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February 17, 2016

Dear Secretary Kerry and Ambassador Shapiro,

The National Lawyers Guild Palestine Subcommittee writes today with the highest concern and utmost urgency for Palestinian journalist Mohammed al-Qeeq, on his 85th day of hunger strike, held without charge or trial by Israel under administrative detention.¹ The National Lawyers Guild was formed in 1937 as the nation's first racially integrated bar association to advocate for the protection of constitutional, human and civil rights. We urge the US State Department to end its silence on the case of al-Qeeq and take action to uphold the right to a fair trial and the rights of journalists to report without interference.

Al-Qeeq is currently in critical condition in HaEmek hospital in Afula; he remains shackled to his hospital bed. Medical reports note that he has lost the ability to speak and 60% of his hearing, and is suffering from severe pain.² Al-Qeeq's administrative detention was presumably "suspended" by the Israeli High Court on February 4; he continued his hunger strike as this suspension did not free him or address his opposition to being held in administrative detention without charge or trial. As noted by Amnesty International, "The conditional suspension, which can be revoked by the Israeli authorities if and when al-Qiq's health improves, and the latest Supreme Court decision did not address the legality of his detention without charges, and have not upheld his rights."³

Yesterday, February 16, the Israeli Supreme Court rejected al-Qeeq's petition to be moved to a Palestinian hospital in Ramallah, where he would accept treatment, which indicates once again that he clearly remains a prisoner held without charge and without trial, in an increasingly severe health situation, in which he is facing vital organ failure at any time.⁴

Al-Qeeq, 33, is a journalist with Al-Majd TV, a Saudi media channel. He was arrested from his home in Ramallah on November 21, 2015 at 2:00 am, when his home was raided by a large number of Israeli soldiers. He was taken to Beit El settlement near Ramallah, where he was left for 20 hours in the open air. He was then taken to Moskobiya, and then Jalameh, interrogation centers.⁵

Al-Qeeq began his hunger strike on November 25, just four days after he was arrested, to protest torture he suffered under interrogation. Amnesty International reported that "he was subjected to a stress position commonly known as the 'banana', which involves being tied in a contorted position to a

¹http://www.salon.com/2016/01/29/palestinian_journalist_imprisoned_by_israel_without_trial_on_verge_of_death_entering_third_month_of_hunger_strike/

² <https://www.maannews.com/Content.aspx?id=770079>

³ <https://www.amnesty.org/en/documents/mde15/3457/2016/en/>

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⁵ <http://www.addameer.org/prisoner/mohammad-al-qeiq>

chair, that he was tied to a chair for up to 15 hours at a time and that he was threatened with sexual violence by his interrogators."⁶ He continued his hunger strike through 25 days of interrogation, after which he was held in solitary confinement in Megiddo prison.

He was denied access to a lawyer for his first month of hunger strike; he was able to see a lawyer on December 24, 2015, the same day his order to six months administrative detention without charge or trial was confirmed by Ofer Military Court. Al-Qeeq continued his hunger strike, calling for his release from imprisonment without charge or trial. He simultaneously appealed his detention order, which was rejected by the military court.

Al-Qeeq has been forcibly treated twice since he was moved to HaEmek Hospital in Afula on December 30, 2015. On January 10, 2016, Israeli prison guards shackled both of his hands to his hospital bed while an intravenous drip was inserted into his left arm; Physicians for Human Rights - Israel reports that this was done in order to introduce vitamins and minerals over Al-Qeeq's explicit instructions. The drip remained in his arm for four days, during which time Al-Qeeq was prevented from leaving his bed.

Again, on January 15, an intravenous drip was inserted into Al-Qeeq's arm against his will, which he succeeded in removing on January 16. As noted by Amnesty International: "Carrying out a medical procedure against the patient's wishes is a breach of medical ethics, and the way al-Qiq was treated in hospital violated the prohibition of cruel, inhuman or degrading treatment or punishment."⁷

According to the United Nations, "The principle of an individual's right to informed and voluntary refusal of medical measures is reiterated in several basic United Nations human rights documents where lack of free and informed consent is considered a clear violation of an individual's right to health."⁸

Under international human rights law, administrative detention can only be used on a case-by-case basis for "imperative reasons of security." Israel's systematic use of administrative detention, in which approximately 670 Palestinians are currently held, violates the Fourth Geneva Convention and the International Covenant on Civil and Political Rights.⁹ As noted by Israeli human rights organization B'tselem, "Although they are brought before a judge to have the detention order approved, virtually all of the material submitted by the prosecution is classified, leaving the detainees with no knowledge of the evidence allegedly against them and no way to try to refute it. Israel's security establishment exploits the confidentiality surrounding administrative detention procedures to jail people for offenses they are suspected of having already committed, in order to avoid exposing the evidence against them. This is a violation of international law, which stipulates that administrative detention should be used to prevent future danger."¹⁰

⁶ <https://www.amnesty.org/en/documents/mde15/3299/2016/en/>

⁷ Ibid.

⁸ <http://www.emro.who.int/pse/palestine-news/un-joint-statement-on-new-israeli-law-on-force-feeding-of-detainees.html>

⁹ <https://electronicintifada.net/content/administrative-detention-should-be-banned-22/5793>

¹⁰ http://www.btselem.org/administrative_detention/20160128_muhammad_al_qiq_hunger_strike

A National Lawyers Guild delegation that investigated the situation of Palestinian prisoners in 2014 "concluded that administrative detention is used primarily as a tool to intimidate and deter political resistance and undermine the popular indigenous leadership."¹¹

Reporters Without Borders have noted "the lack of any formal charge and the murky procedure used to hold him," calling for the Israeli authorities to free al-Qeeq.¹² Amnesty International has also stated that "Israeli authorities should release him unless he is charged with an internationally recognizable criminal offence and tried in proceedings adhering to international standards."¹³ It should be noted here that Israeli military courts, in which Palestinians from the West Bank are tried, do not adhere to international standards for fair trials, allow for the use of evidence obtained through torture and secret evidence, and convict over 99% of the Palestinians brought before them.¹⁴

The European Union's missions in Jerusalem and Ramallah have also expressed their concern about al-Qeeq, noting that "The EU calls for the full respect of international human rights obligations towards all prisoners. Detainees have the right to be informed about the charges underlying any detention, must be granted access to legal assistance, and be subject to a fair trial."¹⁵

We also note our high level of concern about the danger of forced feeding and forced treatment in Al-Qeeq's case. In July 2015, Israel adopted the "Law to Prevent Harm Caused by Hunger Strikers," permitting the forced feeding of Palestinian prisoners on hunger strike. Forced feeding is opposed by the International Committee of the Red Cross, the World Medical Association and the World Health Organization, which describes forced feeding as "unjustifiable...a form of inhumane and degrading treatment."¹⁶ In addition, forced medical treatment, as has already been imposed on al-Qeeq against his express and conscious will. As noted by Addameer, the Palestinian human rights organization, "forced treatment...and coerced medical examinations are a breach of international humanitarian law and international human rights law, as it constitutes an act that contravenes the human dignity of detainees and prisoners."¹⁷

Israel is the US' largest recipient of international aid dollars, and in particular military aid. Given the US' role in funding the Israeli military that issues the administrative detention orders that imprison Palestinians like Mohammed Al-Qeeq, it is particularly critical for the State Department's voice to be heard in pressuring the government of Israel to release Al-Qeeq and end the practice of administrative detention.

¹¹ <http://nlginternational.org/news/article.php?nid=596>

¹² <http://en.rsf.org/palestine-rsf-concerned-about-journalist-15-01-2016,48742.html>

¹³ <https://www.amnesty.org/en/documents/mde15/3299/2016/en/>

¹⁴ <http://972mag.com/conviction-rate-for-palestinians-in-israels-military-courts-99-74-percent/28579/>

¹⁵

http://eeas.europa.eu/delegations/westbank/documents/news/2015/20160127_eu_local_statement_onpalestinian_prisoners_in_administrative_detention_en.pdf

¹⁶ <http://nlginternational.org/news/article.php?nid=661>

¹⁷ <http://www.addameer.org/news/addameer-al-qeiq-has-been-forcibly-treated-and-life-threatening-condition>

When US State Department Deputy Spokesperson Mark Toner was asked about al-Qeeq's case on January 28, he stated that "certainly, we call for the humane treatment of any prisoner, and for due process in any kind of criminal case or charges brought against anyone. And we believe that the Israeli justice system is more than capable of doing so, but I don't have the details in front of me...I don't know what the specific charges are, so I'm hesitant to respond to whatever his situation is. I just don't know. I mean, more – other than broadly saying that he should be treated humanely, and that obviously, anyone has the right to due process."¹⁸

Toner declined to urge the Israeli government to release Al-Qeeq, in response to press questions. It must be noted that as an administrative detainee, al-Qeeq has no "specific charges," and next to no due process. Moreover the use of administrative detention is systematic; approximately 10% of Palestinians currently imprisoned by Israel are held under administrative detention without charge or trial.¹⁹

Israel and its prison system bear full responsibility for Al-Qeeq's life and health; his current precarious medical state is caused by the ongoing insistence of Israel in detaining Al-Qeeq without charge or trial under administrative detention.

We urge the State Department to act urgently to pressure Israel to immediately release Al-Qeeq and end the practice of administrative detention. In addition, we urge that the United States end its unconditional diplomatic, military and economic support for Israel, as the Israeli state is responsible for gross and systematic violations of Palestinian human rights.

Sincerely,

National Lawyers Guild

Palestine Subcommittee

Audrey Bomse, Andrew Dalack, and Amanda Ghannam, co-chairs

¹⁸ <http://www.state.gov/r/pa/prs/dpb/2016/01/251782.htm>

¹⁹ <http://samidoun.net/2016/02/january-2015-report-551-palestinians-arrested-by-occupation-forces-7000-palestinian-prisoners-total/>