



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

18 July 2003

President
Justice Arthur CHASKALSON, South Africa

Vice-Presidents
Lord William GOODHART, United Kingdom
Justice Lennart GROLL, Sweden

Executive Committee
Justice John DOWD, Australia (Chairperson)
Prof. Jochen A. FROWEIN, Germany
Prof. Maurice KAMTO, Cameroon
Dr. Hipolito SOLARI YRIGOYEN, Argentina
Ms Gladys VERONICA LI, Hong Kong
Prof. Yozo YOKOTA, Japan

Other Commission Members
Dr. Alejandro ARTUCIO RODRIGUEZ, Uruguay
Justice Solomy BALUNGI BOSSA, Uganda
Justice Ian BINNIE, Canada
Prof. Alexander BRÖSTL, Slovakia
Prof. Antonio CASSESE, Italy
Ms Christine CHANET, France
Lord COOKE, New Zealand
Ms Marie-José CRESPIAN, Senegal
Dato' Param CUMARASWAMY, Malaysia
Dr. Dalmo DE ABREU DALLARI, Brazil
Dr. Rajeev DHAVAN, India
Prof. Vojin DIMITRIJEVIC, Serbia and Montenegro
Ms Vera DUARTE, Cape-Verde
Ms Elisabeth EVATT, Australia
Mr Desmond FERNANDO, Sri Lanka
Dr. Gustavo GALLÓN GIRALDO, Colombia
Prof. Ruth GAVISON, Israel
Ms Asma KHADER, Jordan
Prof. Kofi KUMADO, Ghana
Prof. Ewa LETOWSKA, Poland
Justice Claire L'HEUREUX-DUBE, Canada
Ms Karinna MOSKALENKO, Russia
Justice Florence N. MUMBA, Zambia
Dr. Adnan B. NASUTION, Indonesia
Dr. Pedro NIKKEN, Venezuela
Prof. Manfred NOWAK, Austria
Dr. Margarita RETUERTO BUADES, Spain
Prof. Andrei RICHTER, Russia
Sir Nigel RODLEY, United Kingdom
Mr Claes SANDGREN, Sweden
Mr Jerome SHESTACK, U.S.A.
Prof. Anne-Marie SLAUGHTER, U.S.A.
Mr Raji SOURANI, Palestine
Prof. Daniel THÜRER, Switzerland
Prof. U. Oji UMOZURIKE, Nigeria
Prof. Vilenas VADAPALAS, Lithuania
Prof. Theo VAN BOVEN, Netherlands
Dr. José ZALAQUETT, Chile

Secretary-General
Ms Louise DOSWALD-BECK

Prime Minister Ariel Sharon
Office of the Prime Minister
3 Kaplan Street
P.O.Box 187
Kiryat Ben-Gurion
Jerusalem 91919, Israel

Fax: +972 2 651 2631

Your Excellency,

The International Commission of Jurists (ICJ) consists of jurists who represent all the regions and legal systems in the world working to uphold the rule of law and the legal protection of human rights. The ICJ's Centre for the Independence of Judges and Lawyers (CIJL) is dedicated to promoting the independence of judges and lawyers throughout the world.

We are writing you to express our deep concern at the administrative detention of lawyer Daoud al-Dir'awi and the circumstances surrounding his detention.

According to the information we have received, Mr. al-Dir'awi, a lawyer working for the Palestinian section of Defence of Children International, was arrested on 21 February 2003 when he was taking his sick child to a hospital in Jerusalem. Mr. al-Dir'awi was allegedly stopped in his car by Israeli soldiers and, after another group of soldiers arrived, was taken to the Al Kashla Police station in Jerusalem's Old City. One day later he was transferred to the Atzion Military Detention Centre. According to a lawyer who visited the detainee on 24 February, Mr. al-Dir'awi had been badly beaten en route to the detention centre by the Israeli soldiers who were transporting him. He was also allegedly kept tied in a painful position known as *shabeh* and exposed to rain and snow. The visiting lawyer stated that physical evidence of the beating was still visible when he visited Mr. al-Dir'awi.

On 3 March, eight days later, Mr. al-Dir'awi was served with a six-month detention order. No formal charges were brought against him apart from the allegation that he posed a security threat to the area for his purported membership in the Popular Front for the

Liberation of Palestine (PFLP), an armed group that has claimed responsibility for several attacks against Israeli civilians. On 9 March, the Ofer Military Court decided to review the detention order and confirmed Mr. al-Dir'awi's detention on 25 March. A judge of the Military Court of Appeals in Judea and Samaria denied an appeal on 2 June 2003. Mr. al-Dir'awi remains detained in the Ketziot/ Ansar3 detention centre.

We are alarmed at the administrative detention of Mr. al-Dir'awi and the use of this form of detention by the Israeli Government wherein suspects are held without charge or trial. Mr. al-Dir'awi has not been formally charged with any specific crime; rather, the prosecution relied on "intelligence information" - which it did not disclose - to argue that he is a member of the PFLP. Therefore, as he was not charged, we consider Mr. al-Dir'awi's arrest to be arbitrary. In view of these facts, the Israeli Government is in violation of the *International Covenant on Civil and Political Rights* (ICCPR), to which it is party. The ICCPR states:

*Article 9.1: Everyone has the right to liberty and security of person. No one shall be subjected to **arbitrary arrest** or **detention**. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

*Article 9.2: Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any **charges** against him.*

Furthermore, as administrative detention orders are indefinitely renewable for six-month periods, your Government is in breach of Article 9.3 of the ICCPR, which requires that:

*Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to **trial within a reasonable time or to release**.*

As Mr. al-Dir'awi was tried by military judges, he did not benefit from an independent and impartial tribunal as required under Article 14.1 of the ICCPR which provides that:

*All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, **independent** and **impartial tribunal** established by law.*

Regarding this detainee's treatment during detention, we would like to draw the attention of your Government to its obligations under the *Convention against Torture* (CAT) which explicitly forbids torture under any circumstances. In this regard, Article 2.2 states that:

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

Israel is a party to the CAT.

As you may recall, the ICJ/CIJL previously addressed a letter on 11 September 2001 to your Government regarding Mr. al-Dir'awi who had been arrested and kept in administrative detention for six months. In that letter, we reminded your Government that torturing a prisoner and failing to charge him with a specific crime constitute violations of both the CAT and the ICCPR.

In conclusion, we urge your Government to immediately release Mr. al-Dir'awi or bring formal charges against him. If this detainee is charged, he should be tried by an independent and impartial tribunal and under no circumstances should he be subjected to cruel, inhuman or degrading treatment or punishment.

Please accept the assurances of my highest consideration.

Yours sincerely,

Ernst Lueber
Acting Secretary-General

c.c: H.E. Mr. Yaakov Levy
Permanent Mission of Israel
to the UN Office in Geneva
Avenue de la Paix 1-3
1202 Geneva

Fax: 022 716 0555

Tzachi Hanegbi
Minister of Public Security
Ministry of Public Security
(Police)
Kiryat Hamemshala
P.O. Box 18182
Jerusalem 91181, Israel

Fax: +972 2 584 7872

Elyakim Rubinstein
Attorney-General
Ministry of Justice
29 Salah al-Din Street
Jerusalem 91010, Israel

Fax: +972 2 6285438

Yosef Lapid
Minister of Justice
Ministry of Justice
29 Salah al-Din Street
Jerusalem 91010, Israel

Fax: +972 2 628 7757

Avraham Poraz
Minister of the Interior and
Deputy Prime Minister
Ministry of the Interior
2 Kaplan Street
P.O. Box 6158
Kiryat Ben-Gurion
Jerusalem 91061, Israel

Fax: +972 2 670 1628