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## **CIVIL AND POLITICAL RIGHTS INCLUDING THE QUESTIONS OF TORTURE AND DETENTION**

### **Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43\***

\* The executive summary of this report is being circulated in all official languages. The report itself is contained in the annex to the executive summary and is being issued in the languages of submission only.

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#### **Executive summary**

The Special Rapporteur, Sir Nigel Rodley, submits his eighth report to the Commission. Chapter I deals with aspects of the mandate and methods of work. Chapter II summarizes his activities in 2000. Chapter III contains a summary of communications sent by the Special Rapporteur and replies from Governments, from 15 December 1999 to 15 December 2000. The Special Rapporteur transmitted information to or received responses from 100 countries. He sent 164 urgent appeals on behalf of more than 470 identified individuals. Observations by the Special Rapporteur on the situation with respect to allegations of torture in several countries are included in the report.

During the period under review the Special Rapporteur undertook two missions. The report on the visit to Azerbaijan (7-15 May) is contained in Addendum 1 to the present report and the report on the visit to Brazil (20 August-12 September) in Addendum 2.

Regarding country visits, in October 2000 the Permanent Representative of the Republic of Uzbekistan to the United Nations in New York gave an initial positive reaction to the Special Rapporteur's joint request with the Chairman-Rapporteur of the Working Group on Arbitrary Detention to visit that country, sent in June 2000. By letter dated 27 April 2000, the Special Rapporteur inquired whether the Russian Federation would consider the possibility of inviting him and the Special Rapporteur on violence against women, its causes and consequences, to undertake a joint visit to that country with respect to the situation in the Republic of Chechnya. By letter dated 11 September 2000, the Government extended an invitation to the Special Rapporteur on violence against women, its causes and consequences, to visit Russia, including the North Caucasus region. By letter dated 27 September 2000, the Special Rapporteurs inquired about the possibility of undertaking a joint mission. The Special Rapporteur followed up on this issue in a meeting with the First Counsellor of the Permanent Mission of the Russian Federation to the United Nations Office at Geneva in a meeting on 30 November. At a meeting with the Political Counsellor of the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva on 30 November 2000, the Special Rapporteur sought to clarify the nature of the difficulties posed for the Government by his request (first made in 1995) for a fact-finding visit. The Political Counsellor confirmed the continuing applicability of his Government's February 1999 invitation for a "friendly visit". The Special Rapporteur's requests to visit India, Indonesia, Bahrain, Egypt, Tunisia and Algeria have not resulted in

invitations.

No mandate-related issues have arisen during the year under review. The methods of work of the Special Rapporteur have been those followed previously, as approved most recently by the Commission in its resolution 2000/43, paragraph 25. In particular, he has continued to seek cooperation with holders of other Commission mandates to avoid duplication of activity in respect of country-specific initiatives. In view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban (South Africa) from 31 August to 7 September 2001, the Special Rapporteur addresses the question of racism and related intolerance.

As his current mandate approaches its end, the Special Rapporteur briefly takes stock of the situation in respect of the problem of torture and cruel, inhuman and degrading treatment or punishment in his conclusions and recommendations.

The General Assembly in its resolution 54/156, paragraph 29, and the Commission in its resolution 2000/43, paragraph 33, requested the Special Rapporteur to present an interim report to the fifty-fifth session of the General Assembly on overall trends and developments with regard to his mandate. In October 2000, he accordingly submitted a report (A/55/290) to the Third Committee of the General Assembly under agenda item 116 (a). In that report, the Special Rapporteur addressed the following issues: gender-specific forms of torture; torture and children; torture and human rights defenders; reparation for victims of torture; and torture and poverty.

## **Annex**

### **Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43**

[ENGLISH/FRENCH/SPANISH ONLY]

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#### Israel

(a) By letter dated 20 September 2000, the Special Rapporteur advised the Government that he had received information alleging that torture and other ill-treatment is still being carried out by the Israeli security forces and police during interrogation, despite the September 1999 ruling of the Israeli High Court which determined that the systematic use of various interrogation techniques by the authorities was illegal. In particular, the Special Rapporteur transmitted information on the following individual cases.

(b) **Haled Jum'a Al Shami**, from Dir El-Balah, was allegedly arrested on 31 December 1999 at the Erez checkpoint as he was leaving the Gaza Strip to go to work. After being transferred to Ashkelon prison he was allegedly subjected to torture during interrogation. He was forced into the shabeh position for continuous periods of between 12 and 36 hours. On approximately five occasions he was reportedly interrogated for 36 hours without sleep. His detention was reportedly extended on a number of occasions by a military court despite his appearing before the judge in a poor state of health.

(c) **Sadat Heil Bsharat** was reportedly arrested on 10 February 2000 by the Ma'ale Efraim police. During interrogation he was allegedly subjected to violence and sexual abuse. His interrogators are alleged to have put a stick into his rectum which resulted in bleeding.

(d) **Abed El-Kader Mohammed Yussuf Zaharan** was reportedly arrested on 9 April 2000 at a checkpoint on the outskirts of Dir Abu-Mashal. During interrogation he was reportedly seated in the shabeh position. Additionally he was allegedly deprived of sleep and kept in solitary confinement. Following his interrogation it is said that he made a confession in order to end his ill-treatment.

(e) **Ibrahim Mohammed Yussuf Zaharan** was allegedly arrested on 10 April 2000. He was reportedly detained in solitary confinement and regularly interrogated for long periods in the shabeh position, during which his wrists were handcuffed and tied to his chair. He was alleged to be suffering from a tumour on his spleen for which he was not provided with medical treatment.

(f) **Mustafa Taufik Awad** was allegedly arrested on 28 March 2000 at the Tul-Karem checkpoint when returning from work. He was reportedly interrogated by the General Security Service (GSS) in Ashkelon prison. During the first 20 days of his detention he was said to have been repeatedly interrogated for periods of between 15 and 20 hours per day in the shabeh position. He was reportedly kept in solitary confinement and deprived of sleep.

(g) **Mohammed Ahmed Mohammed Abu-Tam'a** was allegedly arrested on 17 February 2000. He was then taken to the Russian Compound in Jerusalem where he was reportedly interrogated for the next six days for 20 hours per day. He was forced into the shabeh position. On one occasion he was allegedly kicked and beaten by one of his interrogators. In addition, he is said to have been deprived of sleep and kept in solitary confinement.

(h) **Raed Ahmed El-Hamari**, from Bethlehem, was reportedly arrested on 22 August 1999. He was taken by GSS interrogators to the Russian

Compound and interrogated there for the following 60 days. He was allegedly interrogated in the shabeh position, deprived of sleep and kept in solitary confinement. After going on hunger strike for six days it is understood that he was treated at the Kupat-Holim hospital but was not hospitalized. His interrogation was resumed after his treatment and after a further three days tied to a chair in the shabeh position, he was transferred to a cell known as “asfir” to be interrogated by Palestinian collaborators. He was allegedly forced to crouch in a closed-off corner of the cell. He was threatened with a knife and prevented from eating or using the toilet. After a period of some 10 days, during which he remained in the corner, he was attacked by three collaborators who burned his left arm and shoulder with cigarettes. He then agreed to confess and was returned to the GSS interrogation room, whereupon he was interrogated for a further 20 days.

(i) **Mohammed Naim Sweiti** was allegedly arrested on 9 January 2000, following which he was reportedly interrogated by the GSS at the Russian Compound in Jerusalem until approximately 15 March 2000. He was reportedly denied access to a lawyer for 36 days. During the first days of his detention he was said to have been beaten, particularly on his stomach. He was kept in solitary confinement and was interrogated whilst forced to sit in the shabeh position.

(j) **Hussam Mohammed Bushnak**, from Jenin, was allegedly beaten following his arrest by the Nazareth police on 5 January 2000.

(k) **Lafi Ali-Rajabi** was reportedly arrested around July 1999 whilst attending the court hearing of one of his relatives in Ramleh. On 14 January 2000 it is believed that Al-Rajabi had contact with his family by telephone, during the course of which he expressed concerns about his personal safety. A few hours later his family was informed by the authorities that he had killed himself. His body was reportedly transferred to the Abu Kabir institute for an autopsy and was subsequently delivered to the family on 17 January 2000. The body reportedly showed signs of ante mortem torture, including bruising and ligature marks around the neck.

(l) **Ashraf Amin Taufiq Hamed** was reportedly arrested on 18 November 1999. He was allegedly held in solitary confinement and interrogated on three occasions whilst in the shabeh position.

(m) **Ramez Fayez Mohamed Rashid**, from the El Nusseirat refugee camp in the Gaza Strip, was reportedly arrested in February 2000 and sentenced to three years’ imprisonment for entering Israel without the required permit. He was reportedly detained in El Nafha prison. On 9 August 2000, he is believed to have received a visit from his father and is alleged to have been in reasonable health. However, he reportedly died some two days later. The cause of his death has allegedly not been made public.

(n) By the same letter, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 regarding which no reply had been received.

#### Urgent appeals and replies received

(o) On 28 January 2000, the Special Rapporteur sent an urgent appeal on behalf of **Hussein ‘Atawi, Abbas ‘Awada, Zeinab ‘Abd al-Majid al-Surur** (f) and **Hussein ‘Ali Qasem** who had reportedly recently been arrested by the South Lebanon Army and were believed to be held at the Khiam detention centre.

(p) On 4 February 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Yussuf Mohammed Jum’a Kanan**, a resident of Han-Yunes in the Gaza Strip, who had reportedly been arrested in Bat-Yam on 18 January 2000 allegedly because he was working in a restaurant without a legal work permit. He has since then been detained at the General Security Service Interrogation Unit of the Shikma Detention Centre in Ashkelon. On 20 January 2000, his lawyer is said to have been denied access to him and an order prohibiting meeting with counsel is said to have been constantly imposed. On 31 January 2000, a petition that this order be lifted was reportedly filed with the High Court of Justice.

(q) On 8 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Bassam Na’im Ashak Natshe** who had allegedly been arrested in Halhul and has been detained in the GSS interrogation unit of the Shikma detention centre in Ashkelon since. An order prohibiting meeting with counsel had been imposed until 6 January and was later extended several times.

(r) On 9 February 2000, the Special Rapporteur sent an urgent appeal on behalf of **Oda Ahmed Mohammed Zaharan**, a resident of Jordan, originally from the village of Dir Abu-ashal (near Ramallah) who had reportedly been arrested on Allenby Bridge and had allegedly been detained in the General Security Service interrogation unit of the Jerusalem detention centre since then. An order prohibiting meeting with counsel had been imposed until 4 February 2000 and was later extended owing to “necessities of interrogation”. On 30 March 2000, the Special Rapporteur sent further information to the Government according to which Oda Ahmed Mohammed Zaharan was permitted to meet his lawyer on 8 March, but had since been held incommunicado.

(s) On 3 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Nimr Khaza’al, Sawsan Khaz’al** his daughter, and **Munif Abbas Khalili**, who had reportedly been arrested on 17 February 2000 in the villages of Aynata and ‘Ayta al-Sah’b. It is alleged that they were held at Khiam detention centre.

(t) On 9 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Ahmed Mohammed Abu-Tam’a**, a student of the Al-Quds University, who had reportedly been arrested on 17 February 2000. He was allegedly detained in the General Security Service interrogation unit of the Russian Compound detention centre in Jerusalem. He was held in incommunicado detention for over two weeks. Since his arrest, he has reportedly been interrogated from 9 a.m. to 5 p.m. every day without a break.

(u) On 17 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Akram Saber Mohammed Elsamri**, a Gaza resident who had reportedly been arrested at the Erez Checkpoint on 2 March 2000 and who was said to be detained incommunicado in the General Security Service (GSS) interrogation unit of the Shikma detention centre. The Special Rapporteur also intervened on behalf of **I’ad Mussa Mohammed Shurbaji**, a Gaza resident, who had reportedly been arrested at the Erez Checkpoint on 21 February 2000 and since detained in the GSS interrogation

unit of the Shikma detention centre.

(v) On 23 March 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohamed As'ad Yassin**, a Lebanese Red Cross volunteer from Dibbin, **Muhsin Nasrallah** and **Aba-Dharr Shugeir**, a student from Mays al-jabal, who had reportedly been arrested in South Lebanon on 1, 7 and 19 March 2000 respectively. They were believed to be detained at Khiam detention centre.

(w) On 13 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mustafa Dirani**, a Lebanese citizen, who had reportedly been arrested by an Israeli commando unit at his home in Kasser Naba in the Biqaa' Valley on 20 May 1994. He had reportedly been held in Khiam detention centre in incommunicado detention until September 1998, when he was allowed legal representation. He was severely tortured and kept totally naked for several months. He was reportedly subjected to electric shocks and a continuous deprivation of sleep, routine beatings and violent shaking and was forced to kneel for hours with his feet flat on the ground and his hands behind his back. He was allegedly denied medical treatment. He bears shrapnel wounds in his head and back which cause hemiplegia and which required surgery to be undertaken to his head and spinal cord.

(x) On 19 April 2000, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences on behalf of **Qozet Elias Ibrahim**, a freelance woman journalist from Rmeish, on behalf of whom the Special Rapporteur on the right to freedom of expression and opinion and the Chairman-Rapporteur of the Working Group on Arbitrary Detention intervened on 22 September 1999, and **Najwa Hosein Samhat**, a woman from Aynata. Both were said to be currently detained in Khiam detention centre. Qozet Elias Ibrahim was reportedly arrested on 2 September 1999 by the Israeli security forces on the grounds of having been accused of preparing reports about the situation in the occupied territories. She is said to suffer from a severe ulcer/infection of the large intestine. She is constantly hooked to a drip in her cell because she is unable to keep any food in her stomach. Najwa Hosein Samhat was reportedly arrested with her husband **Hussein Ahmad Samhat** and her 16-year-old son, **Ahmad Hosein Samhat**, on 29 September 1999; both are reportedly detained with her. She has been subjected to whipping of her feet causing extensive bruising, blows to her face causing a cut lip, being hung by her hair and having cold and hot water poured on her body by women police officers. Both Qozet Elias Ibrahim and Najwa Hosein Samhat were reportedly taken to hospital by Israeli forces and militiamen from the South Lebanon Army after their health conditions deteriorated, allegedly as a result of having been subjected to torture at Khiam.

(y) By the same urgent appeal, the Special Rapporteurs intervened on behalf of three other women in Khiam detention centre, namely, **Asmahan El-Khalil** from Aychiya who had reportedly been arrested on 10 September 1999, **Chamlakan Hussein Assaf**, a nurse from Arnoun working in the clinic of Dr. Husein Toufaily in Nabatie, who was reportedly arrested in Arnoun on 23 November 1999, and **Samira Hassan Attieh** who had been arrested in Arnoun on 23 November 1999.

(z) On 27 April 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Yaqub**, who had reportedly been arrested by the South Lebanon Army (SLA) in the previous two weeks and was detained at Khiam detention centre. The specific reasons for his arrest are not known, but it is believed that he is suspected of helping the resistance to the Israeli occupation of southern Lebanon.

(aa) By the same urgent appeal the Special Rapporteur intervened on behalf of **Mohammed Hassan Yaqub**, **Hussein Baher Jom'a** and **Yasir Ramiz Abu-'Aliwa**, who had reportedly been arrested by the SLA on 18 April 2000 and were believed to be detained at Khiam detention centre. The specific reasons for their arrest are not known.

(bb) On 12 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Ibrahim Mahmud Sallah**, who had reportedly been arrested on 24 April 2000 and had since been detained incommunicado at the GSS interrogation unit of the Jerusalem detention centre. His counsel filed several petitions to gain access to him.

(cc) On 19 May 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Ali Kharroubi**, who had reportedly been arrested on 11 May 2000, as well as of **Ibrahim Harb**, **Malak Ibrahim Harb**, his daughter, and **Sati'a Bazzi**, all three from Bint Jubayl (south Lebanon), and **Hussein 'Awda**, from al-Magora village (south Lebanon), who had reportedly been arrested on 16 May 2000 by the South Lebanon Army. All were reportedly detained at El Khiam detention centre.

(dd) On 21 June 2000, the Special Rapporteur sent an urgent appeal on behalf of **Nabil Abu Ochel**, a resident of Gaza, who had reportedly been arrested at the Rafiah border crossing on 1 June 2000. He is said to have since been kept in incommunicado detention in the General State Security (GSS) interrogation unit at the Shikma detention centre. Several petitions have been filed on his behalf by his lawyer with no avail.

(ee) On 11 July 2000, the Special Rapporteur sent an urgent appeal on behalf of **Mohammed Mustafa Mohammed Abed El Aziz**, a resident of Beit Lahiya, who is reportedly physically disabled and confined to a wheelchair and who had reportedly been arrested at the Erez border crossing on 2 July 2000. He has reportedly since been held in incommunicado detention in the General State Security interrogation unit at the Shikma detention centre.

(ff) By letter dated 5 December 2000, the Government responded that he was being investigated for alleged involvement in terrorist activities for both HAMAS and Osama Ibn Laden. During the investigation, he confirmed that he was indeed an active member of these two organizations, that he had planned a number of terrorist activities involving the use of explosives, the kidnapping of soldiers and the killing of persons suspected of cooperation with Israel. He was charged with 23 serious offences and the court considered that he had the authority to order others to carry out such attacks and ordered that he be held in custody until the completion of his trial. He had used his rights to judicial review and three petitions on the question of legal representation have been heard by the Israeli High Court of Justice. On 10 and 18 July 2000, the High Court held that barring access to legal representation at various times during the investigation was, considering all the circumstances of the case, necessary for the continuation of the investigation and the security of the region. He was granted access to legal representation on 26 July 2000. He received close and continuous medical attention throughout his detention. On 10 July, the High Court was satisfied that all the necessary medical treatment had been provided.

(gg) On 5 September 2000, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Nidal Daghlas**, from Aseera Ashimalieh in the district of Nablus, who had reportedly been arrested on 27 August 2000 by Israeli security forces. He was allegedly shot three times at the time of arrest, sustaining injuries to his feet and left arm. He was subsequently

interrogated for a period of four hours, during the course of which he was allegedly beaten. His whereabouts were not known.

**(hh)** By letter dated 24 October 2000, the Government responded that Nidal Daghlas was arrested on 27 August 2000 during an operation aimed at arresting Abu Hanud, a member of Hamas, in whose house he had been hiding. He was interrogated for a short time to ascertain Abu Hanud's whereabouts. He was later transferred to the detention facility at Petah Tikvah, and his arrest was extended several times by a military judge. The Israeli security officers claimed that he had not been injured during the shooting, and medical examinations revealed that he was in good health. His lawyer, who had appealed to the Israeli Supreme Court to express concern about physical pressure put upon him and about his medical condition, withdrew her appeal once she learned that her complaints were baseless.

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