

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967**

REFERENCE:  
AL ISR 12/2020

15 December 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 44/5 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 arbitrary killing by Israeli Security Forces of a Palestinian child, ██████████ (15 years old) during protests in the village of Al-Mughayyir located in the Ramallah and al-Bireh Governorate, West Bank.

According to information received:

Protests against Israeli settlements surrounding the village of Al-Mughayyir, located northeast of Ramallah, have taken place since 2018, after Israeli settlers established an outpost on the village land in the area of Khirbet Jibi't, which was previously occupied by a military camp established by expropriation. During the last few weeks, protests and clashes intensified due to the establishment in October 2020 of a new settler outpost in Ein Samiya, an area close to the village of Al-Mughayyir and the settlement of Kokhav Hashahar.

On Friday 4 December 2020, clashes took place between Israeli Security Forces and Palestinian youths who were demonstrating against the aforementioned outpost. The clashes started in the morning in the proximity of a road used by Israeli settlers - the Alon Road - and moved towards the entrance of Al-Mughayyir. Reportedly, Israeli Security Forces used teargas canisters, rubber-coated metal bullets and sound-bombs against protesters; some of those protesters reportedly threw stones, including with slingshots, at Israeli Security forces. Available information suggest that Israeli Security Forces eventually responded using 0.22 calibre ammunition from a Ruger Precision Rifle.

In this context, on the day of his 15th birthday, ██████████ was reportedly observing the clashes when he was shot in the abdomen by Israeli Security Forces. According to accounts received, Israeli Security Forces were standing on higher ground, 100-150 meters away from the victim. The child was hiding from the soldiers behind rocks, holding a slingshot; according to eyewitnesses, Israeli Security Forces opened fire against the child as soon as he stepped to the line of sight of the soldiers.

Some of the residents transported him by a private car to the neighbouring village of Turmusaya. He was later transferred by ambulance to the Ramallah

government hospital where he underwent a surgery to stop the internal bleeding caused by his injury. [REDACTED] was pronounced dead at the end of the surgery, which lasted four hours.

Four other Palestinians, including two children, were also injured by rubber-coated bullets during these incidents.

Israeli Security Forces initially denied in a public statement having used live ammunition but eventually admitted using the 0.22 calibre Ruger rounds. According to information received, the Military Police's Investigatory Unit opened an investigation into the killing and, upon completion, will present the findings to the Military Advocate General for consideration.

From 1 November 2019 to 31 October 2020, at least 16 Palestinian children (11 in Gaza and five in the West Bank) have been killed by Israeli Security Forces. Additionally, since the beginning of November 2020 three other children have been killed in the West Bank by Israeli Security Forces. A total of 1,048 children were injured by Israeli Security forces across the Occupied Palestinian Territory from 1 November 2019 to 31 October 2020.

While we do not wish to prejudge the accuracy of these allegations, the events described above seem to indicate a prima facie violation of the right of every individual to life, security and not be arbitrarily deprived of life, as set forth in article 3 of the Universal Declaration of Human Rights (UDHR), article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, and article 6 of the Convention on the Rights of the Child, also ratified by Israel on 3 October 1991. It also appears to breach articles 3 and 147 of the fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, similarly ratified by Israel on 6 July 1951.

These allegations also raise serious concerns regarding 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 Human Rights Law.

As well, these allegations introduce credible apprehensions regarding the use of unnecessary or excessive force by the Israeli Security Forces against [REDACTED], who seemingly posed no threat to soldiers nor to anyone else in the area at the time when he was shot. He was observing the demonstration, standing 150 meters from Israeli Security Forces who were located on higher ground. The use of lethal force against the victim in the circumstances described above does not comply with the principles of necessity and proportionality as enshrined in international law and may amount to unlawful killing or extrajudicial execution.

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 additional information regarding the reasons behind the use of lethal force against [REDACTED].
3. Please indicate whether any investigation has been conducted into the killing of [REDACTED]. If so, please provide the full details of the investigations, including the identification of the alleged perpetrators and charges brought against them. Have penal, disciplinary or administrative sanctions been imposed on any member of the IDF participating in the described law-enforcement operation? If no investigation has been carried out, please explain why.
4. Please provide information on the regulations and operational procedures for law enforcement agents concerning the use of force during public assemblies in the context of an illegal occupation and whether they are compatible with Israel's obligation under international human rights and humanitarian law, including the standards on the use of force and firearms.
5. Please provide information on the measures taken by your Excellency's Government to protect and safeguards the life and security of all Palestinians throughout the occupied territories, and in case of conflict to reduce to the minimum risk of loss of life, as is required under both international human rights and humanitarian law.
6. Please indicate whether compensation have been provided to the family of the victim.

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

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

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

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

## **Annex**

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

In connection with the 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 forward by the situation described above.

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. In General Comment No. 6, the Human Rights Committee reiterated that the right to life is the supreme right from which no derogation is permitted even in time of public emergency that threatens the life of the nation. Moreover, in General Comment No. 31, the Committee has observed that there is a positive obligation on State Parties to ensure protection of Covenant Rights of individuals against violations by its own security forces. Permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13).

We would like to recall that the right to life applies to all human beings, and that Governments have a responsibility to protect this rights in territories under their control regardless of the citizenship of the persons concerned (E/CN 4/2003/3, para. 55). This was also confirmed by the Committee in its concluding observations on Israel, which it "reiterated and underscored that the Covenant applies with regard to all conduct by the State party's authorities or agents adversely affecting the enjoyment of the rights enshrined in the Covenant by persons under its jurisdiction regardless of the location" (CCPR/C/ISR/4, para. 5). Moreover, the duty to protect the right to life demands that Israel take special measures to protect vulnerable persons and groups, including children.

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.

Principle 14 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable, to the minimum extent necessary. Law enforcement officials may not use firearms, except under the conditions stipulated in principle 9. According to principle 9, firearms may only be used in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger, and only when less extreme measures are insufficient to achieve these objectives. Principle 9 further stipulates that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. In addition, principle 8 establishes that exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

The Human Rights Committee has previously voiced concerns about persistent reports of the use of lethal force by, in particular, Israeli Security Forces, during law enforcement operations against Palestinian civilians, including children, particularly in the West-Bank (CCPR/C/ISR/CO/4, para. 13). It was stressed that Israel should take all the necessary measures to prevent incidents of excessive use of force during law enforcement operations in line with Article 6 of the ICCPR (*ibid*). In this regard, the principle of due diligence should be recalled, by which the responsibility of the State to prevent killings is heightened in cases where they were foreseeable and preventable, and that failure amounts to a human rights violation on the part of the State.

Civilians enjoy protection under international humanitarian law, including protection from wilful killing or murder. Article 3 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, prohibits acts of violence to life and person, including murder of all kinds, while article 147 includes wilful killing among the acts that constitute a grave breach of the Convention. In this regard, we would like to reiterate that international human rights law continues to apply in times of armed conflict and throughout an occupation, alongside international humanitarian law, and that both bodies of law are intended to be complementary, rather than mutually exclusive. This has been stated, *inter alia*, by the International Court of Justice (see. ICJ, Advisory Opinion of 9 July 2004, Legal consequences on the construction of a wall in the Occupied Palestinian Territories, para 106), the Human Rights Committee (General Comment No. 31, para 11, CCPR/C/21/Rev. 1/Add. 13) and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (A/72/556/para. 23).

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).

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 Principle on Effective Prevention and

Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council Resolution 1989, in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.