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Human Rights Council Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its 101st session, 11–15 November 2024

Opinion No. 65/2024 concerning Islam Zahi Rasim Al Rimawi (Israel)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 51/8.
2. In accordance with its methods of work,¹ on 31 July 2024 the Working Group transmitted to the Government of Israel a communication concerning Islam Zahi Rasim Al Rimawi. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum-seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination, based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

* Mumba Malila did not participate in the discussion of the case.

¹ [A/HRC/36/38](#).



1. Submissions

(a) Communication from the source

4. Islam Zahi Rasim Al Rimawi was born on 21 October 2006. He is a Palestinian high school student, with an identification card of the State of Palestine. His usual place of residence is in Bayt Rima, Ramallah.

(i) Context

5. According to the source, since 7 October 2023, Palestinian minors have increasingly been targeted and detained by Israeli forces. The majority of those detained are held in administrative detention under Military Order 1651 of 2009. Reportedly, there are currently over 250 children detained in Israeli prisons, including Mr. Al Rimawi.

6. The source submits that the system of the Government of Israel of administrative detention of Palestinian civilians in the West Bank has been in effect since 1967. Administrative detention is currently governed by Military Order 1651.² Under this law, civilians in the West Bank are subject to the military court system if a commander has reasonable grounds to believe that a certain person must be held in detention for reasons to do with regional security or public security.³

7. Reportedly, the Israel Defense Forces have arrested more than 800,000 Palestinians through administrative detention since 1967 in the Occupied Palestinian Territory.⁴ According to the source, the use of administrative detention of Palestinians increases during times of increased political tensions.⁵

8. The source reports that since 7 October 2023, the Israel Defense Forces have allegedly detained over 6,500 Palestinians,⁶ and have targeted political activists, students and former prisoners.

9. The situation of Mr. Al Rimawi exemplifies the recent conditions that approximately 3,424 Palestinians have faced in administrative detention since 7 October 2023.⁷

10. According to the source, Jewish Israelis are virtually never subjected to administrative detention. Reportedly, the Government of Israel operates a two-track system in which Palestinians in the West Bank, such as Mr. Al Rimawi, are subject to the Israeli military court system, while Jewish Israelis are tried under civilian criminal law.

11. The Human Rights Committee has found that administrative detention presents severe risks of arbitrary detention and should be used only in exceptional circumstances.⁸ The Working Group has found that Israel uses the practice of administrative detention as a widespread mechanism to arbitrarily detain Palestinians.⁹ Other United Nations bodies have had similar findings with respect to Israel.¹⁰

12. The source notes that human rights treaty bodies have criticized the discriminatory arrests and detentions of Palestinians and called on the Government of Israel to end its use of administrative detention.¹¹ It further recalls that multiple special procedure mandate holders

² Israel Defense Forces, Order Regarding Security Directives (No. 1651), chap. I, art. B, sect. 285 (2009) (hereinafter referred to as Military Order 1651).

³ Ibid., sect. 285 (A).

⁴ See [A/HRC/53/59](#).

⁵ Ibid., para. 6.

⁶ [A/HRC/55/NGO/82](#), p. 2.

⁷ Ibid.

⁸ See the Committee's general comment No. 35 (2014), para. 15.

⁹ Opinions No. 36/1992, No. 17/1993, No. 18/1993, No. 16/1994, No. 16/1996, No. 17/1996, No. 18/1996, No. 8/1998, No. 9/1998, No. 10/1998, No. 11/1998, No. 24/1998, No. 16/2000, No. 17/2000, No. 23/2001, No. 3/2004, No. 26/2007, No. 5/2010, No. 9/2010, No. 3/2012, No. 20/2012, No. 58/2012, No. 43/2014, No. 24/2016, No. 31/2017, No. 44/2017, No. 86/2017, No. 34/2018, No. 73/2018, No. 12/2020, No. 60/2021, No. 61/2021, No. 4/2022 and No. 13/2023. [CCPR/C/ISR/CO/4](#), para. 10; [CAT/C/ISR/CO/5](#), para. 22; and [CERD/C/ISR/CO/14-16](#), para. 27.

¹¹ [CCPR/C/ISR/CO/4](#), paras. 7 and 10; [CAT/C/ISR/CO/5](#), paras. 22 and 23; and [CERD/C/ISR/CO/14-16](#), para. 27.

have raised concerns regarding the wide-scale acts of reprisal and collective punishment against Palestinian detainees.¹² Similarly, the Office of the United Nations High Commissioner for Human Rights in the Occupied Palestinian Territory expressed serious concern at the increase in the number of detentions used by the Israel Defense Forces against Palestinians across the West Bank.¹³

13. As at July 2024, there were over 9,700 Palestinians in Israeli custody, including more than 3,380 administrative detainees (38 per cent) who were being held without trial. Reportedly, the arrests of Palestinians are often conducted violently, and detainees are blindfolded while being taken to detention centres. Moreover, the Israel Defense Forces do not present arrest warrants or reasons for detention, and Palestinians are detained without the immediate pressing of charges, while sometimes they remain in detention without ever receiving any charges.¹⁴ In addition, poor prison conditions have reportedly worsened since 7 October 2023.¹⁵

14. Through the military court system, detention orders are reportedly largely based on secret evidence that the detainee and their legal representative cannot access.¹⁶ The source submits that Military Order 1651 allows for the detention of a person for six months at a time when a military commander has reasonable grounds to believe that a certain person must be held in detention for reasons to do with regional security or public security.¹⁷ A military court must subsequently confirm the detention order.¹⁸ If, before the expiration of a detention order, the military commander determines that “reasons pertaining to regional security or public security still require the detention of the person”, he or she may renew the detention order for up to six months.¹⁹ Furthermore, the Military Order does not specify a limit to the number of times military commanders may renew a detention order, permitting indefinite detention.²⁰

15. Since 7 October 2023, the Knesset has adopted amendments to Military Order 1651, which allegedly further infringe the rights of detainees.²¹ In particular, Temporary Military Order 2148 of 2023 amended section 287 (A) of Military Order 1651 to extend the amount of time that can pass before a detainee receives judicial review of the detention order from 8 to 12 days.²² Moreover, it established further restrictions in relation to: (a) release dates; (b) access to lawyers; and (c) length of sentence in the event that a detainee is charged with specific crimes.²³

(ii) *Arrest and detention*

16. The source submits that on 17 October 2023 at sunrise, Mr. Al Rimawi was arrested at his home in Ramallah by the Israel Defense Forces, pursuant to article 285 (A) of Military Order 1651. Reportedly, he was not presented with an arrest warrant or informed of the reasons for the arrest at the time of his arrest. This was the first time that Mr. Al Rimawi had been arrested.

¹² See communication ISR 9/2023. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

¹³ Office of the United Nations High Commissioner for Human Rights in the Occupied Palestinian Territory, “Dramatic rise in detention of Palestinians across occupied West Bank”, press release, 1 December 2023.

¹⁴ Office of the United Nations High Commissioner for Human Rights, “The human rights situation in the occupied West Bank including East Jerusalem, 7 October–20 November 2023”, flash report, para. 19.

¹⁵ See communication ISR 9/2023.

¹⁶ CCPR/C/ISR/CO/4, para. 10; and opinion No. 34/2018.

¹⁷ Military Order 1651, sect. 285 (A).

¹⁸ Ibid., sect. 287 (A).

¹⁹ Ibid., sect. 285 (B).

²⁰ Ibid., sect. 285 (B).

²¹ See communication ISR 9/2023.

²² Ibid., and Israel Defense Forces, Order Regarding the Extension of Administrative Detention Periods (No. 2148) (2023) (hereinafter referred to as Temporary Military Order 2148).

²³ See communication ISR 9/2023.

17. On the same day as his arrest, the Military Court reviewed and approved his detention by a video hearing. On 16 February 2024, in another video hearing, the Military Court renewed his administrative detention for four months, until 15 June 2024.

18. On 15 June 2024, Mr. Al Rimawi's detention was renewed again for another two months, until 14 August 2024. At that hearing, the Military Court held that the serious security situation justified his detention for an additional two months. Mr. Al Rimawi has reportedly not been charged with a criminal offence.

19. The source reports that Mr. Al Rimawi has not had access to his lawyer, as his lawyer has not been allowed to visit him due to the extensive restrictions that have been placed on lawyers by the Israeli authorities. During the above-mentioned hearings, Mr. Al Rimawi's lawyer and the judge were physically present at the hearings, while Mr. Al Rimawi was only able to attend via video call. Furthermore, his family was not allowed to attend the hearings.

20. Reportedly, Mr. Al Rimawi has been held incommunicado from the moment of his arrest, without access to his family members, lawyers or doctors. Moreover, his lawyer and family members were not allowed to be present during interrogations.

21. According to the source, Mr. Al Rimawi is currently being held at Ofer Prison. Since his arrest, he has not been able to have contact with his family, and thus, his conditions of detention are uncertain.

22. Although there is a section for minors at Ofer Prison, minors are reportedly being detained in the same cells as adults because of overcrowding due to the alleged mass arrests after 7 October 2023.

(iii) *Legal analysis*

23. The source argues that Mr. Al Rimawi's arrest and subsequent detention are arbitrary and fall under categories I, III and V of the Working Group.

a. *Category I*

24. The source submits that a deprivation of liberty is arbitrary and falls under category I when the State fails to provide a legal basis for the deprivation of liberty. Article 9 (1) of the Covenant requires the detention of a person to have a legal basis. If there is a domestic law that allows for the arrest, that domestic law should comply with the provisions of the Universal Declaration of Human Rights and the Covenant.²⁴

25. The source argues that the domestic law of Israel does not comport with elements of fundamental due process under the Covenant and the Universal Declaration of Human Rights. For example, section 290 of Military Order 1651 permits the use of secret evidence against detainees. Likewise, section 287 (A) of Military Order 1651 states that detainees must be brought before a judge within eight days (192 hours), which has allegedly been extended to 12 days since 7 October 2023. The source thus asserts that Military Order 1651 violates article 9 of the Covenant.

26. The source submits that any person who is arrested should be informed of the reason for their arrest at the time of the arrest and be promptly notified of any charges. It adds that the reasons for the arrest must be given in a language that the person understands and must be given immediately upon arrest unless there are exceptional circumstances.²⁵ In the case of a child's arrest, notifying the child is not enough to satisfy article 9 (2) of the Covenant; a parent, guardian or legal representative must also be notified of the reason for the arrest.²⁶

27. The source contends that Mr. Al Rimawi was not informed of the reason for his arrest at the time of his arrest, and he has not yet been informed of any charges against him. Moreover, although Mr. Al Rimawi was aged 16 at the time of the arrest, his parents and his legal representative were not informed of the reason for the arrest, constituting a violation of

²⁴ Opinion No. 51/2017, para. 27.

²⁵ Human Rights Committee, general comment No. 35 (2014), paras. 24–27.

²⁶ Ibid., para. 28.

article 9 (2) of the Covenant and article 40 (2) (b) (ii) of the Convention on the Rights of the Child.

28. The source recalls that under article 9 (3) of the Covenant, those detained on a criminal charge should promptly be brought before a judge or other officer authorized by law. This applies to military prosecutions and other special regimes directed at criminal punishment, even if formal charges have not been laid, “so long as the person is arrested or detained on suspicion of criminal activity”.²⁷ Moreover, under this article, those detained are entitled to trial within a reasonable time.

29. The source recalls that the Human Rights Committee has considered that 48 hours is ordinarily sufficient to consider that a detainee has been brought promptly before a judge.²⁸ Any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.²⁹ Moreover, incommunicado detention is inherently in violation of article 9 (3) of the Covenant if it prevents prompt presentation before a judge.³⁰

30. The source argues that contrary to general comment No. 35 (2014) of the Human Rights Committee, Military Order 1651 states that a detainee must be brought before a judge within eight days (192 hours) of his or her detention; if a detainee is not brought before a judge within eight days (192 hours), the detainee is released, “unless there is another reason to detain him under any law or security legislation”.³¹

31. The source asserts that Military Order 1651 constitutes a *de jure* violation of article 9 (3) of the Covenant because it does not require officials to bring civilians before a judge within 48 hours. After 7 October 2023, the Knesset moved the law further from international standards by enacting Temporary Military Order 2148, which authorizes Israeli officials to detain Palestinian civilians incommunicado for up to 12 days, without being brought before a judge or allowed access to a lawyer.³² Mr. Al Rimawi was not promptly brought before a judge and was held for 12 days without legal counsel or being seen by a judge.

32. As such, his right to be brought promptly before a judge under article 9 (3) of the Covenant has been violated.

33. The source recalls that under article 9 (4) of the Covenant, detainees are entitled to challenge the lawfulness of their detention before a court without delay, which should order the detainee’s release if the detention is unlawful. Under article 40 (2) (b) (iii) of the Convention on the Rights of the Child, child detainees are entitled to review without delay in the presence of legal assistance and, unless contrary to the best interest of the child, in the presence of a parent or legal guardian.

34. Moreover, every detainee is entitled to take proceedings before a court, which should ordinarily be a court within the judiciary, and must be independent.³³ The Human Rights Committee argues that practices that render review effectively unavailable to an individual, “including incommunicado detention”, amount to a violation of article 9 (4) of the Covenant.³⁴

35. The source submits that detainees should be afforded prompt and regular access to counsel.³⁵ The right to challenge the lawfulness of detention is a self-standing human right, and failure to provide such an opportunity to do so constitutes a violation of human rights.³⁶

²⁷ Human Rights Committee, general comment No. 35 (2014), paras. 31 and 32.

²⁸ *Ibid.*, para. 33.

²⁹ *Ibid.*, para. 33.

³⁰ *Ibid.*, para. 35.

³¹ Military Order 1651, sect. 287 (A).

³² See ISR 9/2023; and Temporary Military Order 2148.

³³ Human Rights Committee, general comment No. 35 (2014), para. 45.

³⁴ *Ibid.*, para. 46.

³⁵ *Ibid.*, para. 46.

³⁶ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, para. 2; see also [A/54/426](#), para. 42.

36. The Human Rights Committee has found that the adjudication of the case should take place as expeditiously as possible,³⁷ and the Working Group has stated that failure to notify the detainee or his or her representative of the charges violates article 9 (4) of the Covenant.³⁸

37. The source submits that the detainee has the right to appear in person before the court.³⁹ Deeming a detainee a security threat does not deprive him or her of these basic due process rights.

38. The Human Rights Committee has recognized that administrative detention presents severe risks of arbitrary deprivation of liberty.⁴⁰

39. Reportedly, visits to Mr. Al Rimawi have been extremely difficult due to conditions imposed by the Israeli Prison Service. For instance, prison officials reportedly inform lawyers who arrive to visit their client that the client is no longer being held in the facility, or cancel visits due to a “state of emergency” after the lawyer has waited many hours. Israeli authorities often deny lawyers information about where their client is being held. Currently, it takes about one to two months for clients to have access to their lawyers. These practices, the source asserts, restrict prompt and regular access to counsel, in violation of article 9 (4) of the Covenant.

40. According to the source, article 290 (A) of Military Order 1651 allows for deviation from the rules of evidence when detainees are held under administrative detention.⁴¹ A judge can “receive evidence even in absence of the detainee or his representative, or without disclosing it to them” if the judge is convinced that “disclosing the evidence to the detainee or his representative may harm regional security or public security”.⁴² Withholding evidence from detainees and their legal representatives inhibits the ability of detainees to challenge the lawfulness of their detention, as they cannot meaningfully respond to the case against them. Moreover, Military Order 1651 permits secret evidence, in violation of the right to challenge the legality of detention as enshrined in the Covenant.

41. The source contends that the evidence against Mr. Al Rimawi is deemed to be secret, which has severely circumscribed his and his legal representative’s ability to challenge the basis of the detention effectively. As Mr. Al Rimawi has not been afforded prompt and regular access to counsel, or been given information about the charges against him or had access to the evidence against him, his ability to challenge the legality of his detention has been impeded, in violation of article 9 (4) of the Covenant.

b. Category III

42. The source recalls that the right to a fair trial is enshrined in article 11 (1) of the Universal Declaration of Human Rights and articles 9 and 14 of the Covenant.

43. The source submits that a fair trial is competent, independent and impartial, and that to satisfy this requirement, States must inform detainees of the charges against them promptly and in detail, in a language that they understand. States must provide detainees the time and facilities to prepare their defence. Detainees have the right to defend themselves in person or through counsel of their choice, and to be tried without delay.

44. Detainees must be promptly notified of the reasons for their arrest and of the charges against them, as outlined in articles 9 (2) and 14 (3) (a) of the Covenant. Moreover, authorities must show that the administrative detention does not last longer than “absolutely necessary” and that “the overall length of possible detention is limited”.⁴³ Indefinite detention is thus arbitrary.

45. The source asserts that Mr. Al Rimawi was not notified of the reasons for his arrest nor promptly presented before a judge, and he has not been charged with a crime. Reportedly,

³⁷ See the Committee’s general comment No. 35 (2014), para. 47.

³⁸ Opinions No. 60/2021, para. 45; and No. 61/2021, para. 40.

³⁹ Human Rights Committee, general comment No. 35 (2014), para. 42.

⁴⁰ *Ibid.*, para. 15.

⁴¹ Military Order 1651, sect. 290 (A).

⁴² *Ibid.*, sect. 290 (C).

⁴³ Human Rights Committee, general comment No. 35 (2014), para. 15.

the Military Court limited itself to confirming the detention order following his arrest, alleging the “serious security situation” as justification for his detention.

46. The source concludes that the failure of the Government of Israel to notify Mr. Al Rimawi of the reason for his arrest and to ensure a prompt review of his detention renders the detention arbitrary, falling under category III.

47. The source argues that as part of the right to a fair trial, article 14 of the Covenant outlines the right to adequate time and facilities to prepare a defence. Adequate facilities include documents and evidence that the prosecution will use against the accused or that are exculpatory.⁴⁴ Exculpatory material includes “not only material establishing innocence but also other evidence that could assist the defence (e.g. indications that a confession was not voluntary).”⁴⁵ Moreover, the State must ensure adequate translation services during detention hearings.⁴⁶

48. The Working Group has previously found that Military Order 1651 allows for the misuse of secret evidence, which neither the detainee or his or her legal representative is allowed access to.⁴⁷ The source thus asserts that the practice of the Government of Israel of using secret evidence violates the right to a fair trial under the Covenant,⁴⁸ and that depriving detainees and their counsel of access to case files negatively affects the right of detainees to be tried by an impartial tribunal.⁴⁹

49. The source recalls that the Human Rights Committee has recommended that the Government of Israel stop its use of “secret evidence” in administrative detention proceedings.⁵⁰ It argues that the Military Court established that the evidence relating to Mr. Al Rimawi’s case was secret, which deprived him and his legal representative of the ability to prepare a defence, in violation of his right to a fair trial.

50. Reportedly, the Israeli authorities denied Mr. Al Rimawi access to effective legal representation. Immediately following 7 October 2023, the Israel Prison Service prohibited detainees from establishing contact with their attorneys. Moreover, when authorities transfer detainees between detention facilities, lawyers are not informed.

51. In the present case, the Israel Prison Service has reportedly held Mr. Al Rimawi incommunicado, without adequate access to family members, lawyers or doctors, from the moment of his arrest.⁵¹

52. According to the source, all detention review hearings following 7 October 2023 have taken place via live video, which has also occurred in the present case. While the lawyers and judges have been physically present at the hearings, Mr. Al Rimawi has only been able to attend via videoconference.

53. While military courts do provide interpreters during the hearings, the interpretations are reportedly often incomplete and inaccurate. Individual lawyers who can understand Hebrew often must supplement the interpretation during court proceedings.

54. The source submits that the trial of civilians before military or special courts should be exceptional and limited, as it raises serious problems for the equitable, impartial and independent administration of justice.⁵² The Working Group has consistently found that civilians must never be tried by military courts, as these cannot be considered to be independent and impartial tribunals for the purpose of trying civilians.⁵³ Furthermore, the

⁴⁴ Human Rights Committee, general comment No. 32 (2007), para. 33.

⁴⁵ *Ibid.*, para. 33.

⁴⁶ *Ibid.*, para. 40.

⁴⁷ Opinion No. 13/2023, para. 70.

⁴⁸ *Ibid.*, para. 70.

⁴⁹ Opinion No. 83/2017, para. 81.

⁵⁰ [CCPR/C/ISR/CO/4](#), para. 10.

⁵¹ [A/54/426](#), para. 42.

⁵² Human Rights Committee, general comment No. 32 (2007), para. 22.

⁵³ Opinion No. 31/2017, para. 27. See also opinions No. 61/2021, para. 48; No. 66/2019, para. 96; and No. 32/2018, para. 81.

Working Group has repeatedly held that the military courts of Israel are not independent or impartial tribunals, and thus civilians should not be tried in this forum.⁵⁴

55. The source argues that administrative detention is authorized by Military Order 1651 and adjudicated by military courts, demonstrating a systematic and routine practice despite the call for “exceptional” use.⁵⁵ In the present case, although Mr. Al Rimawi is a civilian, a military court presided over his legal proceedings, in violation of his right to a fair trial and due process.

56. The source submits that the use of torture or cruel, inhuman or degrading treatment is not only a violation of a non-derogable international prohibition, but it can also undermine a detainee’s access to a fair trial.

57. The source recalls that the Working Group has evaluated how pretrial conditions – including lack of access to necessary medicines and generally poor conditions – affect the right to a fair trial.⁵⁶ Allegations of torture strengthen the conclusion that detainees have not received access to a fair trial, including when the State uses these methods to extract confessions of guilt.⁵⁷

58. Furthermore, a judge’s failure to order an investigation into allegations by a detainee of torture violates the detainee’s right to be tried by an impartial and independent tribunal.⁵⁸

59. Despite the allegations of torture and even observing the signs of abuse on the bodies of detainees, Israeli military judges have reportedly failed to order measures to protect detainees from such violence. The source asserts that the Israel Prison Service’s denial of medical attention in detention violates the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).⁵⁹

60. The source notes that Mr. Al Rimawi is held in poor conditions in Ofer Prison, without adequate access to food, warm blankets, clothing, daylight, hygiene, and overcrowding, and argues that these conditions constitute cruel, inhumane and degrading treatment. The source argues that these conditions strengthen the findings that Mr. Al Rimawi’s detention is arbitrary under Category III.

61. The source recalls that article 14 (4) of the Covenant states that proceedings against minors must take account of their age and the desirability of promoting their rehabilitation. The Committee on the Rights of the Child has established that “children differ from adults in their physical and psychological development”.⁶⁰ The primary consideration is the best interests of the child.⁶¹

62. The source argues that although detaining children should be a measure of last resort, the Government of Israel has implemented a widespread practice of detaining minors.⁶² It recalls that the Working Group noted in 2021 that “since 2000, an estimated 13,000 Palestinian children have reportedly been detained by Israeli forces from the occupied West Bank and held in the Israeli military detention system”⁶³ each year. As at 20 November 2023, the Israel Defense Forces had reportedly arrested as many as 880 Palestinian children under Military Order 1651. During these arrests and detentions, children or their parents are reportedly often not informed of the reason for arrest, while parents are also not allowed to be present during the interrogations.

⁵⁴ See, for example, opinions No. 60/2021, para. 54; No. 61/2021, para. 50; and No. 13/2023, paras. 71 and 72.

⁵⁵ See Military Order 1651; and [A/HRC/53/59](#), para. 31.

⁵⁶ Opinion No. 92/2017, para. 56.

⁵⁷ Opinion No. 62/2018, para. 78.

⁵⁸ Opinion No. 53/2018, para. 77 (b).

⁵⁹ Opinion No. 60/2021, para. 61.

⁶⁰ Committee on the Rights of the Child, general comment No. 24 (2019), para. 2.

⁶¹ *Ibid.*, para. 76.

⁶² [CCPR/C/ISR/CO/5](#), paras. 34 and 35.

⁶³ Opinion No. 60/2021, para. 6.

63. The source submits that the practice by Israel of detaining children on the basis of “secret evidence” and subjecting them to military courts prevents child detainees from adequately defending themselves, in violation of their right to a fair trial.⁶⁴

64. The source argues that the prison conditions following 7 October 2023 are in violation of article 10 of the Covenant, which also applies when children are detained.

65. The source asserts that the arrest and detention of Mr. Al Rimawi by the Israel Defense Forces are arbitrary and contrary to his right to a fair trial. It notes that Mr. Al Rimawi was 16 years old at the time of his arrest, and that he was attending eleventh grade at school. However, since his arrest, on 17 October 2023, Mr. Al Rimawi’s family members have been prevented from being present at his interrogations and hearings, in violation of his right to have his family involved in the proceedings. The source contends that a judge can only limit, restrict or exclude a minor’s family from the proceedings if it is in the best interests of the child.⁶⁵

66. The source further asserts that the Military Court renewed Mr. Al Rimawi’s initial four-month detention notice for an additional four months on 16 February 2024, in violation of Committee on the Rights of the Child general comment No. 24 (2019), according to which the proceedings for minors should be “as short as possible”.⁶⁶ In addition, the Israel Defense Forces have not notified Mr. Al Rimawi or his parents of the reason for his arrest or the charges against him.

67. Reportedly, Mr. Al Rimawi’s administrative detention hearings took place before a military court, which based its decision to detain him on “secret evidence”. These practices, the source argues, not only violate the right to a fair trial under the Covenant but also violate Mr. Al Rimawi’s rights under the Convention on the Rights of the Child.

68. The source further argues that the alleged systematic practice by the Government of Israel of administrative detention violates the prohibition of arbitrary detention. In the present case, the authorities failed to present Mr. Al Rimawi with an arrest warrant or to notify him of the charges against him, since his arrest. Mr. Al Rimawi has reportedly not had access to “competent, independent and impartial” trials, as he has been subject to military courts, nor access to lawyers or facilities or evidence to prepare his defence. The source thus asserts that the authorities have failed to ensure Mr. Al Rimawi’s proceedings “without delay”.

69. For the reasons above, the source concludes that Mr. Al Rimawi’s right to a fair trial has been violated and that his deprivation is arbitrary and falls under category III.

c. Category V

70. Reportedly, Israeli law grants military courts the authority to try any Palestinians located in the West Bank if they are aged 12 years or older, while Jewish Israelis who also reside in the West Bank are subject to the Israeli civilian legal framework. In this connection, the source recalls that the Working Group has previously found that the operation of two separate and unequal legal systems in the same territory is discriminatory and in violation of the Universal Declaration of Human Rights and the Covenant.⁶⁷

71. The source notes that Mr. Al Rimawi is a Palestinian student with a Palestinian Authority identification card. Reportedly, the Israel Defense Forces based his arrest on a serious security situation, without further explanation or evidence. Moreover, as has been submitted above, the Government of Israel operates a two-track system in the West Bank, in which Mr. Al Rimawi, as well as all other persons in administrative detention, are subject to the Israeli military court system, as opposed to Jewish Israelis, who are tried under civilian criminal law.

72. The source concludes that the fact that Mr. Al Rimawi is Palestinian, in combination with the alleged systematic use of administrative detention against Palestinians residing in the West Bank, demonstrates that in the present case, Mr. Al Rimawi’s deprivation of liberty

⁶⁴ Ibid., paras. 51 and 55.

⁶⁵ Committee on the Rights of the Child, general comment No. 24 (2019), para. 56.

⁶⁶ Ibid., para. 54.

⁶⁷ Opinion No. 61/2021, paras. 53 and 54.

is based on his national origin, in violation of articles 2 (1) and 26 of the Covenant. His detention is thus arbitrary and falls under category V.

(b) Response from the Government

73. On 31 July 2024, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure, requesting a reply by 30 September 2024. The Working Group regrets that the Government did not submit a reply within the established time frame, nor did it seek an extension in accordance with paragraph 16 of the Working Group's methods of work.⁶⁸ The Working Group notes that it has not received a reply from the Government in response to its communications since 2017,⁶⁹ and invites the Government to engage with the Working Group constructively by taking the opportunity to respond to communications.

2. Discussion

74. In determining whether Mr. Al Rimawi's detention is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a *prima facie* case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations.

75. In the present case, the Government has chosen not to challenge the *prima facie* credible allegations made by the source. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

76. The source has submitted that the arrest and detention of Mr. Al Rimawi are arbitrary and fall under categories I, III and V. The Working Group will consider these in turn.

(a) Category I

77. The source has submitted, and the Government has not refuted, that when the Israel Defense Forces arrested and detained Mr. Al Rimawi (a minor at the time of the arrest), they did not show an arrest warrant or other decision by a public authority and did not provide the legal reasons for his arrest, either to Mr. Al Rimawi or to his legal guardian. Mr. Al Rimawi's detention was based on administrative detention orders, but reportedly, no charge sheet or oral communication of a charge was provided. The reason for his administrative detention, as indicated in the military orders, is "endangering the security of the area".

78. Pursuant to article 9 (1) of the Covenant, no one is to be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law. Article 9 (2) of the Covenant provides that anyone who is arrested is to be informed, at the time of arrest, of the reasons for his or her arrest and is to be promptly informed of any charges against him or her. As the Working Group has previously stated, in order for a deprivation of liberty to have a legal basis, it is not sufficient that there is a law that may authorize the arrest. The authorities must invoke that legal basis and apply it to the circumstances of the case.⁷⁰ This is typically done through an arrest warrant or arrest order (or equivalent document).⁷¹ The reasons for the arrest must be provided immediately upon arrest and must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim.⁷²

⁶⁸ [A/HRC/36/38](#).

⁶⁹ Opinions No. 31/2017, No. 44/2017, No. 86/2017, No. 34/2018, No. 73/2018, No. 84/2019, No. 12/2020, No. 8/2021, No. 60/2021, No. 61/2021, No. 4/2022, No. 44/2022, No. 68/2022, No. 13/2023, No. 60/2023 and No. 44/2024.

⁷⁰ Opinions No. 9/2019, para. 29; No. 46/2019, para. 51; and No. 59/2019, para. 46.

⁷¹ Opinions No. 88/2017, para. 27; No. 3/2018, para. 43; and No. 30/2018, para. 39. In cases of arrests made in *flagrante delicto*, the opportunity to obtain a warrant will typically not be available.

⁷² Human Rights Committee, general comment No. 35 (2014), para. 25; and opinions No. 30/2017, paras. 58 and 59; and No. 85/2021, para. 69.

79. The Working Group refers to the source's allegations, which are unrefuted by the Government, that Mr. Al Rimawi was not presented with an arrest warrant at the time of arrest. Based on the information available to it in the present case, the Working Group is of the view that neither Mr. Al Rimawi nor his legal guardian were presented with an arrest warrant or provided with the reasons for his arrest, at the time of the arrest, in violation of article 9 (1) and (2) of the Covenant and article 9 of the Universal Declaration of Human Rights.

80. Furthermore, the Working Group takes note of the source's uncontested allegations that Mr. Al Rimawi was held in administrative detention without being informed of any charge or accusation against him. Under article 9 (2) of the Covenant, anyone who is arrested must be promptly informed of any charges against him or her. The right to be promptly informed of charges concerns notice of criminal charges, and as the Human Rights Committee has noted, that right applies in connection with ordinary criminal prosecutions and also in connection with military prosecutions or other special regimes directed at criminal punishment.⁷³ That requirement was not satisfied in the case of Mr. Al Rimawi. The Working Group therefore finds a breach of article 9 (2) of the Covenant.

81. The Working Group observes that Mr. Al Rimawi was subjected to administrative detention on the basis of Military Order 1651, without charge or trial. In that regard, the Working Group concurs with the Human Rights Committee that administrative detention presents severe risks of arbitrary deprivation of liberty. The Committee has noted that such detention would normally amount to arbitrary detention as other effective measures addressing the threat, including the criminal justice system, would be available. If, under the most exceptional circumstances, a present, direct and imperative threat is invoked to justify the detention of persons considered to present such a threat, the burden of proof lies on the State to show that the individual poses such a threat and that it cannot be addressed by alternative measures, and that burden increases with the length of the detention.⁷⁴

82. While the source submits that on the same day as Mr. Al Rimawi's arrest, 17 October 2023, the Military Court reviewed and approved his detention via video hearing, it further submits that he was only brought before a judge (an Israeli military judge) 12 days after his arrest. The source argues that contrary to the norm stipulated by the Human Rights Committee, Military Order 1651 states that a detainee must be brought before a judge within eight days (192 hours) of his or her detention; if a detainee is not brought before a judge within eight days (192 hours), he or she is released, "unless there is another reason to detain him under any law or security legislation".⁷⁵ Furthermore, the source submits that after 7 October 2023, the Knesset moved the law further from international standards by enacting Temporary Military Order 2148, which authorizes Israeli officials to detain Palestinian civilians incommunicado for up to 12 days, without being brought before a judge or allowed access to a lawyer.⁷⁶ In the case of Mr. Al Rimawi, the source submits that he was not promptly brought before a judge and was held for 12 days without legal counsel or being seen by a judge. In the absence of a submission by the Government, the Working Group thus finds a violation of Mr. Al Rimawi's rights under article 9 (3) of the Covenant and articles 37 (b) and 40 (2) (b) (ii) of the Convention on the Rights of the Child.⁷⁷

83. The Working Group observes that Mr. Al Rimawi has been in detention since his arrest on 17 October 2023 without ever being notified of any charges against him. The Government of Israel did not avail itself of the opportunity it was given to explain to the Working Group what present, direct and imperative threat Mr. Al Rimawi posed at the time of his arrest and how that threat persisted during his detention. As the Human Rights Committee has stated, disclosure to the detainee of at least the essence of the evidence on

⁷³ See the Committee's general comment No. 35 (2014), para. 29; and opinion No. 44/2022, para. 66.

⁷⁴ See the Committee's general comment No. 35 (2014), para. 15; and opinions No. 13/2023 and No. 60/2023.

⁷⁵ Military Order 1651, sect. 287 (A).

⁷⁶ See communication ISR 9/2023; and Temporary Military Order 2148.

⁷⁷ Committee on the Rights of the Child, general comment No. 24 (2019), para. 90.

which the decision is taken to issue an administrative detention order is necessary in order to ensure that the requirements of article 9 of the Covenant are met.⁷⁸

84. Article 9 (4) of the Covenant states that anyone who is deprived of liberty by arrest or detention is entitled to take proceedings before a court, so that court may decide without delay on the lawfulness of the detention and order the person's release if the detention is not lawful. The 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.⁷⁹ That right, which is a peremptory norm of international law, applies to all forms of deprivation of liberty, and to all situations of deprivation of liberty, including not only detention for the purposes of criminal proceedings, but also situations of detention under administrative and other fields of law.⁸⁰ The source alleges that neither Mr. Al Rimawi nor his lawyer have been able to challenge the detention because the military authorities have denied them access to the "secret information" relied on by the Israeli military court for the administrative detention order against him. The Government has not denied this allegation. The Working Group thus finds that Mr. Al Rimawi did not have the ability to challenge the lawfulness of his detention effectively,⁸¹ contrary to article 9 (4) of the Covenant.

85. Based on the un rebutted claims of the source, the Working Group observes that Mr. Al Rimawi was held incommunicado for 12 days starting from the day of his arrest. The Working Group recalls that holding persons incommunicado prevents prompt presentation before a judge, as provided is for in article 9 (3) of the Covenant,⁸² and violates the right under article 9 (4) to challenge the lawfulness of the detention before a court.⁸³ As the Human Rights Committee has stated, the physical presence of detainees at hearings may serve the inquiry into the lawfulness of detention and serves as a safeguard for the right to security of person.⁸⁴

86. Judicial oversight of detention is a fundamental safeguard of personal liberty⁸⁵ and is essential in ensuring that detention has a legal basis. Given that Mr. Al Rimawi was unable to challenge his detention before a court, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights and article 2 (3) of the Covenant was violated. He was also placed outside the protection of the law, in violation of his right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights and article 16 of the Covenant.

87. According to the source, Mr. Al Rimawi has not been permitted to contact his family during the entire period of his detention. A detainee must be allowed to communicate with and receive visits from family members, and any restrictions and conditions with regard to such contact must be reasonable. As the Human Rights Committee has observed, giving prompt and regular access to family members is an essential and necessary safeguard for the prevention of torture and for protection against arbitrary detention and infringement of personal security.⁸⁶ Accordingly, the Working Group finds that the right of Mr. Al Rimawi to contact with the outside world was denied, in contravention of rules 43 (3) and 58 (1) of

⁷⁸ Human Rights Committee, general comment No. 35 (2014), para. 15; and opinions No. 73/2018, para. 49; No. 12/2020, para. 26; and No. 68/2022, para. 53.

⁷⁹ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, paras. 2 and 3.

⁸⁰ *Ibid.*, para. 47 (a).

⁸¹ The Working Group has made similar findings involving Israel where detention has been based on evidence not available to the detainee. See opinions No. 44/2017, No. 86/2017, No. 34/2018, No. 73/2018, No. 12/2020 and No. 68/2022.

⁸² Human Rights Committee, general comment No. 35 (2014), para. 35.

⁸³ Opinions No. 35/2018, para. 27; No. 9/2019, para. 30; No. 44/2019, para. 54; and No. 45/2019, para. 53.

⁸⁴ Human Rights Committee, general comment No. 35 (2014), paras. 34 and 42. See also principles 32 (2) and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

⁸⁵ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, para. 3; and [CAT/C/VNM/CO/1](#), para. 24.

⁸⁶ See the Committee's general comment No. 35 (2014), para. 58; and opinion No. 84/2020, para. 70.

the Nelson Mandela Rules⁸⁷ and principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. This lack of contact is exacerbated by Mr. Al Rimawi's being a minor when arrested, in violation of article 37 (c) of the Convention on the Rights of the Child.

88. In the light of the above, the Working Group concludes that Mr. Al Rimawi's arrest and subsequent detention are arbitrary and fall under category I.

(b) Category III

89. The source argues that the detention of Mr. Al Rimawi is arbitrary under category III as he has been denied the right to due process, given that he is held in administrative detention without any charges, evidence, time limit or legal representation.

90. The Working Group notes that the present case is one concerning administrative detention, which does not involve charges or a trial within the criminal justice system, and that the fair trial guarantees in article 14 of the Covenant would not normally apply. However, as the Human Rights Committee has stated, the nature of the sanction must be considered, regardless of its classification under domestic law, in determining whether the fair trial guarantees in article 14 apply in each case. Criminal charges relate in principle to acts declared to be punishable under domestic criminal law. The notion may also extend to acts that are criminal in nature with sanctions that, regardless of their qualification in domestic law, must be regarded as penal because of their purpose, character or severity.⁸⁸

91. The Working Group has adopted that reasoning in its jurisprudence, noting that the provisions of article 14 of the Covenant on the right to a fair trial are applicable where the sanctions imposed, because of their purpose, character or severity, must be regarded as penal, even if, under national law, the detention is qualified as administrative.⁸⁹ Without such an enquiry into the nature of the sanction imposed, States could effectively circumvent their obligations under the Covenant simply by characterizing their detention regime as administrative under domestic law. That is particularly significant in the context of administrative detention orders imposed in Israel, which appear to be used as a substitute for criminal proceedings, rather than to prevent an imminent threat, when there was insufficient evidence to charge and prosecute an individual.⁹⁰

92. In the present case, Mr. Al Rimawi's detention must be regarded as penal in nature, and the Working Group will consider whether his detention meets the requirements of article 14 of the Covenant and other relevant provisions. The Working Group has previously found that, in cases involving an excessive length of detention, the individual is to enjoy the same guarantees as in criminal cases, including those under article 14 of the Covenant, even if the detention is qualified as administrative under national law.⁹¹ The Working Group notes that Mr. Al Rimawi has remained in administrative detention since his arrest on 17 October 2023.

93. The Working Group observes that Mr. Al Rimawi appeared before a military court, which imposed the administrative detention upon him. With regard to the jurisdiction of the military courts, the Working Group has consistently stated its view 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.⁹²

94. In the present case, the Government failed to explain, despite having the opportunity to do so, the reasons for having Mr. Al Rimawi appear before a military court. The Working

⁸⁷ Opinions No. 35/2018, para. 39; No. 44/2019, paras. 74 and 75; and No. 45/2019, para. 76.

⁸⁸ See the Committee's general comment No. 32 (2007), para. 15. See also *Perterer v. Austria* (CCPR/C/81/D/1015/2001), para. 9.2.

⁸⁹ Opinions No. 3/2012, No. 20/2012, No. 45/2012, No. 58/2012, No. 43/2014, No. 31/2017, No. 73/2018, No. 12/2020, No. 60/2021, No. 61/2021, No. 4/2022 and No. 68/2022.

⁹⁰ A/HRC/37/42, para. 21.

⁹¹ Opinions No. 31/2017, No. 73/2018, No. 12/2020 and No. 49/2020.

⁹² A/HRC/27/48, paras. 66–71. See also opinions No. 44/2016, No. 30/2017, No. 28/2018, No. 32/2018, No. 66/2019 and No. 68/2022.

Group does not consider that Israeli military courts meet the standard of an independent and impartial tribunal for the purposes of considering matters involving civilians. Moreover, it recalls that under article 14 of the Covenant, the court must be independent and impartial. In that regard, in its earlier jurisprudence, the Working Group has stated that the military courts of Israel that impose such administrative detention do not satisfy that criterion.⁹³ In the light of the source's un rebutted submissions, the Working Group finds that Mr. Al Rimawi was deprived of the right to have his case determined in a fair hearing by a competent, independent and impartial tribunal, as is required under article 14 (1) of the Covenant, article 10 of the Universal Declaration of Human Rights and articles 37 (d) and 40 of the Convention on the Rights of the Child.

95. The source asserts that Mr. Al Rimawi's right to communicate with his legal counsel has been subject to severe violations, observing that he was held incommunicado for 12 days upon his arrest, and thus had no possibility to meet his lawyer. The Working Group further reiterates that access to counsel is a right enshrined in article 14 (3) (b) of the Covenant and principles 11 (2), 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and reinforced by article 11 of the Universal Declaration of Human Rights. Article 14 (3) (b) of the Covenant sets out the right to have adequate time and facilities for the preparation of one's defence and to communicate with counsel of one's own choosing. Where a minor is detained, States must ensure that the child is guaranteed legal or other appropriate assistance from the outset of the proceedings, in the preparation and presentation of the defence, and until all appeals and/or reviews are exhausted.⁹⁴

96. The Working Group recalls that all persons deprived of their liberty are to have the right to legal assistance by counsel of their choice, at any time during their detention, including immediately after their apprehension.⁹⁵ The right to legal assistance is an essential element of the right to a fair trial, as it serves to ensure that the principle of equality of arms is duly observed.⁹⁶ Given the source's un rebutted claim that Mr. Al Rimawi was held incommunicado and was not afforded a chance to meet his counsel, the Working Group finds that his right to legal assistance was violated.

97. The source alleges that neither Mr. Al Rimawi nor his lawyer have been able to challenge the detention because the military authorities have denied them access to the "secret information" relied on by the Israeli military court for the administrative detention order against him. Article 14 (3) (b) of the Covenant sets out the right of persons charged with a criminal offence to have adequate time and facilities for the preparation of their defence, and article 14 (3) (e) guarantees them the right to examine, or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them. Whereas some evidence may occasionally be withheld from an accused, this should be exceptional and the reasons for this should be conveyed to the accused and his or her defence counsel.⁹⁷

98. According to the source's un rebutted submissions, neither Mr. Al Rimawi nor his attorney had access to the "secret" evidence on which his administrative detention was based, since September 2023. The Government has not provided an explanation of the nature of the secret evidence against Mr. Al Rimawi, nor any justification as to why he could not be provided with access to it. The Working Group considers that in these circumstances, Mr. Al Rimawi was not afforded a meaningful opportunity to challenge the basis for his arrest and detention. The Working Group concludes that this constitutes a violation of his rights to a

⁹³ Opinions No. 15/2016, paras. 25–27; and No. 24/2016, para. 21. See also opinions No. 3/2012 and No. 58/2012.

⁹⁴ Committee on the Rights of the Child, general comment No. 24 (2019), para. 49. See also the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), rule 15.

⁹⁵ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 9 and guideline 8; Human Rights Committee, general comment No. 35 (2014), para. 34; [A/HRC/45/16](#), paras. 50–55; and [A/HRC/48/55](#), para. 56. See also [A/HRC/27/47](#), para. 13.

⁹⁶ See, for example, opinion No. 35/2019.

⁹⁷ See, for example, opinion No. 4/2022, para. 61.

fair trial and to equality of arms under article 14 (1) and (3) (b) and (e) of the Covenant⁹⁸ and article 40 (2) (b) (iii) and (iv) of the Convention on the Rights of the Child.

99. The source submits that Mr. Al Rimawi was denied the right to trial without undue delay. The Working Group recalls that the reasonableness of any delay in bringing a case to trial must be assessed in the circumstances of each case, taking into account the complexity of the case, the conduct of the accused during the proceeding and the manner in which the matter was dealt with by the authorities.⁹⁹ It notes that Mr. Al Rimawi was below 18 years of age when first detained. As a minor, and considering the developmental factors relating to his youth, time spent in detention can have particularly harmful effects. It also notes that the Military Court continues to hold Mr. Al Rimawi in detention without providing any specific reason for the two confirmations of the detention order (16 February 2024 and 15 June 2024), alleging the “serious security” situation as justification for his deprivation of liberty. The Working Group considers that the period during which Mr. Al Rimawi has been held without charge – more than one year – is excessive – and is exacerbated by this status of being a minor at the time of arrest.

100. The Working Group notes the source’s un rebutted claims that Mr. Al Rimawi is being held in poor conditions in Ofer Prison, without adequate access to food, warm blankets, clothing and daylight, and with poor hygiene and overcrowding, noting that these conditions constitute cruel, inhuman and degrading treatment. Noting the severity of the allegations, the Working Group is concerned about the potential impact of Mr. Al Rimawi’s conditions of detention on his ability to properly defend himself.¹⁰⁰ The Working Group has consistently concluded that when it is not possible for a person who is subjected to torture or other forms of ill-treatment or punishment to prepare an adequate defence for the judicial proceedings, this amounts to a fair trial violation.¹⁰¹ Mr. Al Rimawi’s conditions of detention, including being reportedly detained with adults, are especially alarming given his status as an unconvicted person who was arrested as a minor, and constitutes a breach of article 10 of the Covenant.

101. The Working Group therefore concludes that the non-observance of the international norms relating to a fair trial and due process are of such gravity as to give Mr. Al Rimawi’s deprivation of liberty an arbitrary character, falling within category III.

(c) Category V

102. The source claims that Mr. Al Rimawi’s detention by Israel is arbitrary under category V because it is a form of discrimination on the basis of his national, ethnic or social origin as a Palestinian.¹⁰² According to the source, his detention fits a pattern and practice by Israeli authorities of using administrative detention against Palestinian children on the basis of their Palestinian identity, to punish them, rather than to prevent an imminent threat, and where there is not enough evidence to charge and prosecute the child in the Israeli military courts. Again, the Government has not responded to these allegations.

103. The Working Group has determined that detaining individuals on the basis of their national origin is a violation of their right to equality before the law and to the equal protection of the law under article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant.¹⁰³

104. Administrative detention on the basis of Military Order 1651 has been particularly directed against Palestinians.¹⁰⁴ Throughout the occupation of the West Bank by Israel, the vast majority of persons held in administrative detention have been Palestinians, and many

⁹⁸ Opinions No. 50/2014, para. 77; No. 89/2017, para. 56; No. 18/2018, para. 53; and No. 78/2018, paras. 78 and 79.

⁹⁹ Human Rights Committee, general comment No. 35 (2014), para. 37; and Human Rights Committee, general comment No. 32 (2007), para. 35.

¹⁰⁰ E/CN.4/2004/3/Add.3, para. 33; and opinion No. 92/2017, para. 56.

¹⁰¹ Opinions No. 32/2019, para. 42; No. 59/2019, para. 69; and No. 65/2022, para. 117.

¹⁰² Opinion No. 34/2018, paras. 43 and 44.

¹⁰³ Opinions No. 85/2020, para. 84; and No. 13/2023, para. 75.

¹⁰⁴ Opinion No. 31/2017, para. 35.

of them are reportedly below 18 years of age. In the absence of any explanation from the Government, the Working Group takes note of the pattern that has emerged through the number of cases that have been brought before it in the past with similar facts,¹⁰⁵ and notes the general manner in which the administrative detention orders in those cases were used against Palestinians in particular, a usage also highlighted by the Human Rights Committee¹⁰⁶ and the Committee on the Elimination of Racial Discrimination.¹⁰⁷

105. The Working Group concludes that the arrest and detention of Mr. Al Rimawi, who is Palestinian, was conducted on discriminatory grounds, namely his national, ethnic and social origin. The Working Group considers that Mr. Al Rimawi was detained also on the basis of his gender, as there is a clear pattern of Israel targeting boys for detention.¹⁰⁸ This violated articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant, as well as article 2 (1) of the Convention on the Rights of the Child, and falls under category V.

(d) Concluding remarks

106. The Working Group is gravely concerned by the source's un rebutted submissions that although there is a section for minors at Ofer Prison, minors are reportedly being detained in the same cells as adults due to overcrowding as a consequence of the alleged mass arrests after 7 October 2023. The source reports that there are currently more than 250 children detained in Israeli prisons, including Mr. Al Rimawi.

107. The Working Group is obliged to remind the Government of Israel of its obligations under the Convention on the Rights of the Child, in particular article 37 (c) which states that every child deprived of liberty is to be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age, and that, in particular, every child deprived of liberty is to be separated from adults unless it is considered in the child's best interest not to do so, and must have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

108. The Working Group is also gravely concerned by the source's un rebutted submissions that the Government of Israel's system of administrative detention of Palestinian civilians in the West Bank has been in effect since 1967, and that the Israel Defense Forces have arrested more than 800,000 Palestinians through administrative detention since 1967 in the Occupied Palestinian Territory.¹⁰⁹ Reportedly, the majority of those detained are held in administrative detention under Military Order 1651, and since 7 October 2023 the Knesset has adopted amendments to the Military Order, which allegedly further infringe the due process and fair trial rights of detainees, notably extending the amount of time that can pass before a detainee receives judicial review of the detention order, and establishing further restrictions in relation to release dates and access to lawyers.¹¹⁰ The Working Group notes with alarm that these amendments reflect further severe erosion of Palestinian detainees' due process and fair trial rights under Military Order 1651, which reportedly was already in de jure violation of detainees' rights prior to these amendments.

3. Disposition

109. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Islam Zahi Rasim Al Rimawi, being in contravention of articles 2, 6, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 9, 10, 14, 16 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, III and V.

¹⁰⁵ Opinions No. 13/2016, No. 24/2016, No. 3/2017, No. 44/2017, No. 86/2017, No. 34/2018 and No. 4/2022.

¹⁰⁶ CCPR/C/ISR/CO/4, para. 10.

¹⁰⁷ CERD/C/ISR/CO/14-16, para. 27.

¹⁰⁸ See, for example, opinions No. 12/2020 and No. 60/2021.

¹⁰⁹ See A/HRC/53/59.

¹¹⁰ See communications ISR 9/2023 and ISR 13/2024; and Temporary Military Order 2148.

110. The Working Group requests the Government of Israel to take the steps necessary to remedy the situation of Mr. Al Rimawi without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

111. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Al Rimawi immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law.

112. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Al Rimawi and to take appropriate measures against those responsible for the violation of his rights.

113. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, for appropriate action.

114. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

4. Follow-up procedure

115. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Al Rimawi has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Al Rimawi;
- (c) Whether an investigation has been conducted into the violation of Mr. Al Rimawi's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Israel with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

116. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

117. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as of any failure to take action.

118. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.¹¹¹

[Adopted on 13 November 2024]

¹¹¹ Human Rights Council resolution 51/8, paras. 6 and 9.