

Mandates of the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

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30 March 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 25/18, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged extrajudicial execution of Mr. **Abed al-Fatah al-Sharif** as well as the related threats and fear for the physical and psychological integrity of Mr. **Imad Abu Shamsiyyeh**, a human rights defender working as a volunteer for the human rights organization B'Tselem.

According to the information received:

On 24 March 2016, Mr. Abed al-Fatah al-Sharif, 21 years old, and Mr. Ramzi Qasrsrawi, 20 years old, both Palestinian, assaulted and stabbed an Israeli soldier in the Tel Rumeida area of the Old City of Hebron, in the West Bank. As a response to the assault, Israeli soldiers shot Mr. Abed al-Fatah al-Sharif and Mr. Ramzi Qasrsrawi. While Mr. Ramzi Qasrsrawi died on the spot, Mr. Abed al-Fatah al-Sharif survived the initial shooting and was left lying on the ground, gravely injured while still showing signs of being alive.

In the video footage widely circulated in the media, an identified voice calls in Hebrew language for the execution of Mr. Abed al-Fatah al-Sharif: "Listen, this dog is alive. Get it in their heads, sapper. He deserves it." After an apparent discussion among the soldiers, one of the soldiers is seen shooting Mr. Abed al-Fatah al-Sharif in the head from a close distance, causing his immediate death.

In the footage, medical personnel are seen arriving at the scene and attending the Israeli soldier whom Mr. Abed al-Fatah al-Sharif and Mr. Ramzi Qasrsrawi had attempted to stab (who sat up in a stretcher while he was being evacuated), while ignoring the condition of Mr. Ramzi Qasrsrawi and Mr. Abed al-Fatah al-Sharif.

On 24 March 2016, the Prime Minister of Israel, the Defense Minister and the Israeli Defense Forces condemned the killing of Mr. Abed al-Fatah al-Sharif, stating that it did not represent “the values of the Israeli Defense Forces” and announced a thorough investigation. The spokesperson of the Israeli Defense Forces also said that the soldier who killed Mr. Abed al-Fatah al-Sharif had been arrested.

The person who recorded the video, Mr. Imad Abu Shamsiyyeh, works as a volunteer for the Israeli human rights organization B’Tselem. One of the military investigators reminded Mr. Imad Abu Shamsiyyeh that he lives “surrounded by Israeli settlers”, and suggested that he would have no one to protect him from an attack by them if he confirmed having recorded the video footage himself. Later on the same day, Mr. Imad Abu Shamsiyyeh received two anonymous phone calls in Hebrew language which he could not understand but felt were threats against him. On 26 and 27 March, Israeli settlers gathered around his family’s home and chanted slogans threatening to burn it down and prompting Mr. Imad Abu Shamsiyyeh’s family to temporarily move out of their domicile.

While we do not wish to prejudge the accuracy of these allegations, we are expressing grave concern at killing of Abed al-Fatah al-Sharif, who according to video evidence available online, might have been the victim of an extrajudicial execution by the Israeli Defense Forces. The failure of medical personnel present at the scene to check his condition or provide him treatment is also worrying. Concern is further expressed at reports of threats against Mr. Imad Abu Shamsiyyeh, a human rights defender, and therefore for his physical and psychological integrity.

The facts above indicate a prima facie violation of the right of every individual to life, security, and not to be arbitrarily deprived of his or her life, as set forth in articles 3 of the Universal Declaration of Human Rights (UDHR) and 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991; as well as a prima-facie violation of the right of every individual to the enjoyment of the highest attainable standard of physical and mental health, as set forth in articles 25 of the UDHR and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Israel on 3 October 1991. To the extent that it could be argued that international humanitarian law applied to this case, and without taking a position on the matter, it should be pointed out that the killing of Mr. Abed al-Fatah al-Sharif would also in terms of that legal regime be prima facie considered unlawful.

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 my 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 deaths of Mr. Abed al-Fatah al-Sharif and Mr. Ramzi Qasrswawi. Have penal, disciplinary or administrative sanctions been imposed on the alleged direct perpetrator(s) and/or their commanding officers? Have penal, disciplinary or administrative sanctions been imposed on the medical personnel who failed to check their condition or provide them treatment?
3. Please provide the full details of any investigations which have been undertaken concerning the threats against Mr. Imad Abu Shamsiyyeh. Have the authorities provided him with protection measures?
4. Please indicate whether compensation has been provided to the victims or their families.
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 and whether it is compatible with Israel's obligations under international human rights and humanitarian law, in particular international standards on the use of force and firearms.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence, to ensure that protective measures are taken to ensure the safety of Mr. Imad Abu Shamsiyyeh, 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.

We would like to inform that we will publicly express our concerns in the course of the day, as we are of the view that the information upon which the press release is

going to be based is sufficiently reliable to indicate a matter warranting immediate attention. Please find enclosed the copy of the press release to be issued today, Wednesday 30 March 2016.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to Articles 3 of the Universal Declaration of Human Rights and 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life.

Furthermore, we would like to draw your attention to relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. Moreover, the Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979 and 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, 27 August to 7 September 1990), though not binding, provide an authoritative interpretation of the limits on the conduct of law enforcement forces. According to these instruments, law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and providing medical assistance as soon as possible when necessary.

The Human Rights Committee in its General Comment 6, para. 3, 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. Additionally, in its General Comment No. 31, the Human Rights Committee recalls the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non-state actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

Further, we would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the Prevention and Investigation Principles, in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

We would also 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 article 12 (2 and 3) of the same Declaration, which provides that the State shall

take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.