

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

REFERENCE:
AL/ISR/9/2017

8 November 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, pursuant to Human Rights Council resolutions 34/18, 34/5 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged physical attack against the human rights defender, Mr. **Imad Abu Shamsiyya**, while he attended a peaceful pray-in at Khirbet Qilqis in the south of Hebron, as well as allegations of subsequent hate speech and threats against the human rights defender posted on social media.

Mr. Imad Abu Shamsiyya is a co-founder of the Human Rights Defenders Group, a non-partisan group that aims to document and expose violations of international law and injustice against families in conflict areas under Israeli occupation. The human rights defender is also a volunteer at B'Tselem, the Israeli Information Center for Human Rights in the Occupied Territories, where he is involved in documenting alleged human rights violations occurring from the occupation of Tel-Rumeida.

Mr. Imad Abu Shamsiyya was the subject of a previous communication, AL/ISR/5/2016, sent to your Excellency's government on 30 March 2016. The allegations concerned the extrajudicial killing of a Palestinian man by an Israeli soldier and the threats that Mr. Imad Abu Shamsiyya received for recording the alleged extrajudicial execution and liaising with a human rights organisation on its eventual distribution. In our letter to your Excellency's government, we requested information on whether any investigations had been undertaken concerning the threats received by Mr. Imad Abu Shamsiyya and whether the authorities had provided him with any protection measures. We regret not having received a reply from your Excellency's government to this communication especially in the light of new allegations.

According to the information received:

On 6 October 2017, Mr. Imad Abu Shamsiyya was filming a peaceful pray-in at Khirbet Qilqis in the south of Hebron. The entrance to the area is closed by the Israeli military and blocked with concrete cubes and mounds of earth. As residents from the area gathered to pray to show support for the "Dismantle the Ghetto" and the "National Campaign to Lift the Closure of Hebron" movements, Mr. Imad Abu Shamsiyya started to document the pray-in with his camera. An

Israeli Civil Administration officer allegedly asked the human rights defender to leave the area and stop recording. Israeli forces then allegedly shot four tear gas canisters directly at the human rights defender, causing him to lose consciousness.

On 6 October 2017, later in the day, a Facebook post was published by a profile allegedly linked to Israeli extremist groups, featuring the human rights defender as the subject and stating "... this dog is still alive ...", along with a photograph of Mr. Imad Abu Shamsiyya lying on the ground after he was hit by the gas canisters.

Serious concern is expressed at allegations that Israeli forces exercised unwarranted and disproportionate use of force against Mr. Imad Abu Shamsiyya by firing four tear gas canisters at the human rights defender, causing him to lose consciousness. We are also concerned by the fact that an Israeli Civil Administration officer arbitrarily attempted to curtail Mr. Imad Abu Shamsiyya from attending and recording the peaceful pray-in which could be considered as a hindrance to carrying out his peaceful and legitimate activities and more particularly a violation of his right to freedom of expression.

We cannot dismiss the likelihood that the physical attack was carried out with the explicit aim of putting a halt to the human rights defender's work in documenting the peaceful pray-in and in direct retaliation against Mr. Imad Abu Shamsiyya's legitimate work as a human rights defender. The allegation that Mr. Imad Abu Shamsiyya was also the subject of an intimidating Facebook post amplifies our concerns regarding his safety and security.

We express our general concern that the excessive use of force against Mr. Imad Abu Shamsiyya could intimidate human rights defenders who are actively advocating for the promotion and protection of human rights in Israel and in the Occupied Palestinian Territories.

While we do not prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with 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. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.

2. Please explain the legal basis for the alleged request by an Israeli Civil Administration officer that Mr. Imad Abu Shamsiyya leave the area and stop recording the peaceful pray-in, and explain how this is compatible with Israel's obligations under international human rights law, in particular article 19(3) of the ICCPR.
3. Please explain the legal basis according to which the Israeli forces deemed it proportionate to fire four tear gas canisters at the human rights defender, causing him to lose consciousness. Please provide information about the directives issued by the Government to law-enforcement personnel concerning the precise circumstances in which the use of force is authorized, and indicate how these directives comply with the international human rights obligations of Israel under the ICCPR, as well as with the requirements of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
4. Please provide any details, and where available, the results of any investigations or other inquiry undertaken in relation to these allegations.
5. Please provide details about measures, if any, which have been undertaken by your Excellency's Government to protect the physical and psychological integrity and safety of Mr. Imad Abu Shamsiyya in the light of information that he was subject to a post on social media which could be qualified as hate speech or a threat.

We would appreciate receiving 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(s) responsible for 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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Michael Lynk

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

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, 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. We would also like to draw your Excellency's government's attention to Article 21 of the ICCPR which upholds the right of peaceful assembly and states that no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society.

In addition, we would like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force.

Furthermore, we would like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs...seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.

We would like to refer to the first report of the Special Rapporteur on freedom of peaceful assembly and association, in which he calls on Member States to "ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies" (A/HRC/20/27, para. 94).

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 bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

-article 5 point a) everyone has the right, individually and in association with others, at the national and international levels to meet or assemble peacefully;

-article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;

-article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;

-article 12, paragraphs 2 and 3, 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.

We would also like to refer your Excellency's government 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.