**OHCHR oPt submission to the Special Rapporteur on the situation of human rights defenders for the thematic report on long-term detention of human rights defenders**

19 March 2021

1. **Name: Mohammed El Halabi[[1]](#footnote-1)**, in pre-trial detention for over four years and risking a sentence of over 10 years imprisonment.

**Work as human rights defender:** Mohammed El Halabi was the manager of operations of World Vision in Gaza at the time of his arrest[[2]](#footnote-2), i.e. a humanitarian worker assisting children to overcome poverty and injustice in line with upholding children’s rights. World Vision has been active in the Occupied Palestinian Territory since 1975.

**History of detention:** Mohammad El Halabi has been in Israeli detention for four years and nine months, as of 19 March 2021.

Israeli Security Forces arrested El Halabi on 15 June 2016 at Erez crossing , as he was returning to Gaza from work-related meetings, on allegations of diverting humanitarian funds (of varying amounts of up to 50 million USD[[3]](#footnote-3)) to support Hamas in Gaza. The trial against him started in Beer Sheva District Court on 30 August 2016 and is still ongoing. **OHCHR has continuously raised serious concerns** in El Halabi’s case[[4]](#footnote-4) for:

* Incommunicado detention;
* Cruel, degrading and inhuman treatment that may amount to torture;
* Lack of fair trial guarantees, including disregard of the presumption of innocence and lack of impartiality of the court, extensive use of secret evidence and classification of court proceedings undermining the right to a defense, and to a fair and public trial, pressure by the prosecution and the court on El Halabi to enter into a plea bargain;
* Arbitrary detention.

As part of the ill-treatment, El Halabi was allegedly exposed to threats by undercover informers acting as inmates for the purpose of inducing detainees to confess (a known practice by Israeli authorities), which resulted in an alleged “confession” by El Halabi to an undercover informer. In a confidential court ruling, which was shared with the lawyer under gag order, the transcripts of the undercover informer that contain the alleged confession by El Halabi were accepted as admissible evidence in the case.

Initially, the trial took place behind closed doors and the case was subject to a gag order that also precluded the lawyer from sharing any information. An important part of the evidence was kept secret by the Prosecution until the beginning of 2018, i.e. one and half years after the start of the trial. Only then, Mr. Halabi’s lawyer was allowed to see part of the evidence based on a decision obtained from the Israeli Supreme Court, subject to conditions of keeping the material confidential.

OHCHR has monitored the trial over the past four years and found that in the segments open to public scrutiny no credible evidence has been presented to support the charges. The alleged confession made by El Halabi, seemingly under duress, is the only piece of evidence that the prosecution has referred to in public hearings, while the content of this alleged confession is being kept secret from the public. The defense attorney, who has been allowed to see the text of the confession to the undercover informant, has objected that it does not constitute a confession and that, in any case, evidence obtained under duress is not admissible. Following the charges against El Halabi, the Government of Australia reviewed World Vision in Gaza without finding any evidence of diversion of its funds.[[5]](#footnote-5) Furthermore, World Vision temporarily suspended their work in Gaza and commissioned an externally-conducted forensic audit which was completed in July 2017. This audit “found no evidence of diversion of funds and no material evidence that El Halabi was part of or working for Hamas.”[[6]](#footnote-6) World Vision previously stated that the sum that El Halabi was accused of diverting (50 million USD) exceeded the organization’s budget for ten years (22.5 million USD), noting that El Halabi had only been manager of operations since October 2014.[[7]](#footnote-7)

The trial entered the phase of closing arguments on 16 March 2021. Two hearings are scheduled on 23 April and 5 May 2021, before the trial is supposed to close.[[8]](#footnote-8) According to Israeli law, a sentence can be emitted at any time following the end of the trial, without any established time limit. El Halabi is to remain on remand at least until 19 May 2021, as per a decision by the Israeli Supreme Court on 18 February 2021. El Halabi is at risk of receiving a prison sentence, for several charges, exceeding 10 years imprisonment.

OHCHR oPt has not yet publicly reported on its full assessment of the case while awaiting the sentence from the court, and will include it in one of its reports to the General Assembly if the sentence arrives in the reporting period. **If the case is included by the Special Rapporteur in her report, OHCHR oPt would appreciate being consulted on the text included in the report**.

1. **Name: Khalida Jarrar, repeated detentions of over four years**

**Work as human rights defender:** Khalida Jarrar is a female member of the Palestinian Legislative Council (PLC), a leading politician within the Popular Front for the Liberation of Palestine (PFLP), and an activist for women's rights and prisoners' rights.[[9]](#footnote-9) She was the director of the Palestinian human rights organization Addameer from 1994 to 2006 (when she was elected to the PLC), and was then on its board of directors until 2017. She has since continued to advocate for the rights of women and prisoners in her own capacity.

**History of detention**: Through repeated arrests, Khalida Jarrar has cumulatively served 4 years and 3 months in prison since 1989 and as of 19 March 2021, and is scheduled to be released on 31 October 2021. Given the basis of her repeated detentions as the leader of a political party in the West Bank, it is highly likely that she will be detained again by ISF under similar charges. It should be noted that Khalida Jarrar sees her current conviction as an attempt to remove her from the political arena and limit her participation in the upcoming Palestinian legislative elections to be held on 22 May 2021.

* Israeli Security Forces (ISF) arrested Khalida Jarrar on 31 October 2019. She has **since been on remand and is scheduled to be released on 31 October 2021**. She was convicted to 24 months imprisonment on 1 March 2021 by the Israeli military court in Ofer, West Bank, on the basis of a plea bargain in which she accepted the charge of “holding a position in an unlawful association” for her membership in the PFLP. The charge is envisaged under provision 85B of the Defense (Emergency) Regulations of 1945[[10]](#footnote-10). The Defence (Emergency) Regulations empower Israeli authorities to declare as an unlawful association “*any body of persons*” that “*advocates, incites or encourages*” overthrow of or “*brings into hatred or contempt of, or the exciting of disaffection against*” Israeli authorities. In accordance with the plea bargain, Khalida Jarrar was sentenced to 24 months in prison - including 20 months in relation to the current proceedings and additional 4 months from the activation of a suspended sentence dating back to 2016 relating to the same charge [[11]](#footnote-11) - 12 months suspended sentence, which can be activated within a period of five years, and a fine. In relation to her arrest in 2019, IDF has on repeated occasions publicly stated that Khalida Jarrar was detained on suspicion of involvement in “terror activity”.[[12]](#footnote-12) Both the charges and the conviction are completely unrelated to such accusations, to the contrary they explicitly point to Jarrar’s political role and position as the reason for her detention. Such statements have a clear delegitimizing effect on the human rights defender.
* Previously, ISF arrested Jarrar on 2 July 2017 in her house in Ramallah. She was held in administrative detention in Israel, without trial or charge, and based on secret evidence, until 28 February 2019. She was released following a plea bargain based on pleading guilty to the charges of “incitement” and holding a position in an unlawful association (PFLP). The charge of incitement is based on Israeli Military Order 101 of 1967 (“*Order Regarding Prohibition of Incitement and Hostile Propaganda Actions*”),which restricts the freedoms of expression, peaceful assembly and association by criminalizing the acts of anyone who “*publishes praise, sympathy or support for a hostile organization, its actions or objectives*,” or commits “*an act that reveals identification with a hostile organization*,” including by “*singing a hymn or sounding a slogan, or any similar act that clearly reveals identification or sympathy*”.[[13]](#footnote-13) A ‘hostile organization’ refers to those groups declared as unlawful associations under the abovementioned Defence (Emergency) Regulations.
* ISF detained Khalida Jarrar on 2 April 2015 and released her in June 2016. She agreed to a plea bargain in December 2015 on charges of “incitement” and holding a position in an unlawful association (PFLP). She was released with the condition of a five year suspended sentence.[[14]](#footnote-14)
* Khalida Jarrar was also detained by ISF one month in 1989, following arrest during a women’s international day demonstration.

Khalida Jarrar has been convicted and sentenced to increasingly long prison sentences on the basis of her political involvement. On 9 May 2020, Military order 1827 (of 9 February 2020) came into force. The military order adds two serious offenses related to the directing and leading of unlawful associations, punishable by 25 and 15 years’ imprisonment respectively. This part of the amendment of the security provisions were seemingly introduced following the mass arrests against PFLP affiliates at the end of 2019 to impose heavier punishment in these cases. There is **serious concern that these and other provisions, such as article 251 of Military Order 1651 of 2010[[15]](#footnote-15), imposing very long sentences up to 25 years imprisonment may be used in the future against Jarrar**. More generally, Israeli authorities may start to use newly enacted provisions to target human rights defenders who are politically active with longer prison sentences.

Regarding the extensive use of plea bargains in the case of Khalida Jarrar, as well as in the other cases mentioned in this submission, it should be noted that the pressure for Palestinian HRDs to enter into such agreements is extremely high, as reported by the High Commissioner.[[16]](#footnote-16)

1. **Name: Khitam Sa’afin**. Repeated administrative detentions, currently under administrative detention, which in principle can be prolonged indefinitely.

**Work as a human rights defender:** Ms. Khitam Sa’afin is currently the president of the Union of Palestinian Women’s Committees, an organization that works for the community-based economic and social development of women in the West Bank and Gaza.

**History of detention**: Khitam Sa’afin has served a total of seven months in Israeli detention since July 2017 and as of 19 March 2021. Her current administrative detention order expires on 30 June 2021. Such orders can be renewed without any legal limit, hence allowing for the indefinite detention of a person.

* On 2 November 2020, ISF arrested Khitam Sa’afin in Ramallah Governorate. On 9 November 2020, the military commander of the area ordered to place her under administrative dentition for 6 months, which was challenged by Sa’afin’s legal counsel. A first instance court limited the order to four months on 10 November 2020. However, in March 2021, Sa’afin’s administrative detention was prolonged by the military commander, and approved by the court, for another four months, currently ending on 30 June 2021. In approving the administrative detention order, the military court of appeal stated that the activity for which Ms. Sa’afin is suspected relates to her participation in the civilian activities of the PFLP, and is not linked to any PFLP military activity.
* Israeli Security Forces arrested Khitam Sa’afin on 2 July 2017, during a night raid in her home in Ramallah and placed her under administrative detention, based on evidence that was kept secret from her and her lawyer, and without any formal charge.[[17]](#footnote-17) She was accused informally of membership of the PFLP. Sa’afin was released on 2 October 2017, after serving a three-month administrative detention order.

Under Israeli military law, administrative detention orders can be issued for periods of up to six months at a time, but orders can be renewed without any legal limit, hence allowing for the indefinite detention of a person.[[18]](#footnote-18) It is thereby impossible to calculate how long Khitam Sa’afin would spend in detention.

1. **Name: Mohammad Izghayyer**. Repeated administrative detentions, currently under administrative detention, which in principle can be prolonged indefinitely.

**Work as a human rights defender:** Spokesperson for Youth Against Settlements in Hebron, a grassroots organization that opposes the Israeli settlement enterprise in Hebron through non-violent means. Izghayyer has been a member of the organization since 2009.

**History of detention**: Mohammad Izghayyer has cumulatively been in Israeli detention for 4 years and 4 months, in the years from 2005 and as of 19 March 2021. He is currently under administrative detention, which is scheduled to end on 20 April 2021.

* ISF arrested Mohammad Izghayyer on 19 April 2020 and placed him under administrative detention since 4 May 2020, without charge and based on secret evidence, which has not been shared with him or his lawyer. He went on hunger strike for 20 days, followed by a deal with the Israeli authorities on 8 November 2020 that entailed that the authorities would limit the length of his administrative detention to 20 April 2021.
* ISF arrested and placed Izghayyer under administrative detention from 3 May to 2 September 2019, based on a secret file to which neither he nor his lawyer had access.[[19]](#footnote-19) This occurred shortly after Izghayyer had been acquitted[[20]](#footnote-20) in February 2019 by an Israeli military court of the charges of stone throwing and organizing illegal demonstrations in 2015.[[21]](#footnote-21) The trial had been ongoing since 2016, with 15 court hearings.
* ISF detained Izghayyer for one month ending in November 2015, on allegations of having plotted to attack settlers in Hebron. He was released without any such charges being pressed against him. Instead he was charged with the abovementioned stone-throwing and organizing of illegal demonstrations, released on bail and later acquitted of all charges.
* Izghayyer reported that he was detained by ISF in two different intervals in the period 2005-2009, for three years altogether, on accusations of affiliation as a student to Hamas and the Islamic bloc. This was before his work as a human rights defender started.

Similarly, to Khitam Sa’afin’s case above, Izghayyer’s administrative detention can in principle be prolonged indefinitely. However, it is important to note that Izghayyer reached an agreement with the Israeli authorities to be released from administrative detention on 20 April 2021. Such an agreement does not preclude that authorities could detain Izghayyer again in the future based on charges, as well as on another administrative detention order. Worth noting is also that the other Spokesperson of Youth Against Settlements, Issa Amro, was convicted on 6 January 2021 by an Israeli Military Court on charges of participating in illegal demonstrations, alleged assault (pushing a settlements guard in 2010) and resisting arrest, pending sentencing.[[22]](#footnote-22) The determination by ISF to clamp down on Youth Against Settlements seems to be increasing, which may present a higher risk of continued detention against Izghayyer.

1. For public High Commissioner reports on the case, please see A/HRC/37/42 paras. 27-32 and A/HRC/34/36, para. 21. [↑](#footnote-ref-1)
2. [Mohammad El Halabi Trial Overview | World Vision International (wvi.org)](https://www.wvi.org/jerusalem-west-bank-gaza/mohammad-el-halabi-trial-overview) [↑](#footnote-ref-2)
3. [Update: Statement by World Vision International CEO in wake of staff arrest | World Vision International (wvi.org)](https://www.wvi.org/jerusalem-west-bank-gaza/pressrelease/update-statement-world-vision-international-ceo-wake-staff) [↑](#footnote-ref-3)
4. See A/HRC/37/42 paras. 27-32 and A/HRC/34/36, para. 21. [↑](#footnote-ref-4)
5. [World Vision Gaza and Hamas – Parliament of Australia (aph.gov.au)](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2017/October/World_Vision_Gaza_and_Hamas) and [Inquiry clears World Vision Gaza of diverting funds to Hamas | Aid | The Guardian](https://www.theguardian.com/global-development/2017/mar/21/inquiry-clears-world-vision-gaza-of-diverting-funds-to-hamas) [↑](#footnote-ref-5)
6. [Mohammad El Halabi Trial Overview | World Vision International (wvi.org)](https://www.wvi.org/jerusalem-west-bank-gaza/mohammad-el-halabi-trial-overview) [↑](#footnote-ref-6)
7. [Update: Statement by World Vision International CEO in wake of staff arrest | World Vision International (wvi.org)](https://www.wvi.org/jerusalem-west-bank-gaza/pressrelease/update-statement-world-vision-international-ceo-wake-staff) [↑](#footnote-ref-7)
8. <https://www.jpost.com/arab-israeli-conflict/closing-arguments-start-in-world-vision-alleged-terror-case-662211> [↑](#footnote-ref-8)
9. A/HRC/43/70 para. 55. [↑](#footnote-ref-9)
10. Issued by the Government of United Kingdom during its mandate over Palestine [↑](#footnote-ref-10)
11. See below. Additionally, according to the plea bargain, Jarrar is to serve another 8 months of the suspended sentence “in parallel” to the current sentence. The total of the reactivated sentence is therefore 12 months. [↑](#footnote-ref-11)
12. See for example: [www.timesofisrael.com/israeli-forces-re-arrest-senior-pflp-member-in-ramallah](http://www.timesofisrael.com/israeli-forces-re-arrest-senior-pflp-member-in-ramallah) and [The Palestinian politician who turned terrorist (ynetnews.com)](https://www.ynetnews.com/article/SyekUzFCB) [↑](#footnote-ref-12)
13. For further information on the applied Military Orders and other regulations, see Human Rights Watch’s report Born Without Civil Rights, available at <https://www.hrw.org/sites/default/files/report_pdf/palestine1219_web_0.pdf> [↑](#footnote-ref-13)
14. See A/HRC/WGAD/2016/15 and <https://www.amnesty.org/download/Documents/MDE1577802018ENGLISH.pdf> [↑](#footnote-ref-14)
15. The article provides for ten years imprisonment for ”incitement and support to a hostile organization” through attempts, orally or otherwise, to influence public opinion in the Area in a manner which may harm public peace or public order”. [↑](#footnote-ref-15)
16. A/HRC/37/42 para. 32. [↑](#footnote-ref-16)
17. A/HRC/37/42 para. 55. [↑](#footnote-ref-17)
18. See A/HRC/37/42 para. 20. Administrative detention is based on Israeli Military Order 1651. [↑](#footnote-ref-18)
19. A/75/336 para. 11. [↑](#footnote-ref-19)
20. The conviction rate in Israeli military courts against Palestinians is currently reported to be around 95%, see [Military Court Watch](https://www.militarycourtwatch.org/page.php?id=a6r85VcpyUa4755A52Y2mp3c4v%22%20\l%20%22:~:text=95%25%20of%20cases%20in%20the,of%20the%20Fourth%20Geneva%20Convention) in 2019. In 2011, the military court system reported that its conviction rate was over 99%, see [Haaretz](https://www.haaretz.com/1.5214377). [↑](#footnote-ref-20)
21. A/75/336 para. 11. [↑](#footnote-ref-21)
22. <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26688&LangID=E> [↑](#footnote-ref-22)