

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

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(Please use this reference in your reply)

4 January 2024

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; Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 52/9, 51/8 and 52/4, and Commission on Human Rights resolution 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **targeting of journalists and media workers, in particular Palestinian journalists and media outlets, covering the events in the Occupied Palestinian Territory (OPT) and at the Israeli / Lebanese border in the aftermath of the 7 October attacks**. This includes killings of journalists and media workers and destruction of media facilities through targeted or indiscriminate bombing, targeting of media outlets and the harassment and detention of Palestinian journalists and media workers. Many of the journalists covering these events also qualify as human rights defenders, monitoring the human rights situation on the ground and documenting potential violations of international human rights and humanitarian law.

According to the information received:

In the aftermath of the 7 October attacks by Hamas, Israel launched a full-scale military operation in the Gaza Strip and imposed a siege, cutting off the people of Gaza from basic necessities including electricity, fuel, food, water and medical supplies. In addition to the imposed blockade, the Israeli military severely bombed the Gaza strip, destroying over half of the civilian infrastructure, killing more than 21,000 Palestinians and displacing 1.9 million Palestinians. In parallel, in the West Bank, settler violence and violations of and restrictions on the fundamental rights of Palestinians increased, resulting in mass arrests, forced displacement of entire communities and the reported killing of more than 320 Palestinians as of 3 January 2024.

In the context of this violent military operation, journalists and media workers have been the victims of both allegedly targeted attacks against them and the indiscriminate use of force. As of 3 January 2024, at least 77 journalists and media workers have been killed as a result of Israeli military operations and tens of others have been injured or gone missing as a result of the excessive use of force, including the use of live ammunition and direct targeting or indiscriminate use of force through air strikes containing chemical components

such as white phosphorus. Among the victims are journalists that were on duty covering the events, clearly visible with press vests and helmets. Two journalists were killed on the first day while covering the events east of Bureij in the middle of the Gaza Strip along the border. Three journalists were killed by a missile while they were fleeing from the Haji building which includes the offices of several foreign media organizations. On 15 December, an Al-Jazeera camera man was killed and another reporter wounded in a drone strike while reporting in Khan Younis. The wounded reporter had already lost his wife and children in a previous Israeli airstrike. Bombing by the Israeli Defence Forces (IDF) has partially and/or completely destroyed more than 50 media institutions in the Gaza Strip, including the headquarters of Al-Ayyam newspaper in the Palestine Tower, Fadel Shanaa Foundation, Shebab Agency, and Gaza FM Radio. The homes of several journalists have also been targeted and destroyed. Journalists' families have also been targeted resulting in the killing of their children and partners in some instances.

Throughout the military operation in the Gaza strip, there have been several targeted blackouts of communication services and internet shutdowns. On 10 October, Israeli airstrikes "targeted several telecommunication installations, destroying two of the three main lines for mobile communication. On 27 October, a blackout of all communications services lasted for nearly 36 hours amid unprecedented bombardments in the Gaza Strip that drove the reported death toll in Gaza to more than 8,000. On 1 November, there was a complete internet and telecommunications shutdown in Gaza. Israeli authorities cut off internet and telecommunications services in Gaza overnight for around 8-9 hours.

Since 7 October, Israel has also targeted Palestinian journalists and media outlets in the West Bank, with dozens of journalists arrested. Among the arrested individuals are **Ahmed Al-Safadi, Sabri Jibril, Abdel Nasser Muhammad Al-Laham, Moaz Amarneh, Mustafa Al-Khawaja, Imad Abu Awad, Alaa Al-Rimawi, Muhammad Sabah, Radwan Al-Qatnani, Lama Khater, Bilal Arman, Sujoud Assi, Muhammad Saleh Badr, Nawaf Al Amer, Zakaria Abu Fanar, Hamza Al-Naaji, Muhammad Fathi Abu Bakr, Jaafar Sadaqa, Amir Abu Aram, Musab Saeed, Muhammad Al-Qadoumi, Sumaya Jawabrah, Muhammad Jamal Halabiya, Abdul Mohsen Shalalda, Amer Abu Arafa, Muhammad Al-Atrash, Mervat Al-Azza, Abdel-Afo Al-Zaghir, Tariq Al-Sharif, Fathi Adkaidk, Moamen Samreen, and Raafat Sawal.** Several other journalists in addition to this list have been arrested. Many journalists are arrested on charges of 'inciting violence'. There have been accounts of journalists detained and questioned at military or police checkpoints for hours before being released. Others remain in detention, some in incommunicado detention. There have also been accounts of physical and verbal attacks by soldiers against journalists, and the use of stun grenades to keep journalists at a distance. Some media outlets have been 'shadow banned', having their broadcast activities blocked in certain areas.

In southern Lebanon, three journalists and media workers have been killed in what appear to be direct attacks by the Israeli military. On 13 October 2023, two shells landed on a group of seven journalists and human rights defenders

including Mr. **Issam Abdallah**, Ms. **Carman Joukhadar**, Mr. **Elie Barkhia**, Ms. **Christina Assi**, and Mr. **Dylan Collins**, who were gathered in southern Lebanon close to the border with Israel, killing Mr. Abdallah and injuring the other journalist (previous communication ISR 10/2023). A special Reuters report found that an Israeli tank crew killed Mr. Abdallah and wounded the other six reporters. An Amnesty International investigation into the events indicate that the group was visibly identifiable as journalists and that the Israeli military knew or should have known that they were civilians yet attacked them anyway in two separate strikes 37 seconds apart. On 21 November 2023, another Israeli strike killed **Farah Omar** and **Rabih Maamary**, two journalists of Al-Mayadeen reporting from the border region and wounding 6 other media workers, including Reuter journalists **Thaer Zouheir Kazem** and **Maher Nazih Abdel-Latif**. The killings include journalists that were visibly wearing press vests and helmets.

Some media organizations have been blocked in Israel or are threatened to be shut down due to their `pro-Palestinian` reporting on the events. This includes the blocking of Al-Mayadeen for its alleged “wartime efforts to harm [Israel’s] security interests and to serve the enemy’s goals”, and the threat of the Israeli government to shut down Al Jazeera’s office, one of the few international media outlets with correspondents on the ground providing 24/7 live coverage from Gaza.

Without prejudging the accuracy of the above-mentioned allegations, we are alarmed at the reports of systematic and deliberate targeting of Palestinian civilians by the Israeli authorities in the Gaza Strip. We express our utmost concern about the alleged harassment, detention and killing of journalists and media workers operating in the OPT, who are entitled to protection under their status of `civilians` and protected persons under international humanitarian law. We express our deep concern that despite often being clearly identifiable as journalists and media workers with “press” jackets and helmets, journalists reportedly continue to be targeted, resulting in killings, injuries, detentions and obstruction of media operations. We are appalled that some of these attacks on journalists appear to be targeted attacks against them, allegedly aimed at silencing critical reporting about the events in the aftermath of 7 October. The severely dangerous context in which journalists operate has led to several journalists and media organizations ceasing their activities as well as self-censorship due to fear of acts of reprisals and retaliation. Furthermore, the recent targeting of journalists takes place against the backdrop of the 2022 assassination of two renowned women journalists; **Shirine Abu Akleh** and **Ghofran Al Warasneh** (ISR 14/2022), which have since then been met with total impunity, sending a chilling effect to all journalists operating in the region.

The allegations of an unprecedented destruction of communication infrastructure and the deliberate communication blackouts further hamper media operations in the OPT, leading to information black-outs and seriously hampering the right to access to information. In this context we would like to draw the attention of your Excellency’s Government to the report of the Special Rapporteur on freedom of expression on disinformation and freedom of opinion and expression during armed conflicts (A/77/288), in which she underlined the right to information as a `survival right` on which people’s lives, health, well-being, safety and security depend in times

of crisis and conflict. As such, the right to information should be protected against any measure that can make it a target of war. Many of the journalists working to gather information and report on the human rights violations taking place as part of the armed conflict are human rights defenders and must be recognized and protected as such.

We stress and reiterate your Excellency's Government's obligations to protect journalists in situations of conflict and tension, in accordance with international humanitarian law and international human rights law. In particular, we urge your Excellency's Government to uphold the protection of journalists as 'civilians', in line with international standards and obligations under the Geneva conventions. We further call on your Excellency's government to conduct a thorough, independent and prompt investigation into the allegations above and to take most robust measures to ensure that civilians and journalists are not targeted, and are protected from any collateral damage from military operations.

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 or comments regarding the information described above.
2. Please provide information on the factual and legal grounds for the alleged arrest and detention of the above-mentioned individuals and how these measures are compatible with international norms and standards.
3. Please provide information on the measures taken by your Excellency's Government to protect and ensure the right to life and security of Palestinian journalists and media workers throughout the occupied territory, and of investigations on all killings of and attacks against them.
4. Please explain how Israeli security actors, including the IDF, are trained to ensure the safety of journalists, including by recognizing and respecting their status as civilians under international humanitarian law.
5. Please explain how your Excellency's Government will counter impunity and ensure full accountability for and the aforementioned allegations of unlawful killings of journalists, including through independent, impartial and transparent investigations into all killings in line with international standards, including the Minnesota protocol for investigating extrajudicial killings.
6. Please explain how your Excellency's Government respects the freedom of expression and access to information in the context of its military operation, including by ensuring unhampered connectivity and protection of communication services.

We would appreciate receiving a response within 60 days. Past 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.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

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

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

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

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Mary Lawlor
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occupied since 1967

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 forward by the situation described above.

Article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, guarantees the right of every individual to life and provides that this right 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 and peremptory norm (*jus cogens*) from which no derogation is permitted even in time of public emergency that threatens the life of the nation (CCPR/C/21/Rev.1/Add.6). The UN Human Rights Committee has further stressed the need for proper precautions to be taken, for limitation of the use of force to the degree strictly necessary and for investigations to be undertaken in the case of suspicious deaths in order to ensure that a loss of life is not "arbitrary" (See Human Rights Committee, *Camargo v. Colombia* (*ibid.*, § 939.)).

We would like to recall that the right to life applies to all human beings, and that Governments have a responsibility to protect this right 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).

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, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. 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.

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials further restrict the use of firearms. 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 also stipulates that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. We further recall Principle 8, recalling 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 (CCPR/C/ISR/CO/4, para. 13; CCPR/C/ISR/CO/5, para. 26). 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, as well as 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. Article 8 (2) (a) of the Rome Statute of the International Criminal Court specifically provides that wilful killing of protected persons is a grave breach of the Fourth Geneva Convention and constitutes a war crime. Furthermore, international humanitarian law specifically protects journalists engaged in professional missions as civilians, as long as they do not take a direct part in hostilities (article 79, Additional Protocol I to the Geneva Conventions). 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.

We would also like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. In General Comment No. 31, the Human Rights Committee observed that there is a positive obligation on State Parties to ensure protection of Covenant rights of individuals against violations by their 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). Similarly, Principles 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, recall that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such

executions (principle 1). We further refer to paragraph 25 of the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)). The Protocol includes guidance on all stages of the investigation process and has detailed guidelines on crime-scene investigation, interviews, excavation of graves, autopsy and analysis of skeletal remains. In this connection, we stress that forensic investigations contribute to combating impunity by providing the evidentiary basis on which prosecutions can successfully be brought against persons responsible for grave violations of human rights and international humanitarian law (E/CN.4/2003/135).

In view of allegations that journalists have been targeted for violence in the occupied Palestinian territory, we would also like to recall the right to freedom of opinion and expression, guaranteed under article 19 of the ICCPR. As the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has stated in her latest report, “the right to freedom of opinion and expression provides the international legal basis for uncensored and unhindered news media, and the right of journalists to work safely and without fear” (A/HRC/50/29, para. 10). In its resolution 45/18, the UN Human Rights Council has expressly recognized the importance of freedom of expression and of free, independent, plural and diverse media in building and supporting the functioning of inclusive societies and democracies, and unequivocally condemned “all attacks, reprisals and violence against journalists and media workers”.

The right to freedom of opinion and expression may be only restricted under circumstances that meet strict criteria spelt out in international human rights law. Article 19, paragraph 3 lays down specific conditions that permit such restrictions: restrictions must be provided by law, and necessary for respect of the rights or reputations of others, or for the protection of national security or of public order (ordre public), or of public health or morals. They must also conform to the strict tests of necessity and proportionality. As the Human Rights Committee enunciated, the State party has the onus of demonstrating the legal basis for any restrictions and “...must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The State has the burden of proof to demonstrate that any such restrictions is compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19 (CCPR/C/GC/34, para. 23).

The obligation to ensure non-discrimination and equality is clearly evident from article 2 of both the ICCPR and the ICESCR and article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Israel on 3 January 1979. It broadly defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” Articles 2 (1) and 5 of ICERD oblige States parties to prohibit and eliminate any act or practice of

racial discrimination against persons and/or groups and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, in the enjoyment of all human rights, including the right to freedom of opinion and expression and the right to equal participation in cultural activities.

Furthermore, we would like to draw the attention of your Excellency's Government to States' obligations to provide victims of human rights violations with effective remedies. 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, adopted by the General Assembly in 2006, provide that victims of a gross violation of international human rights law or of a serious violation of international humanitarian law must be guaranteed of: equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.

We would also like to refer 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. We would further wish to stress the following articles of the Declaration:

- article 6 (a), which holds that everyone has the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- article 6 (b) and (c), which guarantees the right to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters;
- article 12, paragraph 2, holding that States shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration.