Orders (including Military Order 1651) are not sufficiently clear, precise and narrow to allow Palestinians to know what actions may result in criminal consequences and how to conform their behaviour to abide by the law; violating a basic principle under both the law of occupation and international human rights law. The overly-broad wording of the orders creates vague and abstractly defined criminal offences.
- 48.** Instead of interpreting this broad language narrowly, the Israeli military authorities has exploited the ambiguity of these orders by using criminal law in an arbitrary and discriminatory manner, as evidenced in the detention and charges against Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi for exercising their basic and fundamental human rights in regard to their alleged offences under the Defence (Emergency) Regulations.
- 49.** A recent Human Rights Watch report, “Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank”, highlights how Israel unjustifiably relies on these sweeping military orders to jail Palestinians for anti-occupation speech, activism or politic-

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<sup>2</sup> [https://www.hrw.org/sites/default/files/report\\_pdf/palestine1219\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/palestine1219_web_0.pdf) (pages 37-38).



al affiliations. The report also concluded that arrests for peaceful exercise of basic rights reverberate within Palestinian society, often with the effect of deterring others from speaking out or engaging more generally in political activity.

50. 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 arrests and continuing detention of Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi:

- 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).

51. The International Covenant of Civil and Political Rights expressly state the guarantee of rights which have been infringed upon with respect to Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi. Further, Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi's exercise of fundamental and civil rights are of direct relevance to their arrests and continuing detention.

#### **Determining categories of arbitrary detention**

52. It is against the above legal backdrop that LPHR and Addameer believe that Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi satisfy **Category II** of the Methods of Work of the United Nations Working Group on Arbitrary Detention, given they have been targeted for being Palestinian, active in lawful and peaceful organisations (democratic student groups), including those of a political and religious nature. Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi have clearly been subject to discrimination by the Israeli occupying forces as Palestinians, and, equally, deprived of legal protection on the same basis.

53. For the reasons established in paragraphs 42-51, Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi have 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.

54. LPHR and Addameer submit that Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi have been unlawfully detained with regard to these two categories of Methods of Work of the United Nations Working Group on Arbitrary Detention. It is an extremely serious concern that Ms Layan



Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi, as young female Palestinian university students, are being illegitimately targeted and punished by Israeli military authorities, with charges underpinned by broad, sweeping and unlawful military orders which are being increasingly used to severely punish and intimidate Palestinian university students who undertake peaceful and lawful student activity in democratic student groups. As the targeting against Palestinian university students increases in scope and intensity (please see further below on this at paragraph 58), the Israeli military authorities are acting in a manner which appears purposefully designed to intimidate other Palestinian university students from exercising their fundamental civil and political rights for fear of similar punitive sanctions.

**Further issues of concern and relevance to the UN Working Group's examination:**

55. In addition to the core issues raised immediately above, it is material to this complaint that it relates to **three young female Palestinian university students arrested and detained within the space of one month**. Therefore, the Working Group might consider examining this arbitrary deprivation of liberty complaint from a gendered perspective and/or possibly engage with the UN Working Group on Discrimination against Women and Girls.
56. Furthermore, several discrete human rights and due process issues are brought up by these cases which the UN Working Group on Arbitrary Detention might like to consider further exploring. They include:
- the use of terrifying night-time arrest raids on the family home;
  - conditions of detention which appears to amount to degrading treatment in breach of the prohibition on cruel, inhuman or degrading treatment or punishment under international human rights law, and their compatibility with the United Nations Rules for the Treatment of Women Prisoners and Noncustodial Measures for Women Offenders (the Bangkok Rules);
  - interrogations without the essential safeguard of having the presence of a lawyer;
  - charges which may be based on third person confessions obtained under duress of military interrogation and alleged breach of the prohibition on torture and other cruel, inhuman or degrading treatment or punishment under international human rights law;
  - no bail hearings so that students are kept in continuous pre-trial detention for months following charge and awaiting trial;
  - consequential adverse impact on tertiary education and career paths for detained students; and
  - substantial risk of psychological harm as young people being unjustly detained for a prolonged period and subjected to criminal prosecution.



- 57.** This complaint clarifies the severe adverse consequences of Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi, being subject to excessive and discriminatory military orders due to living under military occupation, thus depriving them of the freedom to exercise basic and fundamental rights under international human rights law which are guaranteed to them as a civilians. Furthermore, as civilians, Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi's criminal charges 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 2016<sup>3</sup>, dated 3 June 2016, that found the deprivation of liberty of Ms Khalida Jarrar by Israeli military authorities to constitute an unlawful arbitrary detention.
- 58.** It is extremely 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.<sup>4</sup> There have been further student arrests since January 2020, which includes the arrests of Ms Layan Kayed, Ms Elyaa Aby Hijla and Ms Ruba Asi, with the actual number unclear at the time of preparing this complaint. This clearly indicates that the wholly unlawful approach of targeting Palestinian university students is intensifying in a grave and serious manner.
- 59.** Finally, In light of the current pandemic, UN officials have called for the 'immediate release' of Palestinian children in detention, acknowledging the inherent risk implicated in the close confines of detention.<sup>5</sup> We note with grave concern that the three young female Palestinian university students are held in similar conditions and as such, the likelihood of contracting Covid-19 is markedly increased. We believe the unjust detention of the three female Palestinian university students is wholly inappropriate within the context of an unprecedented global pandemic.

### **Conclusion:**

- 60.** Given the context of Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi's lawful and peaceful student activity as at Birzeit University, we respectfully request that the United Nations Working Group on Arbitrary Detention urgently takes the following steps:

<sup>3</sup> <https://lphr.org.uk/wp-content/uploads/2020/06/G1612808.pdf>

<sup>4</sup> 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>

<sup>5</sup> <https://www.unicef.org/press-releases/light-covid-19-crisis-un-officials-call-immediate-release-all-children-detention>



i) Use this complaint as the basis of your own investigation into the arrest, ongoing military detention and criminal charges against the three young female Palestinian university students;

ii) Intervene in this matter through urgent contact with the Government of Israel and urge that Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi are a) immediately released from detention on bail b) their charges based on association with a university student group be immediately annulled given they involve a breach of international human rights law; and c) immediately annul charges relating to stone-throwing if they are based on confession evidence from third persons obtained under the duress of military interrogations as such evidence is intrinsically unreliable; and

iii) Publicly calls on Israeli military authorities to cease arresting, detaining, and/or charging Palestinian university students for their peaceful exercise of their rights to free assembly, association and expression; cease use of the Defence (Emergency) Regulations (1945); and end the use of military courts to try civilians.

61. 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 Ms Layan Kayed's, Ms Elyaa Abu Hijla's and Ms Ruba Asi's lawyers. LPHR's Director, Tareq Shrourou, can be contacted directly for this purpose by email at [contact@lphr.org.uk](mailto:contact@lphr.org.uk). Addameer's Director, Sahar Francis, can be contacted directly by email at [sahar@addameer.ps](mailto: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)  
**Director Addameer Prisoner Support and Human Rights Association**