



RE: Submission to the United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 that focuses on the deprivation of liberty of Palestinian university students

10 November 2022

1. Lawyers for Palestinian Human Rights ('LPHR') make this submission to the United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Ms. Francesca Albanese, ahead of her thematic report to the Human Rights Council in March 2023 on the deprivation of liberty.
2. LPHR focuses its submission on the discrete issue of the systematic targeting of Palestinian university students by Israel's military authorities. Such targeting routinely leads to arbitrary military detention as a form of a deprivation of liberty, in violation of a number of fundamental human rights. Over the last three years there has been a significant surge in the number of university students arrested and arbitrarily detained, in contravention of international human rights law.
3. LPHR has established the *Tom Hurdall Student Protection Project* – working closely with the Palestinian human rights organisation Addameer Prisoner Support and Human Rights Association - to counter the targeting of this specific category of Palestinians: young Palestinian university students who are being systematically subjected to a range of human rights violations by Israel's military authorities due to exercising their basic and fundamental rights to freedom of expression, assembly and association. There is clearly also a discriminatory component to this targeting, as only Palestinian students are subject to this unlawful treatment by Israel's military authorities.
4. LPHR's submission makes material reference to an opinion issued last year by the UN Working Group on Arbitrary Detention ('UN WGAD') following a complaint submission made by LPHR and Addameer in relation to the prolonged arbitrary military detention of three Palestinian female university students. The UN WGAD upheld the substance of our complaint in full.
5. LPHR notes that the Special Rapporteur's 'call for submissions' welcomes reports which implicate interconnected human rights violations, and that 15 identified grounds of interest have been listed. This submission, therefore, cross-references to the list of 15 grounds for ease of reference. Cross-reference is made by use of square brackets eg. [**Ground 1**].



6. LPHR is a lawyer-based legal charity in the United Kingdom that works on projects aimed at protecting and promoting Palestinian human rights.

A: Scope of submission

7. Since August 2019, there have been an upsurge in the arrests and Israeli military detention of Palestinian university students for peacefully exercising their rights to freedom of association, assembly, and expression as part of their university student group activities. This included a notable rise in the specific targeting of female Palestinian students for engagement in human rights-protected activities. [**Grounds 2 and 9**].
8. LPHR has been monitoring the systematic arrest and military detention of Palestinian university students, primarily from Birzeit University. The clear arbitrary nature of their military detention, and the multiple human rights violations which flow from i) the deprivation of liberty (which includes a complete block to their university education), ii) the lack of due process safeguards within the military detention and court system, and iii) the harshness of the detention condition, gives rise to serious concerns about the systematic use of deprivation of liberty against Palestinian university students in clear contravention of a range of norms under international human rights law [**Ground 14**].
9. LPHR believes that the practice and apparent policy of systematic targeting of Palestinian university students for engagement in fundamental human rights activities, should be viewed as a direct extension of the more widely reported practice of Palestinian children being systematically maltreated in military detention. As you will be aware, UNICEF concluded in 2013 that the ill-treatment of Palestinian children who come in contact with Israel's military detention system is "*widespread, systematic and institutionalised*".¹
10. LPHR accordingly would encourage the UN Special Rapporteur to consider focusing specific attention on the apparent systematic targeting of Palestinian children and young people for arbitrary military detention/deprivation of liberty. We hope this submission may helpfully assist the UN Special Rapporteur with such a discrete enquiry, within her wider investigation on the deprivation of liberty in the occupied Palestinian territory.

B: Recent engagement with the UN Working Group on Arbitrary Detention

11. A primary case-study example on this issue can be found by reference to LPHR's complaint submission to the UN WGAD on 2 October 2020, with respect to the arrests and prolonged arbitrary military detention of three female Palestinian students from Birzeit University, Ms Layan Kayed, Ms Elyaa Abu Hijla and Ms Ruba Asi.² All three students were arrested within the space of one month in June/July 2020, and were subsequently charged and convicted on

1 <https://reliefweb.int/report/israel/children-israeli-military-detention-observations-and-recommendations>



the basis of having exercised their basic human rights of freedom of association, assembly and expression while engaging with a democratic Birzeit University student group.

12. The three female Palestinian university students were aged 23, 21 and 20 respectively and had never had any prior interaction with Israel's military authorities. The duration of their time in arbitrary military detention and imprisonment was significant: 1 year and 3 months, 10 months, and 8 months, respectively. Our complaint was upheld in full by the UN WGAD in an opinion adopted on 4 May 2021.³
13. The basis for the detention, conviction and sentencing of the three female Palestinian students flowed from their participation and affiliation with a democratic student political group at Birzeit University. The three female students were given identical criminal charges for: i) affiliation with an illegal group; ii) being present during an illegal gathering; and iii) allegations of stone throwing.
14. The UN WGAD's Opinion confirmed the arbitrary nature of the Palestinian university students and that the deprivation of liberty resulted from the exercise of the rights or freedoms guaranteed by international human rights law, satisfying **Category I** of the UN Working Group's assessment framework. The UN WGAD further found that the arrests and detention of the Palestinian students to be arbitrary under **Category I**, as they lacked a legal basis.
15. The UN WGAD additionally found the detention of the students to be arbitrary under **Category III**, which is engaged when there is a total or partial non-observation of international norms in relation to the right to a fair trial. This category was determined given all three students were charged under a military order, despite being civilians, and were tried in a military court, contrary to international law requirements. The unlawful use of military courts to try civilians is outlined in paragraphs 43-46 of this submission.
16. The UN WGAD also found that the deprivation of liberty constituted a violation of international law for reasons which relate to discrimination, satisfying **Category V. [Grounds 9 and 14]**
17. As a result of our submission and its own independent findings, the UN WGAD referred the matter to the UN Special Rapporteur on violence against women, its causes and consequences, and the UN Working Group on discrimination against women and girls, for appropriate action. This is particularly important when we note that young female Palestinian university students are increasingly being targeted and detained.

2 <https://lphr.org.uk/wp-content/uploads/2020/10/Elyaa-Layan-and-Ruba-WGAD-Complaint-FINAL-18-SEPT-2020.pdf>

3 https://lphr.org.uk/wp-content/uploads/2021/06/A_HRC_WGAD_2021_8.pdf



18. The UN WGAD also referred the cases to several other UN Special Rapporteurs, indicating the extent to which the fundamental human rights of Palestinian university students had been breached, in direct and clear contravention of international law. [**Ground 14**]
19. The UN WGAD's opinion strongly indicates that similar arrests and authorised military detentions of Palestinian university students will also constitute a wide range of breaches of international human rights law.

C: Systematic targeting of Palestinian university students

20. Palestinian university students are being targeted, arrested and detained as part of an apparent policy to punitively and arbitrarily deprive a number of politically motivated young Palestinian students of their liberty. This includes a notable recent increase in the targeting of female students for arbitrary military detention. [**Grounds 2, 4 and 9**]
21. According to a public statement released by Birzeit University on 23 January 2020, Israel's military authorities forces detained 74 Birzeit University students from September 2019 to January 2020.⁴ There have been a further large Palestinian university student arrests since January 2020, with the actual number unclear at the time of preparing this submission.

D: Maltreatment of Palestinian university students who come in contact with Israel's military detention system

22. In order to establish the lived experience of Palestinian university students being deprived of their liberty, LPHR has established a reliable and strong working relationship with the Palestinian human rights organisation, Addameer, through which we have obtained access to affected female students and obtained direct testimonies. Further, LPHR communicates directly with Birzeit University and are very grateful for being permitted to have access to data relevant to student arrests and military detention.
23. All students named in this submission have agreed to their accounts being made public for the purposes of work undertaken by our *Student Protection Project*. In addition, LPHR carefully assesses and seeks to corroborate information in the public domain, relying only credible sources. Published sources are indicated as appropriate.
24. It is apparent that an extensive degree of monitoring of Palestinian university students is undertaken by Israel's military authorities as part of the identification and targeting of specific students. Palestinian university students under surveillance are approached and arrested in their homes, at military checkpoints and on campus. Recent arrests on campus

⁴ <https://www.birzeit.edu/en/news/statement-about-israeli-occupations-arrest-birzeit-university-students-faculty-members>



have included instances where live ammunition has been utilised, indicating an escalating use of disproportionate force.⁵[**Grounds 2 and 8**]

25. Harassment and intimidation tactics are routinely utilised at the point of arrest and during transfer to military vehicles immediately following arrest. The much-utilised arrest methodology, which we refer to as ‘terrifying night raids’ because it entails storming a student’s home between midnight and 4am, underpins a large degree of the distress experienced. The excessive army presence – up to 40 soldiers arriving at a home to arrest a single female student – has a clear chilling effect, on both the targeted individual and the family and community who are witness to the raid and arrest. [**Ground 8**]
26. Such harassment habitually continues during questioning at detention centres and/or prison. The use of eye masks which impair vision and heavy iron cuffs, as documented in multiple accounts provided to LPHR, add to the sense of panic generated.
27. Once apprehended and within military detention, Palestinian university students are subject to extensive questioning. Such interrogation often occurs when there is no warrant for arrest, in contravention of basic due process norms. LPHR has not worked on a case where an arrest warrant has been issued against the university student.
28. During interrogation, cuffing to chairs has been reported, including for extended periods of time. One student testimony cites that she was interrogated whilst cuffed for 90 minutes, and forced to take a DNA test, and then interrogated again for two hours. [**Ground 14**]
29. Palestinian students are routinely not informed of their rights during or immediately after arrest, including their right to legal representation and right to silence. Questioning and interrogation takes place without a lawyer present, with an evident adverse impact on the students’ sense of vulnerability and their legal rights. Exacerbating this are the aforementioned cruel conditions in which students are interrogated. [**Ground 14**]
30. LPHR also notes particular concern that Israel's military authorities may be coercively extracting ‘evidence’ from detainees under the duress of military interrogation, which is then used to initiate arrests of further university students. Such evidence should be inadmissible, given it is inherently unreliable and would be procured in alleged breach of the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment. [**Grounds 10 and 14**]
31. Detained students are subjected to poor detention conditions and degrading treatment. Amongst examples cited in testimonies obtained by LPHR are: dirty blankets; exposed bathrooms without doors; twenty-four-hour camera surveillance; inedible meals or no food;

5 <https://www.middleeasteye.net/news/israel-palestine-birzeit-university-stormed-shoot-arrest-students>



windowless cells; concrete beds; holes in the ground to use as a toilet (placed next to cell beds); steel-frame beds with one-centimetre-thick mattresses; over-flooding toilets; exposed showers; and no hygiene products. [**Grounds 11 and 14**]

32. The young age of detained university students, extremely poor condition of the prisons, and the traumatising events they systematically experienced during their arrest, interrogation, and arbitrary military detention, is aggravated by the withholding of contact with family members. Young Palestinian students, who commonly have never lived away from home (especially true of female Palestinians), are afforded minimal contact with family members, and in some cases, contact is refused without reference as to justification. The disproportionately strict military detention conditions and restrictions on visitors is cited in testimonies obtained by LPHR as an acute source of anguish for students. [**Ground 5**]
33. In addition to poor military detention conditions, as outlined above, a separate note must be made with regard to mental maltreatment of students in military detention. Examples examined by LPHR of denial of contact with family members, humiliating behaviour, threatening tactics during interrogation, body searches, and detention in the same cell with detainees with suicidal behaviour, form a consistent disregard and undermining of students' mental wellbeing. The repeated postponement of trial dates, and associated refusal of bail, has been attributed as a further source of anxiety. [**Grounds 5, 10 and 14**].

E: The use of military law and courts

34. For over fifty years, Israel's military authorities has used military orders/law to deprive Palestinians in the occupied West Bank of their basic civil rights, including the rights to free assembly, association and expression.⁶ These military orders emanate from June 1967 when Israel's military occupation of the West Bank commenced and its military authorities 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, Israel's military authorities consider the laws to never have been officially revoked and Israel's Supreme Court has upheld this interpretation. [**Grounds 6 and 7**]
35. 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

6 https://www.hrw.org/sites/default/files/report_pdf/palestine1219_web_0.pdf.



occupation in June 1967 through July 2019, Israel's Defence Ministry had classified 411 organisations as “hostile,” “unlawful” or “terrorist” associations.⁷

- 36.** 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. This sweeping and discriminatory power is now bleeding into the domain of education and Palestinian student groups are finding themselves to be a primary target (a relevant example is cited further below at paragraph 40).
- 37.** The Defence (Emergency) Regulations of 1945 and military orders/law 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.
- 38.** Instead of interpreting this broad language narrowly, the Israel's military authorities has exploited the ambiguity of these orders by using criminal law in an arbitrary and discriminatory manner; enabling the application of a sweeping approach which can criminalise students exercising their basic rights of freedom of expression, assembly and association within a university student group.
- 39.** The Human Rights Watch report, “Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank”⁸, highlights how Israel unjustifiably relies on these sweeping military orders to jail Palestinians for anti-occupation speech, activism or political affiliations. The report 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. In alignment with this view, LPHR is concerned that the punitive and systematic targeting of Palestinian university students is likely to encompass an intentional element, motivated by instilling fear in the wider student body and to act as a deterrent against political activism.
- 40.** A relevant and recent clear expression of the systematic approach outlined above was the written “announcement” by Israel's military authorities of a new “unlawful association” under the Defence (Emergency) Regulations of 1945, against a student union group at Birzeit University: the “Progressive Democratic Student Pole”.⁹ The timing of the issuing of

7 Ibid.

8 Ibid.

9 LPHR obtained a translation of the written 'announcement of an unlawful association' from the Palestinian human rights organisation, Addameer, which we are able to share upon request.



the 'announcement' on 13 August 2020 is pertinent; it occurred just several months after the start of an upsurge in arrests and military detention of Birzeit university students, and only several weeks after the specific arrests and military detention of the aforementioned female Birzeit students, Layan Kayed, Elyaa Abu Hijla, and Ruba Asi, all three of whom were charged with affiliation and participation with the “Progressive Democratic Student Pole”.

41. It should be noted that the three female students were charged with affiliation with an 'illegal group' a few weeks prior to the 13 August 2020 announcement, thus underlining the pervasive lack of transparency and certainty regarding Israel's military law and its specific applicability against Palestinian residents of the occupied West Bank.
42. This recent announcement demonstrates how Israel's military authorities can use its broad powers under the prevailing military law framework to target students by specifically criminalising student university activity, leading to systematic deprivation of liberty. [Grounds 2, 3, 4, 6, 7 and 9]
43. Palestinian university students charged with criminal offences for exercising their basic rights of freedom of expression, association and assembly within a student group, are tried in Israel's military court system which operates only against Palestinians in the occupied West Bank.
44. The UN WGAD has a clear position on the legal impermissibility of using military courts to try civilians. Following a complaint¹⁰ submitted by LPHR concerning the deprivation of liberty of Ms Khalida Jarrar by Israel's military authorities, the UN WGAD stated in its Opinion No.15 2016¹¹:

'In its opinions, annual reports and other documents in which it has addressed the issue, the Working Group has relied on the report on the issue of the administration of justice through military tribunals, which was submitted to the Commission on Human Rights at its sixty-second session (E/CN.4/Sub.2/2005/9) in 2006, and which contains the draft principles governing the administration of justice through military tribunals. **Principle 5, which deals with the functional jurisdiction of military courts, states: “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.”**’ [Bolded for emphasis]

45. The UN WGAD specifically stated in relation to Ms Khalida Jarrar:

10 <https://lphr.org.uk/wp-content/uploads/2021/04/Khalida-Jarrar-Complaint-8-June-2015-Final-Clean.pdf>

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



'Although Ms. Jarrar is a civilian, she was prosecuted and tried in a military court. The Working Group has consistently held the view that, whatever the charges, **civilians shall never be tried by military courts because they cannot be considered to be independent and impartial tribunals for civilian accused persons.**'¹² [Bolted for emphasis]

46. LPHR submits that the principled legal position outlined by the UN WGAD in relation to the case of Khalida Jarrar - confirming that international norms of due process and guarantees to a fair trial are violated when a military court is used to try a civilian - has full and equal application to all Palestinian civilians, including Palestinian university students, tried under Israel's military court system.

F: International human rights law framework

47. LPHR suggest that the following provisions of the International Covenant on Civil and Political Rights ('ICCPR') are engaged by the arrest and military detention of Palestinian university students:

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 7 (ICCPR));
2. The right to liberty and security of person, and freedom from arbitrary arrest of detention (Article 9 (ICCPR));
3. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (Article 10 (ICCPR));
4. The right to equal treatment before courts and tribunals and accompanying rights to fair trial and due process (Article 14 (ICCPR));
5. The right to freedom of thought, conscience and religion (Article 18 (ICCPR));
6. The right to freedom of expression (Article 19 (ICCPR));
7. The right of peaceful assembly and freedom of association with other (Articles 21 and 22 (ICCPR)); and
8. The right to be equal before the law and to be free from discrimination (Article 26 (ICCPR)).

48. In the context of Palestinian students participating with university student groups, all these rights assume the exercise of the right to education and closely interrelate with each other.

¹² Ibid.



49. Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights,¹³ protects everyone’s right to education. Article 13 specifically provides that education shall be “directed to the full development of the human personality and the sense of its dignity”, and shall “strengthen the respect for human rights and fundamental freedoms.” The right to education is severely disrupted in instances where students face harassment and intimidation before and after university at military checkpoints; with military presence on campus; and of course, in instances when Palestinian university students are arrested and held in arbitrary military detention. **[Grounds 5 and 8]**
50. A longer-term flow of human rights violations originates from the disruption and abuse which follow arrest and military detention. General Comment 13 on the right to education by the Committee on Economic, Social and Cultural Rights states that education is also an ‘empowerment right’ and an ‘indispensable’ means to realise other human rights. In practical terms, even if detained for a few months, students ‘lose’ an academic year which they are then required to repeat before postgraduate or employment opportunities. There are potential far-reaching socio-economic rights implications to such a consequence. **[Ground 5]**

G: Conclusion

51. In light of the above, we would be very grateful for the UN Special Rapporteur's careful consideration of the specific issue of Palestinian university students being systematically targeted for arrest and military detention/deprivation of liberty, following the exercise of their basic rights to freedom of expression, assembly and association.
52. While the focus of this submission is on Palestinian university students, we wish to reiterate the connection we make in 'Section A' that this discrete issue should be viewed as being on a continuum with the systematic use of military detention applied against children by Israel's military authorities. We submit it is an extremely serious concern that Palestinian children and young persons in the occupied West Bank are apparent systematic targets for unlawful military detention/deprivation of liberty.
53. LPHR is very willing to effectively assist the Special Rapporteur by providing further information. LPHR's Director and Principal Lawyer, Tareq Shrourou, and head of the *Tom Hurdall Student Protection* project, Aleisha Ebrahimi, can be contacted directly for this purpose by email at contact@lphr.org.uk.

Thank you for your careful consideration of this submission.

13 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>