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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2020]

* Issued as received, in the language(s) of submission only.

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Hamis must release peace activist Rami Aman

United Nations Watch is concerned about the case of Mr. Rami Aman who has been arbitrarily detained by Hamas since 9 April 2020 for exercising his rights to freedom of expression and association. A cross-regional coalition of 70 non-governmental organizations (NGOs) has submitted a complaint in this case to the Working Group on Arbitrary Detention (WGAD).

Both the Palestinian Authority (“PA”) and Hamas bear responsibility for Mr. Aman’s situation and must ensure his immediate release. In April 2014, the PA, purported to accede to several human rights treaties, including the International Covenant on Civil and Political Rights (“ICCPR”). The PA is responsible for Hamas’s violations in Gaza because it supports Hamas through the provision of funding and services.¹ Furthermore, it represents to international bodies like the International Criminal Court that it has jurisdiction over both the West Bank and Gaza. Its reports to the United Nations (UN) treaty bodies include data about treaty compliance in Gaza. Moreover, the treaty bodies have held the PA accountable for treaty violations in Gaza.² Hamas is independently responsible for its own violations. It presents itself as the Palestinian government in Gaza and has repeatedly affirmed its commitment to uphold all international treaties ratified by the PA.³ Furthermore, the UN has affirmed Hamas’s treaty obligations in statements by the High Commissioner for Human Rights.⁴

Rami Aman is a 38-year-old Palestinian journalist and peace activist in Gaza. He founded a Gaza youth activist group called the “Gaza Youth Committee,” which recently joined the Alliance for Middle East Peace (“ALLMEP”), an international coalition of groups that promote Israeli-Palestinian cooperation.⁵

On 6 April 2020, Mr. Aman and his group conducted a Zoom video call with more than 200 Israeli and Gaza peace activists. The nearly two-hour meeting was part of a series of meetings titled “Skype With Your Enemy,” that had been taking place for the past five years. An invitation to the Zoom conference was posted on Facebook for an opportunity to “open a channel of communication between Gazans and Israelis.” During the call, Mr. Aman encouraged participants to believe in peace and continue advocating for change.⁶

On 9 April 2020—one day after then-Amnesty researcher Hind Khoudari took to Facebook to protest Mr. Aman’s Zoom call tagging three Hamas officials, Hamas authorities arrested Mr. Aman and seven others accusing them of treason.⁷ The arrest was announced on

¹ Maayan Jaffe-Hoffman, PA doubles pay-for-slay salary to murderer of 3 Israeli teens, *Jerusalem Post* (July 11, 2019), <https://www.jpost.com/arab-israeli-conflict/pa-ups-pay-for-slay-salary-to-murderer-of-3-israeli-teenagers-in-2014-595302>; Nidal al-Mughrabi, Hamas cedes Gaza border crossings to Palestinian Authority control, *Reuters* (Nov. 1, 2017), <https://www.reuters.com/article/us-israel-palestinians-reconciliation/hamas-cedes-gaza-border-crossings-to-palestinian-authority-control-idUSKBN1D13T1>.

² Committee on the Elimination of Racial Discrimination Concluding observations on the combined initial and second periodic reports of the State of Palestine, UN Doc. CERD/C/PSE/CO/1-2, ¶ 19(c) (Aug. 29, 2019).

³ Two Authorities, One Way, Zero Dissent: Arbitrary Arrest and Torture under the Palestinian Authority and Hamas, *Human Rights Watch* (October 23, 2018), <https://www.hrw.org/report/2018/10/23/two-authorities-one-way-zero-dissent/arbitrary-arrest-and-torture-under>.

⁴ Comment by the Spokesperson for the UN High Commissioner for Human Rights, Rupert Colville, on possible imminent executions in Gaza, Office of the UN High Commissioner for Human Rights (OHCHR) (May 25, 2016), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20012&LangID=E>; Press briefing note on Syria and Gaza, OHCHR (April 7, 2017), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21492&LangID=E>.

⁵ Amnesty International demands release of Gaza Youth Committee, Alliance for Middle East Peace (May 7, 2020), <https://www.allmep.org/amnesty-gaza-youth-committee/>.

⁶ The Disappearance of Rami Aman & Amnesty International – Timeline, UN Watch (May 6, 2020), <https://unwatch.org/the-disappearance-of-rami-aman-amnesty-international-timeline/>.

⁷ Row in Gaza over Arrests for Zoom Chat with Israelis, *Asharq Al-Awsat* (April 14, 2020), <https://english.aawsat.com/home/article/2233476/row-gaza-over-arrests-zoom-chat-israelis>.

Facebook by the de facto interior ministry in Gaza spokesman Iyad El-Bozom, who accused the activists of “holding a normalization activity with the Israeli occupation.”⁸ He added: “Holding any activity or any contact with the Israeli occupation under any cover is a crime punishable by law and is treason to our people and their sacrifices.”⁹ He referenced Article 153 of the PLO Revolutionary Penal Code of 1979, which provides that “anyone who incites individuals to join the enemy...or recruits themselves or others for the benefit of the enemy,” can be punished by “death or hard labor for life, or temporarily for a period of no less than seven years.”¹⁰

Many activists and the United Nations itself have called for Mr. Aman’s release, including in statements by Middle East peace envoy Nickolay Mladenov and by the UN human rights office.

The detention of Mr. Aman is arbitrary under Categories I, II and III of the Working Group’s methods. Category I renders detention arbitrary where there is no “legal basis justifying the deprivation of liberty.” This requires laws to be “formulated with sufficient precision to regulate his or her conduct accordingly.”¹¹ The laws at issue here—provisions of the PLO Revolutionary Penal Code of 1979—concern “inciting individuals to join the enemy” and “propaganda aimed at weakening the revolution.” These laws are not sufficiently clear in prohibiting the type of peaceful expression engaged in by Mr. Aman and his colleagues.

Category II renders a detention arbitrary if it relates to the exercise of detainee’s rights to freedom of opinion and expression and association under Articles 19 and 20 of the Universal Declaration of Human Rights (respectively, Articles 19 and 21 of the ICCPR). The arrest and continuous detention of Mr. Aman is based solely on his peaceful political activities. Hamas arrested him three days after he conducted a peace-dialogue with his Israeli counterparts via Zoom, and one day after former Amnesty researcher Hind Khoudary complained to Hamas on Facebook about this so-called “normalization” activity. Moreover, the de facto interior minister in Gaza El Bozom admitted the arrest was for “holding a normalization activity with the Israeli occupation.”

Thus, Mr. Aman is being accused of treason for having engaged in peace dialogue with Israelis. We note that the PA—which also considers “normalization” to be treason—supported the arrest. This is reflected in the statement in support of Hind Khoudary by PA Minister of Women’s Affairs Amal Hamad that resisting “normalization” is important at all times. By its nature, “normalization” (*i.e.*, peace dialogue) implicates the rights to freedom of expression and association.

Additionally, the current detention fits in a pattern of Hamas’s past violations of Mr. Aman’s rights to freedom of expression and association. Mr. Aman was previously detained and interrogated by Hamas on a number of occasions as a result of his activism—including for organizing a joint bike ride with Israelis along the Gaza border fence and criticizing Hamas for torture. Mr. Aman and his group are also subject to surveillance by Hamas because of their activities.

Finally, the detention is arbitrary under Category III because of Hamas’s failure to observe “the international norms relating to the right to a fair trial.” First, the warrant for Mr. Aman’s arrest was issued by the de facto military prosecution in Gaza. This is not “an independent and impartial authority.”¹² Second, Mr. Aman was held incommunicado for a full week

⁸ Iyad El-Bozom Facebook Post (April 9, 2020), <https://www.facebook.com/Iyadbozom/posts/2941453539263767>, (last visited July 21, 2020); Fares Akram, Hamas arrests Gaza activists after Zoom call with Israelis, Associated Press (April 9, 2020), <https://apnews.com/18e66308fc566e5fd3739a3bc10d9944>.

⁹ Nidal al-Mughrabi, Hamas arrests Palestinians in Gaza for Zoom video chat with Israelis, Reuters (April 9, 2020), <https://www.reuters.com/article/us-israel-palestinians-arrests/hamas-arrests-palestinians-in-gaza-for-zoom-video-chat-with-israelis-idUSKCN21R34F>.

¹⁰ Maha Hussaini, Arrest of Palestinian in Gaza renews controversy over normalization with Israel, Middle East Eye (April 15, 2020), <https://www.middleeasteye.net/news/normalisation-gaza-arrest-palestinian-controversy-israel>.

¹¹ General Comment 34, Article 19: Freedoms of opinion and expression, Human Rights Committee, UN Doc. CCPR/C/GC/34, ¶ 24 (Sep. 12, 2011).

¹² Yu Wensheng v. China, WGAD Opinion No. 15/2019, Adopted April 26, 2019, at ¶ 34.

before being permitted to meet with an attorney. Furthermore, he was denied communication with his family for more than two weeks after being detained. Third, in the more than four months he has been detained, Mr. Aman has never been brought before a judge, has not had any opportunity to challenge his detention and no trial has yet been scheduled. Fourth, though he is a civilian, his case is before a de facto military court in Gaza. This violates ICCPR Article 14. The Human Rights Committee has explained that trial of civilians in military courts “raise serious problems as far as the equitable, impartial and independent administration of justice is concerned.”¹³ Several NGOs have reported that Hamas abuses its military courts to try civilians in violation of international and Palestinian law. Moreover, de facto military courts in Gaza do not observe due process and fair trial standards as mandated by ICCPR Article 14.¹⁴

United Nations Watch is particularly concerned about Mr. Aman’s physical and mental well-being given that Hamas routinely tortures detainees. In its press release about this case, Human Rights Watch stated that it has documented that “Hamas authorities routinely arbitrarily arrest and torture critics and opponents.”¹⁵ United Nations Watch calls on the PA and Hamas to immediately release Mr. Aman.

¹³ General Comment 32, art. 14: Right to equality before courts and tribunals and to a fair trial, Human Rights Committee, UN Doc. CCPR/C/GC/32, ¶ 22 (Aug. 23, 2007).

¹⁴ Palestine: Hamas Should Halt Executions, Human Rights Watch (May 31, 2016), <https://www.hrw.org/news/2016/05/31/palestine-hamas-should-halt-executions>; Speedy Trials Achieve Neither Justice Nor Rule of Law, Palestinian Center for Human Rights (May 21, 2017), <https://www.pchrgaza.org/en/?p=9130>.

¹⁵ Omar Shakir, Hamas jails Gaza Activists for Video Chat with Israelis, Human Rights Watch (April 14, 2020), <https://www.hrw.org/news/2020/04/14/hamas-jails-gaza-activists-video-chat-israelis>.