

Joint Letter: The United Against Torture Coalition (UAT) calls upon the Israeli government, military and legal authorities to immediately release Salwa Salah (aged 17) and Sara Siureh (aged 16)

Wednesday 13 November 2008

The United Against Torture Coalition (UAT) is deeply concerned about the decision of the Military Judge at Ofer Military Court to reject the appeal, brought by Addameer - Prisoner Support and Human Rights Association and Nadi al Asir, Palestinian Prisoners Club, to reduce the time of imprisonment mandated by the administrative detention order of two Palestinian girls: Salwa Salah and Sara Siureh. Having spent in excess of five months in Israeli prisons without charge or trial, Salwa and Sara are due to remain in administrative detention until their current detention order expires on January 3, 2009.

The arrest of Salwa and Sara marks the first time that girls of the age of 16 have been placed in administrative detention. Arrested from their family homes in Bethlehem and initially detained under respective four month orders (Sara's detention time was reduced after an appeal), their detention was further extended on 5 October 2008 on the basis that the girls remain "dangerous," despite the fact that the military prosecutor has not leveled any charges against either girl.

Although administrative detention is permitted under international law in times of emergency, its parameters are strictly limited due to potential misuse by detaining individuals indefinitely without trial, amounting to a substitute for criminal prosecution in instances of insufficient evidence to obtain a prosecution. The 2008 UAT Annual Report detailed this particular abuse of administrative detention by the Israeli military authorities. Military Order 1226, in particular, empowers Israeli military commanders to detain Palestinians, including children, without charge or trial, for up to six months if they have "reasonable grounds to presume that the security of the area or public security require the detention." No definition of "security of the area or public security" is given in the Order and the initial six-month period can be extended by additional six-month periods indefinitely, amounting to indefinite arbitrary detention. In the case of Salwa and Sara, this provision means that there is no guarantee that they shall be released when their current detention orders expire in January.

The case of Salwa and Sara contravenes multiple human rights standards from the point of arrest to detention including central tenets of the international standards of juvenile justice, e.g. that if a juvenile is detained s/he should be detained in an appropriate facility and that recourse to deprivation of liberty should only be the last resort.

Sara and Salwa, are being detained at Addamoun Prison inside Israel. Although, the girls are 16 and 17 years old respectively, they are both being detained in an adult facility. The requirement to separate minors and adults is based on the simple concern that minors are potentially vulnerable to the negative influences of some adult detainees and that an account should always be taken of the needs particular to their stage of development. As 16 is the age of majority under Israeli military law for youth

in the Occupied Palestinian Territory (in contrast to 18 being the age of majority in Israel) Salwa and Sara are being detained as adults.

The call to limit a State's capacity to deprive minors of their liberty, including requiring that it be used as a measure of last resort and for the shortest appropriate period of time, has been consistently repeated in numerous human rights instruments, including Article 37 (b) of the Convention of the Rights of the Child, Article 1 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) 1990, Article 13.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985. It was once again reiterated in Resolution 4 of the Sixth United Nations Congress on the Prevention and the Treatment of Offenders, which specified that rules relating to juvenile justice, inter alia, should reflect the principle that pre-trial detention should be used only as a last resort.

The prolonged administrative detention of Salwa and Sara, and the failure to inform them of any charges against them, deprives them their right to effective due process. Their prolonged detention will have an untold impact upon their emotional, physical and social well-being. Salwa's detention means that she will miss the first few months of her final year of high school and may have to repeat the year upon her release.

The UAT coalition is deeply concerned about the continued violations of the human rights of both Salwa and Sara, We reiterate the statement made in the 2008 UAT annual report, that "all administrative detention orders should strictly conform to international legal standards and all children detained in administrative detention should be promptly charged with a recognisable offence or be immediately released." It is imperative that Salwa and Sara be informed of the charges leveled against them and afforded their right to a fair trial or be released immediately.

United against Torture Coalition:

- Adalah 'The Legal Center for Arab Minority Rights in Israel
- Al-Haq 'Law in the Service of Mankind
- Al Mezan Centre for Human Rights
- Al-Quds University Human Rights Clinic
- Defence for Children International 'Palestine Section (DCI/PS)
- Gaza Community Mental Health Program (GCMHP)
- Hurriyat 'Center for Defense of Liberties & Civil Rights
- Italian Consortium of Solidarity (ICS)
- Nadi Al Asir (Palestinian Prisoners Club)
- Nafha Society for Defence of Prisoners and Human Rights
- Mandela Institute for Human Rights and Political Prisoners
- Public Committee Against Torture in Israel (PCATI)
- Treatment and Rehabilitation Center for Victims of Torture (TRC)
- Addameer - Prisoners Support and Human Rights Association*
- * (Addameer is not member of UAT Coalition)