



UN panel finds that three female Palestinian students from Birzeit University are in arbitrary detention, following legal submission from LPHR and Addameer



Layan Kayed; Ruba Asi; Elyaa Abu Hijla

London and Ramallah, 01 July 2021 – Lawyers for Palestinian Human Rights (LPHR) and Addameer Prisoner Support and Human Rights Association (**Addameer**), strongly welcomes the [published opinion](#) of the UN Working Group on Arbitrary Detention (**UN Working Group**) which importantly finds that three female Palestinian students from Birzeit University, Layan Kayed (23), Elyaa Abu Hijla (21) and Ruba Asi (21), are being arbitrarily detained by Israeli authorities.

The UN Working Group's expert opinion gives full clarity that the criminalisation and wholly punitive treatment subjected to Layan, Elyaa and Ruba is unlawful, arbitrary, based on discriminatory grounds, and replete with human rights violations. Their ongoing maltreatment and punishment by Israel's authorities must be condemned, and should end immediately.

The UN Working Group *“requests the Government of Israel to take the steps necessary to remedy the situation of Ms. Kayed, Ms. Abu Hijla and Ms. Asi without delay... [T]he appropriate remedy would be to release Ms. Kayed, Ms. Abu Hijla and Ms. Asi immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.”* LPHR and Addameer urge governments and parliamentarians to follow-up on the UN Working Group's urgent and critical recommendations.

We initiated the UN Working Group's review after making a [legal complaint](#) last September, submitting that Layan, Elyaa and Ruba were each being arbitrarily detained by Israel's military authorities. Their published written opinion provides a forensic analysis of material legal and human rights issues highlighted in our submission. In so doing, the Working Group finds their military detention to be arbitrary under four distinct categories (*bolded by LPHR and Addameer for emphasis*):



- *'[T]he detention of Ms Kayed, Ms Abu Hijla and Ms Asi is arbitrary under category I as it lacks a legal basis.'*
- *'[T]he detention of Ms Kayed, Ms Abu Hijla and Ms Asi resulted from their legitimate exercise of the freedoms of expression, peaceful assembly and association, as protected by articles 19, 21 and 22 of the International Covenant on Civil and Political Rights, and is therefore arbitrary, falling under category II.'*
- *'[T]he violations of the fair trial rights of Ms. Kayed, Ms. Abu Hijla and Ms. Asi are of such gravity as to render their detention arbitrary under category III.'*
- *'The Working Group concludes that Ms. Kayed, Ms. Abu Hijla and Ms. Asi, all of whom are female students and all of whom are also Palestinian, have been detained on discriminatory grounds, namely because of their gender and their national, ethnic and social origin. The Working Group considers that they were also detained on the basis of their status as university students... [T]he Government has violated articles 2 (1) and 26 of the Covenant, and that the deprivation of liberty of Ms. Kayed, Ms. Abu Hijla and Ms. Asi is arbitrary under category V.'*

The UN Working Group's opinion details the gravity and range of the violations against Layan, Elyaa and Ruba, finding (*bolded by LPHR and Addameer for emphasis*):

- *'All three arrests appear to have been carried out with a clear excess of force, as none of the women are reported to have put up any resistance but all were handcuffed and two (Ms. Abu Hijla and Ms. Asi) were also blindfolded'.*
- *'[I]t is disturbed by the manner in which the three female students were arrested and at the excessive force used by the authorities. Their subsequent treatment at the hands of the authorities, including the failure to remove handcuffs when eating, the imposed use of a toilet without a door for privacy and the failure to provide appropriate clothing, reveal a prima facie breach of the Bangkok Rules.'*
- *'[T]he treatment of the three female students clearly falls short of the obligations of Israel as a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The treatment also violates the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the Bangkok Rules [the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders]'*
- *'[T]he presence of legal counsel during interrogations is an essential safeguard in ensuring that any admissions by an individual are given freely... [T]he failure to provide Ms. Kayed, Ms. Abu Hijla and Ms. Asi with access to a lawyer from the moment of their detention violated their right to adequate time and facilities for the preparation of their defence and to communicate with a lawyer of their choice.'*



- *'[T]he Working Group in its practice has consistently argued that **the trial of civilians by military courts is in violation of the Covenant and customary international law** and that, under international law, military tribunals can only be competent to try military personnel for military offences... [T]he Government could have explained why the three women students appeared before a military court but failed to do so.'*
- *'[T]he right to challenge the lawfulness of detention before a court is a self-standing human right, which is essential to preserve legality in a democratic society... There is **nothing to indicate that any of the three women were presented before a judicial authority**, as required by article 9 (3)–(4) of the Covenant. Moreover, the ordinary permissible period of delay for being brought before a judge of 48 hours was clearly violated in each individual case.'*
- *'[I]t is a well-established norm of international law that pretrial detention should be the exception and not the rule, and that it should be ordered for as short a time as possible....[T]he bail hearings for Ms. Kayed, Ms. Abu Hijla and Ms. Asi did not take place and the Government has not explained why. In the absence of such an explanation, **the Working Group cannot accept that the pretrial detention of these three women was properly constituted.**'*
- *'The Working Group recalls that, under certain circumstances, **widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.**'*

Underscoring the scale and range of the violations involved in the arbitrary detention of Layan, Elyaa and Ruba, the UN Working Group has notably decided to onward refer their cases to six other UN Special Rapporteurs, and a further UN Working Group:

- the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,
- the Special Rapporteur on the rights to freedom of peaceful assembly and of association,
- the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,
- the Special Rapporteur on the independence of judges and lawyers,
- the Special Rapporteur on violence against women, its causes and consequences,
- the Working Group on discrimination against women and girls, and
- the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 for appropriate action.



Just prior to the publication of the UN Working Group's Opinion, LPHR and Addameer released a [statement](#) notifying that Layan, Elyaa and Ruba had each received criminal convictions and varying excessive sentences by an Israeli military court, on the basis of having exercised their basic human rights by participating in and affiliating with a democratic student association at Birzeit University:

- Ms Layan Kayed (23-years-old) was sentenced to 16 months of imprisonment and fined 6,000 NIS (approximately \$1,820) on 21 March 2021. Layan has now been in continuous military detention for over a year, following her arrest on 8 June 2020.
- Ms Elyaa Abu Hijla (21-years-old) was sentenced to 11 months of imprisonment on 23 December 2020 and fined 1,500 NIS (approximately \$465). Elyaa was released on 10 May 2021, after over ten months in military detention since her arrest on 1 July 2020.
- Ms Ruba Asi (21-years-old) was sentenced to 21 months of imprisonment and fined 3,000 NIS (approximately \$925) on 3 May 2021. Ms Ruba Asi has now been in continuous military detention for close to a year, following her arrest on 9 July 2020.

LPHR and Addameer are in the process of relaying the UN Working Group's opinion to Layan, Elyaa and Ruba: informing them that they have been recognised as being arbitrarily detained on four separate grounds, and that they are entitled to remedy under international law. We will continue to work on their cases and those of other Palestinian university students facing illegitimate targeting and punishment for exercising their basic human rights.

About Lawyers for Palestinian Human Rights (LPHR)

[LPHR](#) is a UK legal charity that works on key projects to protect and promote Palestinian human rights.

About Addameer Prisoner Support and Human Rights Association (Addameer)

[Addameer](#) is a Palestinian non-governmental, civil institution that works to support Palestinian political prisoners held in Israeli and Palestinian prisons.

Background Notes:

Guilty plea bargains were accepted by Layan, Elyaa and Ruba due to Israel's military courts lacking basic fair trial rights, as clearly indicated by its [conviction rate of over 99 per cent](#). LPHR and Addameer notes their trial dates were frequently postponed without the opportunity of a bail hearing; thereby increasing a further factor of arbitrariness into their military detention.

By way of background, each of the three female Birzeit University students were arrested within a month of each other, and subsequently charged with participating in and affiliating with a



student association. From the beginning of the military occupation in June 1967 through to July 2019, Israel's Defence Ministry has classified 411 organisations as "hostile," "unlawful" or "terrorist" associations under the Defence (Emergency) Regulations (1945). 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. University student groups have also been so designated, despite their lawful nature.

In September 2020, LPHR and Addameer submitted a [legal complaint](#) to the United Nations Working Group for Arbitrary Detention on the Israeli military authorities ongoing unlawful arbitrary detention of Layan, Elyaa and Ruba.

The criminal convictions against Layan, Elyaa and Ruba are part of an [intensifying pattern](#) of the Israeli military authorities arbitrary detention of Palestinian university students for peaceful exercise of their basic human rights of freedom of assembly, association and expression. The use of arbitrary military detention and punishment appears purposeful to intimidate and deter other students from exercising their fundamental civil and political rights. It has the hallmarks of being intentional and strategic; indeed the methods used, and the volume of students they target, are accelerating.

LPHR and Addameer emphasise that Layan, Elyaa and Ruba have been criminalised and received varying excessive sentences for exercising fundamental freedoms guaranteed by international human rights law. They have not had prior engagement with Israel's military authorities. The effect of these sentences, lengthy and in harsh prison settings, will have a major impact on these young female students. We are deeply concerned about their well-being.

LPHR and Addameer will continue to work on aiming to protect Palestinians university students from ongoing illegitimate targeting and punishment, which appears to be widespread, systematic and in clear violation of basic international human rights law protections. LPHR has established a [Student Protection Project](#) to consolidate our work and focus on this specific human rights issue, with more details to follow soon.