

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association;
the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection
of the right to freedom of opinion and expression**

REFERENCE:
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group on Arbitrary Detention; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 41/12, 42/22 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged arbitrary arrest and excessive use of force against peaceful demonstrators in several cities across Israel in the period of 14 July to 5 August 2020, including against Mr. Yonatan Kimmel, Ms. Miriam Bernstein, Ms. Rotem Heckman, Mr. Idan Dorfman, Ms. Lea Tunick, Ms. Calanit Sharon, and Ms. Shir Wertheim.**

According to the information received:

In the beginning of July 2020, demonstrations erupted in different locations across Israel, protesting against the economic impact of COVID-19 restrictions and rising unemployment rates. During the month of July and beginning of August 2020, thousands of demonstrators gathered outside Prime Minister's official residence, calling for his resignation over their dissatisfaction with the Government's handling of the health and economic crises and the pending corruption charges against him.

While demonstrations have largely been peaceful, police units have allegedly used excessive force against demonstrators and members of the press, on numerous instances, most notably on 14, 23, and 31 July 2020. Reports and video footage received portray water cannons deployed from a short distance aiming indiscriminately at demonstrators' upper body parts, especially torsos and heads, causing injuries to many and endangering their lives. Mr. Yonatan Kimmel, Ms. Miriam Bernstein, Ms. Rotem Heckman, Mr. Idan Dorfman, Ms. Lea Tunick, Ms. Calanit Sharon, and Ms. Shir Wertheim were among those violently dispersed by the police at the end of protests in front of Prime Minister's residence on 23 July, and hit by a direct jet of water from a distance of two to three meters, resulting in head and body injuries. We have also received information alleging that in some instances, police purposely chased demonstrators and trapped those who were trying to leave the protests, between mounted officers, special patrol officers and water cannon trucks. Some have also indicated that they were pushed

by the police in the direction of the water cannons on purpose, and were brutally attacked by the police who kicked, strangled, and beat them.

We have also received allegations of injuries sustained to demonstrators during protests in Jerusalem and Tel Aviv, where supporters of Prime Minister Netanyahu infiltrated the demonstrations and violently attacked the participants. For instance, on 28 July, five protesters were injured in an assault at a demonstration in Tel Aviv against Public Security Minister Amir Ohana. The protesters were stabbed with broken bottles, punched, beaten with plastic chairs, and pepper sprayed. Two of them were slashed in the neck; one requiring stitches. According to witnesses, the attackers were pretending to march with the protesters for some time, before executing the attack, and police officers stationed nearby did not intervene to protect those attacked. A few protesters also alleged that an unidentified driver tried to run them over twice during the protests.

During the abovementioned period, some 100 individuals have allegedly been arrested during the protests and accused of unlawful assembly, disturbing peace in a public place, obstruction or assault on police officers. Several of those arrested were allegedly brought to court in shackles without the presence of their lawyers. Some of the detainees were released unconditionally, while others were released under temporary restrictions banning them from going within 100-250 meters from Prime Minister's official residence, for between 10 and 14 days. Many of the protesters who were arrested reported that they were asked about their political views during police interrogation. One of the protesters was asked by the investigator if he was from the "right or left side of the map". Another protester was asked if he was "pro-Netanyahu or against Netanyahu". Others were asked about why they were protesting, whether they were opposing the Prime Minister, and who the organizers of the protest were.

In reaction to the demonstrations in front of his residence, the Prime Minister and his surroundings have targeted the demonstrators, accusing them of being part of a left-wing anarchist provocation, and spreading COVID-19. The Prime Minister accused the media of taking part in and intensifying the protests. In his recent media announcement and social media posts¹, the Prime Minister specifically accused the media of actively participating in the protests, including in demonstrations that have called for his murder. In another instance, on 31 July, the Prime Minister's son, issued a tweet with personal details, including names, addresses, and phone numbers of some of the leading protesters, and called his tens of thousands of followers to go "protest" in front of their homes. The tweet, in spite of its non-official origin, has allegedly led to countless death threats aimed at the protesters. Three of them petitioned the Jerusalem Magistrate's Court for a restraining order. The Court ordered that the tweets be removed as they had endangered peaceful protesters, and issued a restraining order prohibiting him from tweeting or publishing commentary about the leaders of the protest

¹ <https://twitter.com/netanyahu/status/1289855759753326592?s=20>

movement, for the next six months. Although he was acting in a private capacity, it is reported that his tweets have contributed to the atmosphere of hatred and division, and were not condemned by the Prime Minister.

On 4 August 2020, Prime Minister Netanyahu tweeted² a link to an article³ alleging that foreign countries were funding legal counsel for demonstrators against him. The story, which listed personal details of people working in civil society organisations, alleged that foreign governments had provided money to unlawful and criminal demonstrators for them to overthrow the Prime Minister.

While we do not wish to prejudge the accuracy of these allegations, we are concerned at the alleged excessive use of force against peaceful protesters and members of the press and their violent dispersal, as well as allegations of arbitrary arrest of individuals exercising their right to freedom of peaceful assembly, association and of expression. While we are aware of and condemn a few instances in which demonstrators resorted to violence including threats of a sexual nature against the Prime Minister's wife, we note that demonstrators have been overwhelmingly peaceful. Thus, we are concerned that international standards related to the policing of assemblies, and particularly the fundamental principles of legality, precaution, necessity, non-discrimination, proportionality and accountability, may have been violated. We are especially concerned about the repeated use of water cannons at close range, which carries a significant risk of injury and bodily harm. We are also concerned that the discourse employed by the Prime Minister, other government officials and relatives of the Prime Minister in social media, are an attempt to silence dissent by suggesting that the demonstrators are unlawful and criminal. By framing the demonstrators in such a way, the Prime Minister and other Government officials are engaging in incitement of the public against the demonstration movement. Such incitement may be partially responsible for violence carried out by private individuals and supporters of the Prime Minister against peaceful demonstrators.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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 information on the legality, precaution, necessity, non-discrimination and proportionality of the use of force in the context of protests during the months of July and August 2020. Please provide

² <https://twitter.com/netanyahu/status/1290712775141072899>

³ <https://bit.ly/3gB2Bg5>

information about regulations applicable to the use of water cannons and other less-lethal weapons with indiscriminate impact during demonstrations, and please indicate how these are compatible with international human rights norms and standards.

3. Please provide detailed information on the instructions the police forces received to disperse the protesters and on investigations and judicial proceedings carried out in relation to the allegations of excessive use of force by the police.
4. Please provide details on the measures taken to ensure the physical and psychological integrity of Mr. Yonatan Kimmel, Ms. Miriam Bernstein, Ms. Rotem Heckman, Mr. Idan Dorfman, Ms. Lea Tunick, Ms. Calanit Sharon, and Ms. Shir Wertheim.
5. Please provide detailed information on the arrests, judicial prosecutions and possible convictions of individuals in relation to their participation in the aforementioned demonstrations. Please indicate whether they all had access to a defence lawyer, and from what stage this access was ensured.
6. Please provide information on any investigations into allegations of abuse or violence exercised by counter demonstrators and the public in general on peaceful protestors leading to their injury and bodily harm. Please provide information on how laws and regulations have foreseen protection of demonstrators from violence by state or non-state actors in protests.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

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

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

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 articles 6 (1), 9, 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, and articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights (UDHR) guaranteeing the rights to liberty and security of person, freedom of expression and opinion and freedom of peaceful assembly.

Without expressing at this stage an opinion on the facts of the case and on whether the reported detentions were arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of all individuals arrested not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of UDHR.

According to article 9 of the ICCPR, any arrest or detention shall be carried out in accordance with the grounds and procedures established by law. In addition, anyone deprived of his liberty shall be entitled to challenge the legality of such detention before a court or judicial authority; this is a self-standing human right, the absence of which constitutes a human rights violation (A/HRC/30/37). Moreover, the deprivation of liberty as punishment for the legitimate exercise of rights guaranteed by the ICCPR is arbitrary, this includes protections for the rights to freedom of opinion and expression, as well as freedom of assembly and association (CCPR/C/GC/35).

We recall that, under article 14 of the ICCPR, anyone charged with a criminal offence shall be presumed innocent, and treated as such, until proven guilty before a court of law. In addition, article 14 also guarantees the right of all persons facing criminal charges to have access to effective legal assistance in such circumstances that allows for adequate privileged communications with counsel as well as for adequate time and facilities for the preparation of the defense.

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely". In the same sense, paragraph 24 of the General Comment N° 37 adopted by the Human Rights Committee stipulates that "States parties have certain positive duties to facilitate peaceful assemblies, and to make it possible for participants to achieve their objectives. States must thus promote an enabling environment for the exercise of the right of peaceful assembly without discrimination, and put in place a legal and institutional framework within which the right can be exercised effectively. Specific measures may sometimes be required on the part of the authorities. For example, they may need to block off streets, redirect traffic, or provide security. Where needed, States must also protect participants against possible abuse by non-State actors, such as interference or violence by other members of the public, counter-demonstrators and private security providers."

We would also 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 and firearms”, and the Code of Conduct for Law Enforcement Officials, ensuring protesters right to peaceful assembly and without resorting to excessive use of force. Moreover, paragraph 87 of the General Comment N°37 of the Human Rights Committee stipulates that: “less-lethal weapons affecting an area, such as tear gas and water cannon, tend to have indiscriminate effects. When such weapons are used, all reasonable efforts should be undertaken to limit risks such as causing a stampede or harming bystanders. They should only be used as a measure of last resort following a verbal warning, and with adequate opportunity given for assembly participants to disperse.”

In addition, we refer to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/20/27, which clearly stated that “States should facilitate and protect peaceful assemblies, including through negotiation and mediation. Wherever possible, law enforcement authorities should not resort to force during peaceful assemblies and ensure that, “where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force” (para. 89). In his report A/HRC/23/39, he stated “Acts of sporadic violence or other punishable acts committed by others do not deprive peaceful individuals of their right to freedom of peaceful assembly.” (para. 49)

We also refer to the guiding principles developed by the Special Rapporteur on the rights to freedom of peaceful assembly and association on the need to respond to the emergency generated by COVID-19 in a manner that meets human rights obligations⁴. In particular, the second highlights the obligation to ensure that the public health emergency is not used as a pretext for violating rights.

⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>