

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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

Ref.: OL ISR 4/2026
(Please use this reference in your reply)

17 March 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 58/14, 53/4 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 **Bill for the State-National Commission of Inquiry for Examining the Failures Surrounding the Shemini Atzeret (7 October 2023) Massacre and Related Events ("Bill")**, introduced in the Knesset on 24 December 2025 by the Government. We are concerned that this Bill appears not to be consistent with Israel's obligation to protect the rights to life and to an effective remedy under articles 6 and 2 of the International Covenant on Civil and Political Rights, which it ratified on 3 October 1991.

Background

The attack led by the Hamas armed wing, called the Izz ad-Din al Qassam Brigades, and other Palestinian armed groups on Israel of 7 October 2023 has been widely characterised as one of the most serious military, intelligence and policy failures in Israel's history. The attribution of responsibility for any failings is contested in Israeli society. Since the attack, several investigations have been undertaken:

- The **Israel Defense Forces (IDF)** conducted internal operational investigations publicly released summaries in 2025, acknowledging serious failures in preparedness, intelligence assessment, and response.
- The **IDF Chief of Staff** appointed an external review panel, comprised of former IDF officers, to assess the adequacy of its internal investigations. The panel reportedly found shortcomings in the military probes and recommended broader examination.
- The **Shin Bet (Israel Security Agency)** conducted an unpublished internal review into intelligence failures, which reportedly examined warning failures and assessment gaps.
- The **State Comptroller** initiated an audit into aspects of the failures and the Israeli military's response. Elements of the audit were later frozen by

Israel's High Court amid litigation arguing that only a formal commission of inquiry can properly investigate.

These investigations have been predominantly internal to the executive authorities, and have been limited in scope to specific actors. No State Commission of Inquiry under the 1969 Commissions of Inquiry Law has been established to date, which would involve an independent judicial inquiry and could inquire into any failings across all parts of government, including to consider political, military, intelligence, and systemic responsibility.

Litigation has been filed before Israel's High Court seeking to compel the establishment of a traditional State Commission of Inquiry. The High Court issued a conditional order against the Government on 19 November 2025, asking it to explain why it was not establishing a State commission in accordance with the Commissions of Inquiry Law (i.e., a "State Commission of Inquiry" that would investigate the events of 7 October in an independent, professional and impartial manner). The Government responded that the decision lies solely with the Government, not the Court. The Israeli Prime Minister has also expressed the view that a traditional commission would be biased against the Government, against a background of controversial judicial reforms in Israel.

On 15 December 2025 a separate private member's bill was submitted by a Likud Member of Knesset seeking to establish a political investigative mechanism to investigate the events of 7 October, termed a "National-State Commission of Inquiry." This bill appears to undermine the existing mechanism of a State Commission of inquiry.

The Bill

In the context of a fragile ceasefire after more than two years of Israeli military operations in Gaza, the Bill proposed by the Government would establish a bespoke "State-National Commission of Inquiry". The explanatory note to the Bill states that the attack "revealed widespread systemic failures". The "purpose" of the Bill is "to ensure that a full thorough and independent investigation will be conducted into the events" of 7 October, the "outbreak of the War", and the circumstances that led to them (s.1). However, the Bill empowers the Government to "define the subject of the investigation" (s.4).

The Commission would be comprised of six or seven members, half selected by the Government and half by the parliamentary opposition (s.8). The proposed method of appointment is intended to reflect the need for a broad political consensus around the investigation as well as to ensure that the possible involvement of the political echelon and the judiciary systems in the failings can be examined (explanatory notes).

It would have powers similar to those granted under the 1969 Commissions of Inquiry Law, including powers to compel testimony (s.11). The Commission would deliberate in public but could hold closed sessions for certain security, foreign relations, economic or reputational reasons (s.12). Its report would be submitted to the Government and then published publicly, subject to security limitations (s.5). Four bereaved family members would serve as "supervisors," with rights to attend hearings

and submit written comments, requests, questions, or proposals, including on the manner of conducting an investigation and the questions to be posed to a person appearing before the Commission, but without voting authority (s.9). This aims to recognise the “special public and ethical importance” of including victims, their “heightened and distinct interest” and “moral right”, their ability to help to ensure that the investigation is carried out impartially and sensitively, and that their participation builds public trust (explanatory notes).

Human rights concerns

We welcome in principle steps towards a comprehensive inquiry into any failings by Israeli authorities to protect the right to life in relation to the 7 October 2023 attack. We are concerned, however, that the Commission proposed by the Bill would not satisfy the requirements of an investigation into violations of the right to life under article 6 of the ICCPR, and would likewise fall short of complying with the right to an effective remedy under article 2 of the ICCPR. The right to life requires States not only to refrain from arbitrarily depriving life, but also to take positive measures to protect life, including protecting individuals from foreseeable threats, such as from armed non-State groups, terrorism and other private actors (general comment No. 36, para. 21). Where there has been a potentially unlawful loss of life, or credible allegations that authorities failed to take reasonable measures to prevent a foreseeable risk to life, the State must investigate. States must also investigate suspected violations of article 6 in situations of armed conflict (para. 64).

Investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent (general comment No. 36, para. 27). They must also be conducted in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol). Investigations must be aimed at ensuring that those responsible are brought to justice, that due process is respected, at promoting accountability and preventing impunity, at avoiding denial of justice, at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations, and at ensuring the responsibility of superior officials with regard to violations committed by their subordinates (general comment No. 36, para. 27). Where a violation is found, full reparation must be provided, including adequate compensation, rehabilitation and satisfaction, and steps must be taken to prevent re-occurrence in future (para. 28).

Lack of independence and impartiality

We are deeply concerned that the politicised process of appointing members of the Commission, coupled with the Government’s complete discretion to “define the subject of the investigation”, and the deliberate rejection, without sufficient reasons, of a conventional State Commission of Inquiry under existing law, would all mean that the Commission is not sufficiently independent and impartial to satisfy the requirements of article 6 of the ICCPR. Under international standards, an “independent and impartial” investigation is one that is independent institutionally and formally, in practice and perception, independent from those implicated in the events, free from undue political

or external interference (including from political parties), and objective and unbiased (Minnesota Protocol, paras. 28-31).

We highlight that conventional State Commissions of Inquiry are appointed by the President of the Israeli Supreme Court, not by political actors, which is widely regarded as a gold standard for independence, and that such approach could readily be used in relation to 7 October 2023. The judiciary is also experienced in investigations concerning armed conflict. We note that a convention State Commission is favoured by many of the victims' families (including over 200 families in a recent open letter), a majority of the Israeli public, and many Israeli civil society organizations.

Not effective and thorough

We are concerned that the Government's total discretion to "define the subject of the investigation" could prevent the investigation from being sufficiently thorough and effective as required by international law. An "effective and thorough" investigation under article 6 of the ICCPR is one which focuses not only on the immediate circumstances and causes of death and the perpetrators, but also on identifying any policies and systemic failures that may have contributed to a death and any patterns (Minnesota Protocol, para. 26), as well as questions of command or superior responsibility. There is a risk that the Government may wish to limit the scope of the inquiry in order to prevent full disclosure of its responsibility for any failures, including to avoid embarrassment or incurring political costs, or even to avoid individual criminal or civil liability.

We note further that an investigation should extend to consider the root causes of violence, in accordance with Pillar I of the Global Counter-Terrorism Strategy, which are stated to include protracted unresolved conflict, political exclusion, economic marginalization, discrimination and State violations of human rights.

Lack of transparency

We are concerned that the grounds for restricting the public nature and broadcasting of hearings are too expansive, including based on a majority vote that it is "necessary" to do so not only in the interests of security and confidential police methods, and protecting the safety and dignity of victims, but also concerning "foreign relations" and "vital economic matters". The latter in particular are concepts that are vague and overbroad, and prone to arbitrary application and abuse, particularly where restrictions would be imposed upon a majority vote of politically appointed Commission members. Article 6 of the ICCPR requires a "transparent" investigation, meaning that any limitations on transparency must be strictly necessary for a legitimate purpose, such as protecting the privacy and safety of affected individuals, ensuring the integrity of ongoing investigations, or securing sensitive information about intelligence sources or military or police operations (Minnesota Protocol, para. 33).

Strengthen victim participation

We welcome the proposed inclusion of victims' representatives as "supervisors" in the Commission. We encourage including further procedures under the Bill to guarantee and facilitate the participation of victims more generally, in accordance with

general comment No. 36 and the Minnesota Protocol (paras. 35-37). We also draw attention to the United Nations Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism.

Right to an effective remedy

We further emphasize that article 2 of the ICCPR enshrines the right to an effective remedy. As a State party, Israel has an obligation to ensure that: (a) any person whose rights or freedoms are violated has an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) any person claiming such a remedy has such right determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and (c) the competent authorities enforce such remedies. The right to an effective remedy is a key element of the full enjoyment of human rights, ensuring violations are sanctioned and victims receive justice and compensation and recognition of their dignity.

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 analysis.
2. Please indicate whether the Bill will be withdrawn and whether an independent inquiry into the events of 7 October 2023 will be held under the State Commission of Inquiry under the 1969 Commissions of Inquiry Law.
3. Please explain what measures have been taken to consult widely with the Israeli public, including victims of the 7 October 2023 attacks and their families, about the nature of an investigation.
4. Please explain why no thorough independent investigation has been held in the almost two and a half years that have elapsed since 7 October 2023. Please detail what measures have been taken to obtain and preserve relevant physical, electronic and testimonial evidence since that time.
5. Please indicate whether an independent investigation will be empowered to consider the conditions conducive to violence under the Global Counter-Terrorism Strategy, as an element of the right to effective remedy for violations of the right to life under articles 2 and 6 of the ICCPR.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a copy of this letter has also been sent the State of Palestine.

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

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Morris Tidball-Binz

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