

Mandates of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
AL ISR 6/2020

5 October 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 1993/2A, 35/15, 42/16 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **violations of human rights, including the right to life, the right to health, the right to be free from torture or inhuman and degrading treatment or punishment, and racial equality and non-discrimination with regard to the alleged killing of a Palestinian resident, Ahmad Mustafa Erekat, by Israeli forces on 23 June, 2020.**

According to the information received:

On 23 June, at approximately 3.50 p.m., a vehicle driven by Mr. Ahmad Erekat, suddenly and unexpectedly crashed into an Israeli checkpoint, housing five Israeli soldiers, hitting one them. The injury to the Israeli soldier was apparently not serious. The crossing, known as the Container Checkpoint, is located in the Palestinian town of As-Sawahra Ash-Sharqiya.

In video footage released by Israeli security forces, Mr. Erekat is shown emerging from his car immediately after the incident and starting to move away from the Israeli soldiers. At this point, at least two of the soldiers fired several shots, hitting and seriously wounding him. There is no evidence that he carried a weapon, and he did not appear to present an imminent threat to the soldiers.

According to eyewitness accounts, by 16:04, more than ten minutes after Mr. Erekat had been critically injured, an Israeli Magen David Adom (MDA) ambulance arrived at the scene. Paramedics proceeded to treat the Israeli soldier harmed in the crash for minor injuries, but were ordered to disregard Mr. Erekat who laid bleeding on the ground. Subsequently, Israeli Security Forces closed the checkpoint, preventing anyone from reaching Mr. Erekat. Mr. Erekat's father, who was also made aware of the incident, was not permitted to reach his son during an hour-and-a-half.

In addition, following Ahmad's injury, a Palestine Red Crescent Society (PRCS) ambulance was called to the scene, which left from its Jerusalem headquarters, however, the ambulance was stopped by an Israeli army vehicle near Kedar settlement, located to the southeast of As-Sawahra Ash-Sharqiya, at around 16:05 pm, and was denied access to the scene. At this time, it would appear that Mr. Erekat might still have been alive.

At approximately 17:45, Ahmad's body was covered by the Israeli occupying forces and transported onto the ambulance. The Container checkpoint was re-opened at around 18:30 that day.

The day following Mr. Erekat's killing, the Israeli military released video footage of Mr. Erekat crashing his car into the checkpoint, claiming he was aiming to run-over one or more of the soldiers. The Israeli military publicly stated that Mr. Erekat was already dead by the time an ambulance arrived within minutes of his injuries. Based on public appeals made by Mr. Erekat's family, the Israeli military released a second video footage in which Mr. Erekat is seemingly unarmed as he steps out of his car.

Reportedly, the Israeli authorities have yet to initiate an impartial investigation into the killing of Mr. Erekat. Furthermore, they have not allowed his family to carry out a traditional burial. The body of Mr. Erekat is still withheld by Israeli Authorities as of the writing of this communication.

While we do not wish to prejudge the accuracy of the information made available to us, we express deep concerns over the killing of Mr. Ahmad Mustafa Erekat. The allegation described above appears to violate the rights to physical and mental integrity of all persons as set forth, inter alia, in article 3 of the Universal Declaration of Human Rights (UDHR), article 6 of the International Covenant on Civil and Political Rights (ICCPR), and the right to health in article 12(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). What has been alleged above further breaches non-discrimination and equality principles, in particular, as set forth in article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

If found accurate, the above described situation raises concerns over the violations of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Whereas according to these principles, 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. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

We would like to recall that the above described situation raises also concerns over the violation of the Code of Conduct for Law Enforcement Officials, specifically Article 6, which spells out the obligation of law enforcement officials to take immediate action to secure medical attention whenever required.

The allegations received further raise concerns with regard to collective punishment against Mr. Erekat's family specifically and the Palestinian people

broadly. We deplore the Israeli authorities' collective punishment measures, which are prohibited by the Fourth Geneva Convention. We also note with concern that the discriminatory policies and practices amounting to collective punishment serve to suppress Palestinians' resistance to Israel's apartheid regime, in which the withholding of bodies of Palestinians executed by the Israeli forces is a particularly disturbing element of collective punishment.

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 therefore grateful for your observations on the following matters:

1. Please provide any additional information you may have on the abovementioned allegations.
2. Please provide a detailed description of the circumstances that resulted in the killing of Mr. Ahmad Mustafa Erekat, in particular with regard to the imminent risk to life or security allegedly posed by Mr. Erekat to the Israeli soldiers and the justification of the use of lethal force.
3. Kindly indicate why immediate medical attention was not granted to Mr. Erekat after he was apparently left injured on the ground for more than one and a half hour.
3. Kindly indicate the reasons why Mr. Erekat's body is still withheld by Israeli Authorities not allowing for his proper burial and in a dignified manner by his family.
3. Please indicate if any investigation has been conducted in relation to the killing of Mr. Erekat. If so, please provide detailed information on the status of the investigation, including the identification of the alleged perpetrators and charges brought against them.
4. Please provide information about the measures taken by your Excellency's Government to protect the life and security of all Palestinians in the occupied territories in accordance with international human rights and humanitarian laws.
5. Please indicate what measures your Excellency's Government has taken or planned to take to ensure the regulation and operational procedures of the security forces consistent with Israel's obligation under international human rights law.
6. Please provide information on measures taken by your Excellency's Government to eliminate the policies and practices of collective

punishment as well as racial segregation and apartheid as the occupying power.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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.

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

Michael Lynk
Special Rapporteur on the situation of human rights in the Palestinian territory
occupied since 1967

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, 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.

We call to the attention of your Excellency's Government the international standards regarding the right to life, as enshrined in article 6(1) of the International Convention the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel in October 1991. The Human Rights Committee highlights that the right to life should not be interpreted narrowly. To protect this integral right, States are required to adopt positive measures (General Comment No. 36, para 5) and refrain from acts and omissions that are intended or may be expected to cause unnatural or premature death. This applies to all without any distinction, including persons suspected or convicted for crimes (Ibid, para 3). Moreover, the Committee confirms in its General Comment No.36, paragraph 12 that the deprivation of life "must represent a method of last resort after other alternatives have been exhausted or deemed inadequate." Paragraph 12 further stresses "the use of potentially lethal force for law enforcement purposes is an extreme measure. It should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat."

We would also like to bring to the attention of your Excellency's Government provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Israel in 1991. Article 12(1) establishes States parties' obligation to respect the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Committee on Economic, Social and Cultural Rights General Comment No. 14, paragraph 34 reiterates that "States are obliged to respect the right to health by inter alia, refraining from denying or limiting equal access for all persons." In particular, it states that States should refrain from "limiting access to health services as a punitive measure, for instance, during armed conflicts in violation of international humanitarian law."

Additionally, article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Israel in 1979, also affirms States parties' obligation to eliminate racial discrimination in the enjoyment of the rights to public health and medical care.

We further recall that the Committee against Torture in its concluding observations (CAT/C/ISR/CO/5) concluded that the withholding of bodies of Palestinians constitutes a breach of Article 6 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is deeply concerning that Israel has continued the practice of withholding bodies amounting to prohibited torture and ill-treatment.

We would like to underline that the International Convention on the Suppression and Punishment of the Crime of Apartheid defines "denial to a member

or members of a racial group the right to life and liberty of person” as a crime of apartheid. It further states that the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination are crimes that violate the principles of international law.

Similarly, article 3 of the ICERD establishes that “States parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.” Finally, we bring to the attention of your Excellency’s Government the concluding observation made by the Committee on the Elimination of Racial Discrimination (CERD/C/ISR/CO/17-19) that urges Israel to take necessary measures in accordance with Article 3 of ICERD to eradicate all forms of segregation between Jewish and non-Jewish communities and policies and practices that disproportionately affect the Palestinian population.