

ABDALLAH MAHMOUD MOHAMMED ABU RAHMA

“Missing the five-year anniversary of our struggle in Bil’in will be like missing the birthday of one of my children. Lately I think a lot about my friend Bassem whose life was taken during a nonviolent demonstration last year and how much I miss him. Despite the pain of this loss, and the yearning I feel to be with my family and friends at home, I think that if this is the price we must pay for our freedom, then it is worth it, and we would be willing to pay much more.”

– Abdallah Abu Rahma, 21 February 2010

Date of birth: 10 November 1971

Date of arrest: 10 December 2009

Occupation: High school teacher

Place of residence: Ramallah

Place of detention: Ofer Prison

Postal address:

Ofer Prison

Givat Zeev, P.O. Box 3007

via Israel

INTIMIDATION, ARREST AND DETENTION

Abdallah Mahmoud Mohammed Abu Rahma was arrested from his family home in Ramallah at 2 a.m. on 10 December 2009, the International Day for Human Rights. Approximately 10 Israeli military jeeps came to his house in the al-Tireh neighborhood, entered the home and arrested Abdallah in the presence of his wife Majida and their two daughters Loma, 7, and Leann, 5, and son Laith, 1.



Abdallah was then taken to Ofer military base near Ramallah in his pajamas, where he was immediately subjected to interrogation, but refused to answer any questions.

Abdallah’s arrest followed weeks of harassment and intimidation of his family and other anti-Wall activists by Israeli soldiers. This included raids of Abdallah’s home by approximately 50 Israeli soldiers and ransacking of the family home while Abdallah’s wife and three children were confined to one room. During this period, Abdallah’s life was also threatened by undercover Israeli intelligence forces who came to his house and set up surveillance points and checkpoints around Bil’in village.

CHARGES

Abdallah has been charged with four offenses under Israeli military orders: incitement,¹ throwing stones,² possession of arms³ and organizing and participating in demonstrations without a permit.⁴

¹ Article 7(A) of Military Order 101 defines the offence of incitement as “an attempt, whether verbally or otherwise, to influence public opinion... in a way that may disturb the public peace or public order”. The maximum penalty for incitement is ten years.

Under the charge of incitement, Abdallah is accused of “attempting to influence public opinion” between 2005 and 2009 through his membership of the Bil’in Wall Committee, his instrumental role in organizing and leading Friday demonstrations against the Wall and his distribution of Palestinian and Palestinian Authority flags (an act still considered a security offence under military law). The charge sheet also lists allegations that he “incit[ed] the public to harm security personnel”, by telling demonstrators not to “allow them [Israeli soldiers] to shoot at you” and by directing demonstrators to throw stones “in the direction of security personnel” and cut the wires forming part of the Wall installed by security forces.

Under the arms possession charge, Israeli authorities accuse Abdallah of collecting empty M16 cartridges and empty sound bomb canisters and teargas grenades which had been used by Israeli soldiers to disperse demonstrators, and exhibiting them in a Bil’in museum.

Abdallah’s trial is currently underway.

Problems with the charges: due process, natural justice and international legal standards

Fundamental provisions of international law and Israeli military orders governing the occupied Palestinian territory (OPT) provide that the onus of proving the actual occurrence or “truth” of any allegations against a defendant lies with the military prosecution. In practice, however, evidence gathered by Addameer and other advocates and court observers indicates that the Israeli military courts operate on a “presumed guilty” rather than “presumed innocent” assumption. This presumption – which requires the accused to provide evidence to actively disprove the allegations – is on occasion even legislatively enshrined, as in the case of the ‘possession of arms’ charge. In any other developed jurisdiction – including in Israel’s civilian courts – a genuine presumption of innocence is a cornerstone of the very legitimacy of the court, a cornerstone that is widely considered to be a peremptory, or non-derogable, norm of international law.⁵ A rebuttable presumption of guilt in relation to serious charges (noting that “possession of arms” carries a maximum life sentence) is anathema to all international standards of a fair trial.

Moreover, to defend the possession of arms charge against him, Abdallah must prove that the used weapons he collected from the ground in Bil’in *could not cause death or injury*. The

² Article 53(A)(2) of Military Order 378. The military prosecution alleges that between the “second half of 2008” and his arrest, Abdallah threw stones in the direction of a person or property with the intention of harming persons or property. The maximum sentence for this offence is ten years.

³ Article 53(A)(2) of Military Order 378. The definition of ‘arms’ includes a firearm, ammunition, grenade, or any object that might cause death or disability and any piece or part of those mentioned. ‘Arms’ therefore include objects such as metal pipes or the lens of a pair of binoculars which could potentially be attached to a rifle. The burden of proof is on the accused to prove that the instrument could not cause death or disability. Whether the accused had any intention of causing such death or injury is irrelevant. The maximum sentence for possession of arms is life imprisonment.

⁴ Article 3 of Military Order 101. Organization and involvement in gatherings of ten or more people – whether violent or not – is considered an offence under military law, the maximum sentence for which is 10 years. The military prosecution alleges that “between 2005 and 2009” Abdallah participated in such “illegal demonstrations”.

⁵ Articles 10 and 11(a) of the Universal Declaration of Human Rights stipulate that every person is entitled to a “fair hearing” by an “independent and impartial tribunal” and to be “presumed innocent until proved guilty in a public trial at which he/[she] has had all the guarantees necessary for his defense” respectively. Article 14(2) of the International Covenant on Civil and Political Rights (ICCPR) ensures “the right to be presumed innocent until proved guilty according to law”.

military order establishing this offense does not distinguish between fresh/useable weapons and useless weapon fragments, or even empty cartridges of ammunition storage boxes, so the fact that the M16 bullets, sound bomb canisters and tear gas grenades he collected were no longer useable is irrelevant to whether Abdallah was in possession of “arms”. It is therefore impossible for Abdallah to defend this charge. The fact that the items had already been used against the demonstrators and left on the ground by Israeli forces, and his intention to display the items in a museum – part of his human rights work to demonstrate Israel’s brutality in defending the structural integrity of the Wall and the occupation – rather than to cause injury are equally irrelevant according to the law.

Moreover, the principle of due process or natural justice requires that information provided to a defendant, particularly with regard to charges against him/her, contains sufficient detail to enable the accused to prepare a defense. Although developed in the common law of England, and embodied in the U.S. Constitution among many other jurisdictions, the principle is generally accepted to form part of customary international law and is explicitly provided for in international human rights law documents such as the International Covenant on Civil and Political Rights (ICCPR).⁶

However, each of the charges issued against Abdallah relate to alleged activities over a long and vague period of time, five years in the case of charges one, three and four. Insofar as the charges fail to specify specific days, times, frequencies or instances of when Abdallah engaged in these alleged activities, the charges are impermissibly broad. Abdallah’s lawyers have argued before the military court that this is a fatal flaw and the prosecution cannot proceed on the current charge sheet. So far the court has failed to rule on this issue.

Addameer submits that this vagueness deliberately exacerbates the “presumed guilty” underpinnings of the military court system: the broad nature of the allegations in terms of timing makes it impossible for Abdallah to mount a defense as this would require him to account for his activities on every Friday between 2005 and 2009.

Furthermore, another element of vagueness relates to allegations that Abdallah threw and encouraged others to throw stones “*in the direction of*” soldiers and property. The military prosecution has provided no information as to how far away the alleged stone-throwers were from the soldiers and property in question. Addameer lawyer Mahmoud Hassan believes that this frequently-used “in the direction of” allegation conveniently evades the issue of whether the stones could feasibly travel far enough to reach the soldiers or property in question, whether propelled by hand or by a short rope attached to the stone, or even if the stones were in actuality aimed at particular soldiers or army property. Rather, it is well-documented that stone-throwing occurs in a much more haphazard and disorganized manner, rendering allegations that stone-throwers “aimed” or had concrete intentions are tenuous at best. Vague accusations do away with the on-the-ground details and consequently “intention to harm or cause damage” is solely imputed or presumed.

Addameer is therefore extremely concerned that Abdallah’s ongoing trial will be marred by grave unfairness and breaches of international law, as such evidentiary and procedural bias

⁶ Article 14(3)(a): “to be informed... *in detail*... of the nature and cause of the charge against him”

against the accused is deliberately built into the military court system. The unacceptably broad scope of the charges against Abdallah means that his prospects for a fair trial are nonexistent.

However, far from being exceptional, the vague and effectively indefensible charges that Abdallah faces under the unlawful military court system are those routinely levied against Palestinians. Addameer estimates that 80 percent of the approximately 700,000 Palestinians imprisoned since 1967 have been convicted of offenses where the ‘facts’ alleged are so nebulous and the procedures so biased that no defense could possibly be mounted. Moreover, thousands of Palestinians, predominantly children, have been charged with throwing stones “in the direction of” IOF soldiers on “one or more occasions” during the last several years. The “in the direction of” phrase is also frequently used in more serious allegations, such as shooting incidents where attempted murder is alleged on the basis of the accused having shot “in the direction of” an IOF vehicle or soldiers on “one or more occasions” during a period of several years. However, such allegations have occurred even in cases where the defendant fired a weapon into the air at a wedding, or when located miles away and far out of eyesight from their alleged target. Defending such vague charges is made deliberately impossible. The result is that the vast majority of defendants (at least 90-95 percent) are forced to plead guilty to avoid longer periods in detention in the face of a system impossibly weighted against them.

Speaking of the possibility of a fair trial in the military courts, Addameer lawyer Mahmoud Hassan says:

“The institution for justice in the West Bank – the military court – has no relationship with the people who are the subjects of this justice system. The prosecutor belongs to the ‘enemy’ since s/he is a member of the army and police forces, and the police and army are instruments of the occupying power. Even the judge is a commander in the very army which is violently enforcing the occupation. The laws devised and enforced by the occupying army serve the interests only of the occupier...The freedom of the people of Palestine only becomes plausible when they themselves can decide how to administer their own lives and choose laws which will guide the life of their society”.

Persecution of human rights activists

Every village that has been active in mobilizing protests against Israel’s ongoing construction of the Annexation Wall in the OPT through grassroots action and popular land defense committees has experienced various forms of intimidation and coercion through raids, harassment and targeted arrests by the IOF. While there are differences in the degree to which arrests are used, based on the decisions of the Israeli military, arrests appear to be carried out against protesters regardless of their methods of protest, and are particularly targeted at leaders of the popular movements and children.

Evidence collected by Addameer indicates that these arrests are used as a means of stifling any form of individual or collective resistance from these communities. It also appears to be a means of dismantling the Palestinian social fabric by targeting the movement’s leaders, social activists, unionists, community representatives and children.

Under current military orders in the OPT, putting up political posters, writing political slogans, participating in demonstrations, being in possession of a Palestinian flag, and belonging to any political party, amongst many other activities, are all defined as threats to the security of Israel.⁷ Not only is Abdallah's detention and ongoing trial an institutionalized attempt to repress anti-Wall activism in Bil'in within the now well-established strategy of targeting the movement's leaders, the possession of arms charge is also an attempt by Israel to cover up the violence it employs to "disperse" demonstrators. The "dispersal" techniques used by Israeli soldiers have resulted in at least 16 documented deaths and dozens of severe injuries to peaceful demonstrators in the years since construction of the Wall began in 2002.

Israel's decision to charge Abdallah with a serious offense for collecting the remains of the very weapons used by the IOF to kill, injure and terrify Palestinians for display in a local museum is also a gross abuse of power. Furthermore, it constitutes a breach of the *UN Declaration on Human Rights Defenders*. On receiving the indictment, Abdallah's lawyer Gaby Lasky said that "the army shoots at unarmed demonstrators, and when they try to show the violence used against them to the world by collecting and displaying the remnant tear gas canisters they are persecuted and prosecuted".

Extended detention

On 10 January 2010, the military court remanded Abdallah until the conclusion of the legal proceedings against him. At a hearing on 14 April 2010, Abdallah's lawyers submitted a request to the military court to have Abdallah's extended detention reviewed. In light of the many procedural and postponed hearings, the military court's refusal to rule on whether the charges are flawed and an anticipated High Court appeal should the military court rule against the defense's request, Abdallah's detention during his trial is likely to be protracted. Accordingly, Addameer submits that Abdallah must be released on bail for the duration of his trial.

DETENTION CONDITIONS

According to a report by Abdallah from February 2010, Ofer Prison where he is currently held "is a collection of tents enclosed by razor wire and an electrical fence, each unit containing four tents, 22 prisoners per tent." During the winter he reported that rain and wind penetrated the tents and that he did not have enough clothes or blankets.

Abdallah also reports a shortage of food in the prison and canteen products being too expensive to buy. At a hearing on 5 January 2010, Abdallah's wife, Majida, noted that Abdallah had lost weight since his imprisonment.

Abdallah has not received any family visits since his arrest. His wife applied for the necessary permit, but was refused on the typical unnamed "security" grounds. Communication between Abdallah and his family has been limited to messages passed between Abdallah and the outside world through his lawyer. Abdallah's wife was able to see Abdallah but not talk to him during a further hearing on 14 April 2010.

⁷ Addameer: Defending Palestinian Prisoners: A Report on the Status of Defence Lawyers in Israeli Courts, April 2008 (available at: <http://addameer.info/wp-content/images/defending-palestinian-prisoners.pdf>).

While in detention Abdallah has taken on an advocacy role within the prison and acts as a mentor, raising rights awareness and particularly assisting young people in managing everyday prison life. Abdallah has also written two letters from Ofer Prison to his supporters. The [first](#) was written as Abdallah began 2010 in prison, and the [second](#) was written on the fifth anniversary of the first Bil'in anti-Wall demonstration on 21 February 2010.

PREVIOUS ARRESTS

Abdallah was arrested on 17 June 2005 along with his brother, Dr. Ratib Abu Rahma. He was released a week later upon payment of a 5,000 NIS (about \$1,400 USD) fine. Abdallah was arrested again on 15 July 2005 and detained for two weeks. He was fined a further 5,000 NIS. On 5 September 2005 he was arrested at a demonstration and detained for five weeks.

In the course of these arrests, Abdallah has suffered multiple injuries at the hands of Israeli soldiers, including to his head, legs and chest. On several occasions he required hospitalization for these injuries. On one occasion, when Israeli soldiers came to arrest Abdallah from his home, the soldiers intentionally shot live ammunition into the house's veneer, causing a state of panic in the house and ongoing trauma for family members who were present, especially the children.

COMMUNITY INVOLVEMENT AND HUMAN RIGHTS DEFENDER WORK

Abdallah is the coordinator of the Popular Committee Against the Wall and Settlements in the village of Bil'in. He is also a member of the People's Committee Against the Wall at the national level. He is a world-renowned non-violent activist and Palestinian spokesperson who has attended numerous international conferences in the last three years, including to Greece, Germany and France, to discuss the experience of Palestinians affected by the Annexation Wall and the popular resistance against it.

He is the recipient of four human rights prizes, including the illustrious International League for Human Rights' Carl Von Ossietzky Medal which he received exactly one year before his latest arrest, on International Day of Human Rights on 10 December 2008.

Abdallah has also been invited to workshops, conferences and symposia to discuss religious fraternity and cooperation.

PERSONAL INFORMATION

Abdallah is married and has two daughters and one son. His detention has had a severe psychological impact on his children. His children all suffer from nightmares about the IOF and fear the arrival of soldiers during the night. His daughters' schooling is also in jeopardy, as Abdallah used to transport his daughters to school every day prior to his arrest; now, they face difficulties getting to and from school. Since Abdallah's arrest, the children's academic engagement and success has been compromised and they have only minimal interaction with their schoolmates.

Abdallah earned a Bachelor degree in Arabic in 1993 and holds a Masters degree in Contemporary Arab Studies from Bir Zeit University in 1997. Until his arrest, he worked as a secondary school teacher and is highly respected by the youth of Bil'in. With Abdallah in detention, his family's economic situation is at risk due to the loss of Abdallah's income. Abdallah worries that he will not be re-employed in his former position after his release.

Prior to his arrest, Abdallah's family also owned a chicken farm. Since his imprisonment, the family was forced to sell the farm at a loss.

ACT NOW!

Here is how you can help Abdallah Abu Rahma:

- Send Abdallah letters of support to his postal address in prison
- Write to the Israeli government, military and legal authorities and demand that—
 - Abdallah be released immediately, and the spurious charges against him be dropped;
 - Israeli forces in the OPT immediately cease their unlawful arrest and detention policies of Palestinian human rights defenders active against the Wall, and put an immediate end to the illegal measures of collective harassment and abuse levied against whole communities in the path of the Annexation Wall; and,
 - The military law governing the OPT, drafted to govern every aspect of Palestinian life, well beyond the jurisdictional parameters granted to occupying authorities under international law, be abolished and instead Palestinians' freedoms to assembly and expression and right to self-determination be respected, including the right to devise and enforce their own legal system.
- Write to your own elected representatives urging them to pressure Israel to release Abdallah and to put an end to the military court system 'justified' by Israel's misleading 'state of emergency' discourse used to legitimate racist and unlawful laws and procedures in the OPT.

For more information about Israeli arrest and detention of Palestinian human rights defenders, please visit our website www.addameer.info, or contact us directly:

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