

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: AL
ISR 8/2014:

21 August 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, 5/1, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received alleging excessive use of force by Israeli security forces, during a peaceful demonstration, leading to the killing of Mr. **Hashem Khader Abu Maria**, and during clashes that erupted afterwards resulting in the killing of Mr. **Abdelhamid Ahmad Abdelhamid Breighith** and Mr. **Sultan Yousef Mohammad Al-Shuqdam**.

Mr. Hashem Khader Abu Maria was the coordinator of Defense for Children International-Palestine's community mobilization unit, which promotes constructive child participation throughout the Occupied Palestinian Territory. His most recent work focused on Palestinian youth, monitoring and documenting violations of children's rights in Hebron.

According to the information received:

On 25 July 2014 after the Friday prayers at approximately 2 pm, a group of 800-1000 persons held a peaceful demonstration in the West Bank town of Beit Ummar in solidarity with Palestinians in Gaza. During the demonstration, Mr. Hashem Khader Abu Maria was suddenly struck by a bullet allegedly fired by Israeli security forces, which hit his chest from a distance of 100 meters. He succumbed to the injuries that he sustained.

Following this, clashes erupted between around 50 Israeli security forces officers and Palestinian youth when the forces blocked the entrance of the village Beit Ummar. It is alleged that during the clashes, Mr. Abdelhamid Ahmad Abdelhamid Breighith and Mr. Sultan Yousef Mohammad Al-Shuqdam were killed by live ammunition reportedly fired by Israeli security forces and at least 10 persons sustained injuries. In an attempt to disperse the crowd, Israeli security forces also allegedly fired rubber-coated bullets at the protesters and they also fired tear gas canisters and live ammunition into the air. Information provided alleges that the three men that were killed were targeted by snipers of Israeli security forces.

Grave concern is expressed at the killing of Mr. Hashem Khader Abu Maria, Mr. Abdelhamid Ahmad Abdelhamid Breighith and Mr. Sultan Yousef Mohammad Al-Shuqdam. Further concern is expressed regarding the alleged excessive use of force used against these protesters by Israeli security forces.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate? Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the full details of any investigations which have been undertaken concerning the killings of Mr. Hashem Khader Abu Maria, Mr. Abdelhamid Ahmad Abdelhamid Breighith and Mr. Sultan Yousef Mohammad Al-Shuqdam. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
3. Please indicate whether compensation has been provided to their families.
4. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is guaranteed by Israeli legislation, and that the physical and psychological integrity of those exercising this right is guaranteed.
5. Please provide information on the regulations and operational procedures for law enforcement agents concerning the use of force in the context of law enforcement during assemblies and whether it is compatible with international standards on the use of force and firearms.

6. Please indicate what measures have been taken to ensure that civil society activists can operate in an enabling environment and can carry out their legitimate activities without fear for their safety.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst

Special Rapporteur on the situation of human rights defenders

Makarim Wibisono

Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials. We would like to refer your Excellency's Government to the fundamental principles applicable to this case under international law. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, recognizes that every human being has the right not to be arbitrarily deprived of his or her life. The Human Rights Committee has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces.

We would like to remind your Excellency's Government of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). In particular, principle 12 provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights (UDHR) and the ICCPR, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." These provisions restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable, to the minimum extent necessary. Principle 14 provides that law enforcement officials may not use firearms, except under the conditions stipulated in principle 9. Principle 9 provides that firearms may only be used in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger ... and only when less extreme measures are insufficient to achieve these objectives. Principle 9 further stipulates that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

We would also like to refer to your Excellency's Government to article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Furthermore, we would like to refer to the rights of peaceful assembly and to freedom of association, as set forth in the articles 21 and 22 of the ICCPR.