

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Ref.: AL ISR 20/2024
(Please use this reference in your reply)

4 November 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 52/4, 53/4, 50/17 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 killing of American-Turkish human rights defender Ms. Aysenur Ezgi Eygi, by members of the Israeli Defence Forces during a Palestinian demonstration in the Occupied West Bank.

Ms. Eygi was a member of the Palestinian-led International Solidarity Movement (ISM), which was founded in 2002 and uses non-violent methods to support Palestinian rights in the Israeli-Occupied Palestinian territories. Their members participate in peaceful demonstrations, accompany children to school and farmers to their fields. They also document international law violations by the Israeli military and by Israeli Jewish settlers.

According to the information received:

On 6 September 2024, Ms. Eygi and other ISM members were observing a demonstration by Palestinians in the Occupied West Bank village of Beita, about 11 km south of Nablus. The demonstration was part of a weekly event to protest the construction of new Israeli settler outposts nearby, illegal under Israeli and international law. The Israeli Defence Forces (IDF) had surrounded the demonstration and initially fired tear gas in the air after clashes broke out between young Palestinian protestors throwing stones and burning tires, and Israeli soldiers. This was followed by the soldiers firing live ammunition, forcing the international observers and Palestinian protestors to retreat behind nearby trees and rocks. Ms. Eygi and other international activists were standing by an olive tree for at least 20 minutes as the situation calmed down. They were more than 200 meters away from soldiers on a hilltop who fired two rounds, the first of which hit a Palestinian man in the leg. A second round of fire was aimed at the group that included the international activists and Ms. Eygi was shot in the head. She was transported to a local hospital in Nablus where she died shortly after arrival. It is not known if the IDF gave any clear warning of the intent to use lethal force, and to allow time to heed the warning, before opening fire at any point during or after the demonstration had ended.

On 10 September 2024, the Israeli Defence Forces (IDF) released a statement saying that an initial inquiry by IDF commanders into the “incident,” in which Ms Eygi was killed found that it was “highly” likely she was hit “indirectly and unintentionally” by IDF fire aimed not at her but at the “key instigator of the riot.” The IDF said the “incident” took place during a “violent riot” in which “Palestinian suspects burned tires and hurled rocks towards Israeli security forces at the Beita Junction.” The IDF said an investigation by the Military Police Criminal Investigation Division was launched. It expressed its “deepest regret” over “the death” of Ms. Eygi.

According to the information received – direct from one eye-witness who said that at the time of the incident, there were no stone-throwing incidents aimed at the IDF in the area where Ms. Eygi was hiding, and the soldiers there were not in any danger when they fired, killing her. He said the incident occurred when clashes had ended for over 20 minutes after Palestinians threw stones and Israeli troops fired tear gas and live ammunition in response, dispersing the protestors. According to the witness, who was just under 200 metres from the military, two soldiers were seen on the rooftop of a nearby house, one of whom was aiming his gun at the group that included the international observers just before Ms. Eygi was shot. The witness also claimed that the IDF had resorted to routinely using live ammunition to disperse Palestinian protestors in the last year. In fact, the use of live ammunition is a long-standing common practice by the Israeli Forces against demonstrators, killing and wounding civilians, including children, journalists and health workers, which have been well documented by the Office of the High Commissioner for Human Rights, international and national civil society organisations, as well as UN Independent Experts.

Other witnesses reportedly said that about eight minutes after the clashes broke out, at least four Israeli soldiers climbed on to the roof of a nearby house that they had commandeered from its Palestinian owners. The situation then remained calm from 1.29 p.m. for more than 20 minutes as the protestors had dispersed and Ms. Eygi and other international observers were hiding in an olive grove, until two or three shots rang out, one of which hit Ms. Eygi. She was reportedly lifted to an ambulance at around 1.49 p.m. and taken to Rafidia Hospital where she was pronounced dead at around 2.35 p.m.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we express extremely grave concern at the killing of human rights defender, Ms. Eygi by IDF snipers at a time when there was no immediate risk of death or serious harm against them or other persons. We express further concern at the use of live ammunition at a time when any clashes had subsided, as well as the disproportionate and excessive use of force against protestors in general, in contravention with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

The killing of Ms. Eygi constitute *prima facie* a violation of the absolute right of every individual to life and security and not to be arbitrarily deprived of his or her life, as set forth in article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991. The right not to be arbitrarily deprived of life is a *jus cogens* obligation and should be respected and protected at all times, without possible derogation or exception even in security emergencies.

Without prejudice also to the conclusions regarding the unlawfulness of Israel's presence in the occupied Palestinian territory and would like to remind your Excellency's Government of your obligation under international law to conduct - or allow the conduct of – an independent, impartial, transparent, and thorough investigation, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions,¹ and the the revised Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016).

Delay in ensuring accountability over this killing, will further aggravate your government record of lack of compliance with international law.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international law** attached to this letter which particularly 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 as to steps taken by your Excellency's Government to ensure a full and effective investigation into the killing of Ms. Eygi, in compliance with its obligations under international human rights law, in particular article 6 of the International Covenant on Civil and Political Rights. Please also provide information as to the current status, or, where available, the results of any such investigation, along with any domestic proceedings that have been initiated, and in case of affirmative response, its outcomes.
3. Please clarify whether any investigation conducted into the killing of Ms. Eygi has been guided by international standards, including the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, commonly known as the Minnesota Protocol.
4. Please provide information on the regulations and operational procedures for law enforcement agents concerning the use of force in the context of law enforcement during assemblies, and whether it is compatible with international standards on the use of force and firearms.

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

¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-effective-prevention-and-investigation-extra-legal>

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 persons responsible for the alleged violations.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Francesca Albanese
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 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. 36, 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 (CCPR/C/21/Rev.1/Add. 6). Adding that the inherent right to life and its effective protection are prerequisites for the enjoyment of all other human rights. In addition, the Committee states in paragraph 64 that “[p]ractices inconsistent with international humanitarian law, entailing a risk to the lives of civilians and other persons protected by international humanitarian law, including the targeting of civilians, civilian objects and objects indispensable to the survival of the civilian population, indiscriminate attacks, failure to apply the principles of precaution and proportionality, and the use of human shields would also violate article 6 of the Covenant.

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 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 (CCOR/C/ISR/4, para 5).

Furthermore, the Committee requires that “Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent” and that full reparation should be granted to victims. (general comment no. 36, para. 28), and insists that “Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations.

In light of the Advisory Opinion, it is particularly important to draw attention to the recognition therein of the denial of the right of the Palestinian people to self-determination. This is a *jus cogens* norm, enshrined by common article 1 of the ICCPR and ICESCR as the bedrock of international human rights law, and recognized as the prerequisite to the enjoyment of human rights. It is a recognition by states that without the right to self-determination, it is impossible to realise all other human rights. As such, it has an interpretive function for the construction of all human rights

protections. Where a people are denied their right to self-determination, this must inform the way in which human rights protections are constructed vis-à-vis the state being asked to protect them. In particular, the positive and negative obligations of that State party should aid in enabling the fulfilment of the right of the people themselves to self-determine the protection and realisation of all their human rights.

We would further 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.

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.

Article 21 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of peaceful assembly. It states that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”.

The Joint Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of Assemblies, A/HRC/31/66, states that “the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Any use of force must comply with the principles of necessity and proportionality. The necessity requirement restricts the kind and degree of force used to the minimum

necessary in the circumstances (the least harmful means available), which is a factual cause and effect assessment. Any force used should be targeted at individuals using violence or to avert an imminent threat".