

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL ISR 13/2018

23 October 2018

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 35/15, 1993/2A and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged violations of international human rights norms and law, including the prohibition on extrajudicial, arbitrary and summary executions, safeguards pertaining to fair trial and due process, and the prohibition against torture and cruel, inhuman and degrading treatment in relation to the alleged torture and unlawful killing of Mohammed Zaghoul al-Rimawi by the Israeli Defense Forces on 18 September 2018.**

A similar communication addressing the alleged extrajudicial killing of three Palestinians, one of whom was reported to be a minor and one a person with disabilities, by the Israeli Defense Forces during an operation conducted in Jenin refugee camp in the West Bank and during a protest in Gaza, respectively, was transmitted to your Excellency's Government on 18 January 2018 (AL ISR 4/2018). We regret that to date no reply has been received and urge your Excellency's Government to respond to this letter at your earliest convenience.

Similar allegations of extrajudicial killings, indicating an alarming pattern, have been the subject of previous communications submitted to your Excellency's Government (JAL ISR 5/2016 dated 30 March 2016, JAL ISR 6/2015 dated 22 October 2015, and JAL ISR 3/2013 dated 10 April 2013). We regret that to date no replies have been received to these communications and urge your Excellency's Government to provide responses at your earliest convenience.

According to the information received:

On 18 September 2018, at around 6 a.m., approximately 20 to 30 members of the Israeli Defence Forces (IDF) wearing masks raided the house of 24-year-old Mohammed Zaghoul al-Rimawi, in the village of Bet Rima north-west of Ramallah. After removing by force the door of the house, several IDF soldiers

entered and found Mr. Al-Rimawi asleep in his bedroom. They first hit him with their rifles in order to wake him up and then banged his head against the wall until he fell unconscious.

Mr. Al-Rimawi's family members, who were present in other parts of the house, were prevented from intervening and only allowed to give the soldiers Mr. Al-Rimawi's identity card and a pair of trousers. While Mr. Al-Rimawi's family was held at gun point, he was carried unconscious into a white vehicle and taken to an undisclosed location.

Around 8.30 a.m., a few hours later, Mr. Al-Rimawi's family received a phone call from the Palestinian military liaison office informing them of Mr. Al-Rimawi's death. The liaison office also informed his family that the Israeli authorities had been granted permission by the court to conduct an autopsy. The family objected to this decision but indicated that if it were to go ahead against their will, an independent forensic expert should be present.

On 24 September, the Palestinian Prisoner's Commission announced that it had submitted an appeal to the Israeli High Court demanding the handing over of the body of Mr. Al-Rimawi. On 30 September, the Israeli Defence Forces handed over his body to his family. The official autopsy report remains pending and it is unclear whether any independent forensic expert was present.

While we do not wish to prejudge the accuracy of the information made available to us, we express our grave concern regarding the apparent use of excessive force by IDF soldiers against Mr. Al-Rimawi, leading to his death, although he posed no imminent threat to the soldiers that assaulted him in his own home. Further, there is no evidence pointing to the possession of weapons by Mr. Al-Rimawi, or to violent resistance against his arrest, which could have required the use of force by the soldiers

The facts as alleged, if confirmed, would indicate a prima facie violation of the right to life as guaranteed by 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. They would also indicate a violation of articles 7 and 9 of the ICCPR, which guarantee the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment and the right to liberty and security of person. The prohibition of torture and other ill-treatment, as well as the obligation to prevent, investigate and prosecute any alleged violation of that prohibition is set forth in the Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel on 3 October 1991.

These allegations also raise serious concerns pertaining to the implementation of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Code of Conduct for Law Enforcement Officials, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross

Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

In connection with the above alleged facts and concerns, please refer to the **International Law on Human Rights Annex** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

As 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 comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information as to the factual and legal basis for the forced intrusion, at dawn, by masked members of the IDF into the house of Mr. Al-Rimawi, where he and his family were sleeping, and how this storming of his residence is compatible with Israel's international human rights obligations under the treaties it has ratified.
3. Please provide detailed information about the reason why the IDF soldiers woke him up with their rifles and brutalised him to the point that he lost consciousness. Did Mr. Al-Rimawi pose any threat to the security or life of the soldiers that may have justified the use of force against him?
4. Please indicate where Mr. Al-Rimawi was taken by the soldiers who abducted him from his house, and whether any medical care was provided to him as his loss of consciousness indicated that his life could be in danger. If no medical care was provided, please explain why, how this is compatible with the most fundamental principles of international humanitarian and human rights law, and justified under any circumstance?
5. Please provide the results of the autopsy report and indicate whether this was conducted by an independent forensic pathologist, or in the presence of an independent observer. Please also indicate whether any investigation has been conducted into the circumstances that led to the death of Mr. Al-Rimawi. If so, please provide the full details of the investigation. If not or in case the findings have been inconclusive, please explain why, and how this is compatible with Israel's human rights obligations.
6. Please indicate whether any disciplinary, penal or administrative sanctions have been imposed on any of the members of the IDF involved in the raid and beating of Mr. Al-Rimawi. If no measures were taken, please explain why this is the case.

7. 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 the said regulations and procedures are compatible with Israel's obligations under international human rights law and international humanitarian law, including the standards on the use of force and firearms.
8. Please provide information on the measures taken by Israel to protect and safeguard the life and security of all Palestinians throughout the occupied territories, so as to reduce to a minimum threshold the risk of loss of life, as required under international human rights law as well as international humanitarian law.
9. Please indicate whether any compensation has been provided to Mr. Al-Rimawi's family. If so, please provide the details of what this compensation consisted of. If not, please explain the reasons for not doing so.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all appropriate measures be taken to prevent the recurrence of the alleged violations and, if not done so already, to conduct a prompt, independent, impartial and thorough investigation into the allegations described above. In the event that the investigations support or suggest the allegations to be correct, we urge that the accountability of any person(s) responsible for the alleged violations, direct or supervisory, be ensured.

Please note that a copy of this letter will simultaneously be transmitted to the Palestinian Authority.

We may choose to publicly express our concerns about this case, as in our view, the information upon which our concerns are based appears to be sufficiently reliable to indicate a matter warranting the closest attention. We also believe that the wider public should be alerted to the potential human rights implications of these allegations. Any public expression of concern on our part will indicate that we have been in contact with Your Excellency's Government to clarify the issue(s) in question.

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

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Michael Lynk

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

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns,, we wish to draw the attention of your Excellency's Government to the relevant international norms and standards governing the right to fair trial and due process, protection against torture or inhuman or degrading treatment or punishment, and safeguards against arbitrary and extrajudicial executions.

We would like to refer to articles 3 and 6 (1) of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), respectively. Both these provisions 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. Moreover, Article 9(1) of the ICCPR guarantees the right to liberty and security of all persons, thus safeguarding against arbitrary arrest and detention. Further, all persons deprived of their liberty are required to be treated with humanity and respect for their inherent dignity in accordance with Article 10(1) of the ICCPR.

The Human Rights Committee in its General Comment No. 6, para. 3, has said that it considers article 6 (1) of the ICCPR to include that States Parties should not only take measures to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. In fact, the Committee has noted the utmost gravity of deprivation of life by the authorities of States Parties to the Covenant. Additionally, in its General Comment No. 31, para. 16, the Committee stated that States Parties must make reparation to individuals whose Covenant rights have been violated and that, without such reparation, the obligation to provide an effective remedy, which is central to the efficacy of Article 2(3), is not discharged.

It is thus incumbent upon the State to undertake independent, impartial and prompt investigations into all cases of extra-legal, arbitrary and summary executions. The Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, explicitly provide for thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions. A failure to investigate as per agreed standards, and bring perpetrators of killings to justice could in and of itself constitute a violation of the right to life.

Moreover, we would like to refer to article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which establish the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment. Article 12 of the CAT specifically stipulates State Parties' obligation to conduct a prompt and impartial investigation wherever there are reasonable grounds to believe that an act of torture has been committed in any territory under their jurisdiction. Article 7 of the CAT requires State parties to prosecute suspected perpetrators of torture.

We in particular we urge your Excellency's government to conduct a forensic examination and investigation in an impartial and independent manner, in accordance with the guidelines laid out in the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

Lastly, the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), which reiterates that the duty to investigate is an essential part of upholding the right to life, highlights that the right to know the truth extends to family members and society, particularly given the public interest in preventing violations of international law. Therefore, absent a compelling need to protect the public interest or legal rights of the victims and their families, the State party must disclose relevant details about the investigation to the victim's next of kin and make its findings public.