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Date: November 6,
2024
In your response please note:
31701

Major General Yifat Tomer Yerushalmi
Military Advocate General
IDF

By fax/e-mail

Dear Madam,

Re: **Complaint of the disappearance of Gazan detainees after having been held in the military's custody including:**

_____ **Al-Muqayed, ID** -----
_____ **Al-Gharbali, ID** -----
_____ **Jarboa, ID** -----
_____ **al-'Ajur, ID** ----- **and his minor daughter** _____ **al-**
'Ajur, ID -----
_____ **al-Tawil, ID** -----

1. You are hereby requested to act by virtue of your power and open an investigation concerning the conduct of the military forces causing the disappearance of Gazan detainees who were held in custody of the military, including the detainees whose details are specified above.
2. HaMoked: Center for the Defence of the Individual (hereinafter: **HaMoked**) is a human rights organization acting, *inter alia*, to protect the rights of Palestinian prisoners and detainees who were incarcerated by Israeli forces, assisting Palestinian families to locate their loved ones who were arrested by the various security forces of Israel.
3. The complaint at hand concerns individuals who were last seen in the custody of the military forces or in close proximity to the military forces in the Gaza Strip, and who have disappeared after having been arrested, detained or held in custody by the military.
4. In other cases handled by HaMoked, the authorities informed that there was no indication of arrest or incarceration even when the individuals were seen in various incarceration facilities by Gaza Strip residents who were released from Israel's custody and have reported to the missing persons' families of the encounter with their loved ones. This letter does indeed concern, in particular, a group of detainees who were held by the military forces or who were seen in their vicinity in the Gaza Strip and were not necessarily seen in incarceration facilities within Israel. However, the above combination

points at a systemic problem among the different authorities, primarily the military, bearing severe flaws and leading to non-compliance with the obligations imposed on the authorities in these cases.

The following are examples of many cases in which Gazan residents have disappeared as a result of the military's conduct.

----- Al-Muqayed

5. Mr. Al-Muqayed whose details are specified above, a 75-year-old man, was taken on May 24, 2024 to a base under the military's responsibility in Jabalia, Gaza Strip. To the best knowledge of Mr. Al-Muqayed's family he was held in said base until its evacuation by the military. After the evacuation of the base, some of the persons held therein were released and others were arrested. However, the family of the elderly Mr. Al-Muqayed has not received any information of his whereabouts. On June 3, 2024, petitioner's family members found his belongings, including his identification card, in the base which had been evacuated.
6. HaMoked submitted in his matter a petition for a writ of *Habeas Corpus* to the High Court of Justice, after its applications to the relevant body, the Incarceration Control Center, were unsuccessful and no information regarding his holding place has been provided. In HCJ 5953/24 **Al-Muqayed v. IDF**, in which his matter was discussed, the state authorities informed that there was no indication of his arrest. The question which therefore arises is what happened to an elderly 75 year old man who had been held by the military and upon the military the obligation was and is still imposed to keep him safe?

----- Al-Gharbali

7. Similar to Mr. Al-Muqayed, ----- Al-Gharbali, whose details are specified above, is also an elderly man, 76 years old from the Gaza Strip who was seen by his family members on February 4, 2024, when taken into custody from his home in Al-Amal neighborhood in Khan Yunis. Mr. Al-Gharbali is a 76 year old man coping with terminal cancer and suffering physical pain due to his illnesses. However, these severe circumstances did not exempt him from a violent arrest, and at a later stage, from disappearance after having been held in custody.
8. HaMoked submitted in his matter a petition for a writ of *Habeas Corpus* to the High Court of Justice, after its applications to the relevant body, the Incarceration Control Center, were unsuccessful and no information of his holding place has been provided. In HCJ 28159-08-24 **Al-Gharbali v. IDF**, the state authorities informed that there was no indication of his arrest. Here too arises the question what happened to an elderly 76 year old man coping with terminal cancer, who had been arrested in front of his family members by the military forces?

----- Jarboa

9. Mr. Jarboa, whose details are specified above, is a 31 year old man from Rafah, whose picture was posted on social media networks on October 7, 2023, in which he appears with back and leg injuries near the military forces. This picture may possibly indicate that Mr. Jarboa was arrested by the military.
10. Detainees released from the Ofer facility told Mr. Jarboa's family that they heard the facility's staff calling Mr. Jarboa's name. In addition, one released detainee told Mr. Jarboa's wife that he had heard personal details from him which made his wife identify him as her husband.
11. Notwithstanding the above, the Incarceration Control Center informed that there was no indication of Mr. Jarboa's arrest or incarceration. Hence, the same question arises again, how can there be no indication of the arrest or incarceration of an individual who was seen with a leg and back injury near the military forces and was thereafter seen in an incarceration facility?

The al-'Ajur Family

12. ----- and ----- al-'Ajur, whose details are specified above, are a father and his five years old helpless daughter, who were in the hands of the military as of March 24, 2024, when the military burst into their home. Since then they have disappeared and their whereabouts are unknown.
13. During the bursting-in, the soldiers opened fire on the tenants and injured some of the family members, including the minor girl and her mother. Thereafter, the soldiers took the minor to another room to treat her shoulder injury. At the same time, they ordered the mother to leave the house in which her husband was staying in one room and her wounded daughter in another room. In the absence of any other choice and under threats to her life the mother acted as ordered, leaving her minor daughter alone with the soldiers who promised to take care of the little girl.
14. When the family members returned to the house two weeks later, they found out that the family home had been bombarded.
15. HaMoked filed a petition to the High Court of Justice in HCJ 70724-08-24 **al-'Ajur v. IDF** demanding that the state inform what happened to Mr. ----- al-'Ajur and his daughter, who were held in the custody of soldiers, and that the soldiers promised to take care of the daughter who had been injured by IDF gunfire.
16. The family received two reports according to which the father was seen in incarceration facilities in Israel. However, the Incarceration Control Center informed that there was no indication that the girl and her father were held by the Israeli incarceration authorities. This response has also been reiterated in the petition which was conducted in their matter. Accordingly, to date, there is no information concerning the fate of ----- and his helpless daughter who were held in the IDF's custody.
17. Unfortunately, these shocking circumstances are not unique to this case. In April 2024, HaMoked petitioned to the Honorable Supreme Court for the purpose of locating a

helpless 94-year-old elderly woman, a nursing patient suffering from Alzheimer's, who had disappeared after having been held in the custody of the soldiers who burst into her home.

18. The elderly woman's matter was brought-up in H CJ 2888/24 **al-Nawati v. IDF** in which the sad facts of the matter were presented. Accordingly, on March 21, 2024, soldiers burst into the building in which the elderly woman had been living, separated the women from the men in the building, ordered the women to leave and move to the southern part of the Gaza Strip and arrested the men. At that time, the elderly woman, who was unable to leave the building being a nursing patient suffering from Alzheimer's, remained in her home, and the soldiers promised her family that she would be taken by them to Al-Shifa Hospital.
19. The elderly woman's concerned family had since tried to locate her in the hospital, in the building and in any other possible place after the soldiers informed them that they intended to take her to the hospital, but all their attempts were unsuccessful. The family even searched among the bodies which were found in the vicinity of the building, but to no avail. The elderly woman disappeared after having been taken into the soldiers' custody.
20. After the petition in the elderly woman's matter had been filed, her family members returned to the place in which their house stood before the incident and searched again among its remains. Only then they found the elderly woman's body while the whole house had been burnt. In other words, despite the soldiers' promise to keep the elderly woman safe, her house was burnt down while she was confined to her bed inside!

----- al-Tawil

21. ----- al-Tawil whose details are specified above, is a 25 year old Gaza Strip resident who was arrested in front of his wife and sister by soldiers on November 29, 2023 in a checkpoint at the humanitarian crossing on Salah a-Din road. Mr. al-Tawil is an injured person who, at the time of the arrest, was confined to a wheelchair. He suffered from severe leg injuries which led to massive bleeding and very low hemoglobin levels in his blood. Mr. al-Tawil was arrested together with his uncle who was subsequently released, but Mr. al-Tawil remained in the military's custody.
22. Therefore, a petition for writ of *Habeas Corpus* was filed in the matter of Mr. al-Tawil in H CJ 5476/24 **al-Tawil v. IDF**, in the framework of which the state authorities informed that there was no indication of his arrest. Hence, similar to the cases presented above and hundreds if not thousands of other cases, there is no information concerning Mr. al-Tawil's fate after having been held by the military.

The obligations by which the military is bound

23. Hence this letter. There is no dispute that the residents whose matters are described above were held in the military's custody, whether arrested in front of eye-witnesses or detained by military forces after having been seen in their vicinity. In any event, the arresting and holding force is subject to all the obligations applicable under Israeli law to the holding

of prisoners, who are also "protected persons" under the international law which is binding upon the armed forces.

24. It emerges from all the above cases which were brought as an example of systematic conduct demonstrating the security forces' failure to comply with the obligations by which they are bound and it even seems that in certain cases which were described above they abandon the elderly, the ill and helpless minors. In addition to their disrespectful attitude, the authorities continue to say that there is no indication of an arrest or incarceration in cases in which an arrest has undoubtedly taken place or, at least, the person was seen with the military forces or in their close vicinity. Accordingly, the above conduct creates a situation in which it is impossible to ascertain the fate of the persons who were in the military's custody.
25. The above indicates a lack of comprehensive documentation of the fact of incarceration of people for any period of time. The absence of documentation leads to a chaotic situation, whereby the forces on the ground can do whatever they want to the individuals captured by them, including, *inter alia*, abandoning them and failing to ensure that they are physically safe. This situation thwarts any possibility of locating those detainees and examining what happened to them, and makes it impossible to conduct any investigation regarding suspicions of torture and severe violations of rights.
26. The military must comply with the obligations applicable to it under international humanitarian law, including the provisions of the Fourth Geneva Convention relative to the protection of civilians in time of war. The convention set forth, *inter alia*, the obligation to record every person held in the custody of the occupying power, even if not yet officially detained; the obligation to hold people in marked places designated for this purpose even if these areas are adjacent to a combat zone; and the obligation to establish a central database which shall keep all the aforementioned information, or which shall provide this information to the International Committee of the Red Cross.
27. Therefore, you are requested to act duly and diligently and conduct a pertinent and exhaustive investigation of the military's conduct on the ground which leads to the disappearance of Gaza detainees held in the custody of the military, including the detainees whose details are specified above. We expect to receive an answer regarding those who have already disappeared, and we further expect that the severe deficiencies which emerge from the ground shall be remedied to prevent them from recurring.
28. We thank you in advance for your prompt and pertinent attention to the matter and for providing us with an update of the results of the investigation.

Sincerely,

Nadine Abu Arafeh, Adv.