

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

Ref.: AL ISR 4/2024
(Please use this reference in your reply)

19 March 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 53/4, 50/6, 49/10, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the reported killing by Israeli forces of a Palestinian family, two adults and five children, who were in a car fleeing military operations in Tal Al-Hawa area, Southwest of Gaza City, as well as the killing of two paramedics from the Palestinian Red Crescent Society (PRCS) whose ambulance was reportedly targeted as they tried to deliver assistance to the victims. There are audio recordings of the incident, where a 16-year-old and subsequently a 4-year-old girls were heard desperately pleading for help on a telephone call to the PRCS, after their family members were shot dead when Israeli tanks seemingly targeted and opened fire on their car, killing shortly after both girls.**

These killings would amount to grave breaches of International Humanitarian Law (IHL), involving the targeted killing of protected persons, including civilians and medical personnel. This require a prompt, full, independent and reliable investigation, carried in accordance with international standards including those set out in [the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions \(Minnesota Protocol\)](#). Immediate and effective measures must be adopted to hold accountable those responsible, guarantee non repetition of such violations, and provide full reparation for families of victims, in compliance with the State's obligations under International Humanitarian and Human Rights Law.

We reiterate that under International Humanitarian and Human Rights Law, wilful killing of protected persons, including civilians and medical personnel are considered to be grave breaches amounting to war crimes and, if systematic, crimes against humanity. In this regard, we urge the Government of Israel and its armed forces to adopt immediate and effective measures to protect the civilian population and other persons protected under IHL and IHRL in Gaza, in particular women and children, as outlined under the UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Proclaimed by General Assembly resolution 3318 (XXIX) of 14 December 1974; to ensure prompt, effective,

independent and reliable investigations into all allegations of violations of IHL and IHRL and bring those responsible to justice without delay.

According to the information received:

On 29 January 2024, ██████████, a five-year-old Palestinian girl, was travelling in a black “Kia” vehicle, along with her mother’s uncle (Bashar Hammouda Saleh Hamada), his wife (Inaam Mohammad Saleh Hamada), and their four children: ██████████ (16-years-old), ██████████ (14-years-old), ██████████ (11-years-old), and ██████████ (7-years-old). They were reportedly fleeing the fighting in the northern parts of Gaza and got trapped under heavy gunfire by Israeli military tanks in the area of Tal Al-Hawa. According to the information received, the family has been displaced multiple times since the beginning of Israel’s military operation in Gaza, which forced the family to move from one house to another in search of safety.

Bashar’s brother received a call of distress from his adolescent niece, ██████████, saying that her parents, brother, and two sisters had all been killed after Israeli armed forces shot at their car and that she and ██████████ were the only survivors. He attempted to calm ██████████ telling her not to move until he could send an ambulance to rescue them. The uncle called the Central Operations Room of the Palestinian Red Crescent Society (PRCS), giving them ██████████ phone number and her location in order to rescue her. A PRCS personnel called ██████████ who explained with extreme fear that an Israeli tank was next to them and was shooting at their car. The car was located near Fares petrol station in the Tal Al-Hawa area, in the southwest of Gaza City. During the call, intense sound of gunfire could be heard, as ██████████ screamed continuously before suddenly going quiet. The PRCS personnel tried to talk to her but there was no response. It is believed that ██████████ was shot dead at that moment by Israeli armed forces. The audio recording, in which the girl’s voice can be heard, has been disseminated on the social media platforms of PRCS.

When the PRCS personnel tried to re-establish contact with ██████████ four-year-old ██████████ responded and they realized she was the only survivor in the car, trapped with the dead bodies of her family members. The girl-child pleaded to the PRCS worker to come and take her, explaining in an audibly fearful voice that the tank was very close and approaching the front of the car. The PRCS worker audibly attempted to calm ██████████ and said that they were coordinating to get someone to rescue her. She stayed on the phone with ██████████ for around 3 hours, before losing contact.

At 6pm on the same day, the PRCS ambulance had reportedly reached the location where ██████████ was believed to be, after reportedly coordinating access with the Israeli authorities. According to the PRCS, the two paramedics on mission to rescue ██████████ reportedly confirmed their presence in the location, near Fares petrol station, to the PRCS central operations room, who consequently lost their trace and could no longer contact them neither through mobile nor satellite phones.

On 10 February 2023, after 12 days without information or communication with the PRCS crew due to military operations in the area, the decomposing bodies of ██████████ and her six family members were found in the

car. This latter was riddled with gunfire. At the same time, the PRCS announced that its ambulance was found entirely destroyed in Tal al-Hawa area, with the remains of the two paramedics, in proximity to the car where ██████ was. According to the PRCS, the ambulance had been targeted by the Israeli armed forces, as the rescue mission was coordinated with the authorities, who gave the green light.

The recorded calls with ██████ and ██████ demonstrate the intensity of the mental suffering endured by the two girls before their killing, as they were trapped in a car, being attacked by the Israeli armed forces, and awaiting the same fate as their family members.

Without prejudging the accuracy of the above-mentioned allegations, we are profoundly alarmed by the apparent unlawful killing, of a seemingly targeted nature¹ of an entire displaced family composed of two adults and five children while traveling in a car in Gaza City seeking safety and posing no threat, and the subsequent killing of two PRCS paramedics whose ambulance was also targeted while attempting to provide assistance to the victims, in clear violation of your Excellency's Government obligations under International Humanitarian² and Human Rights Law. In this regard, we recall that the intentional killing of civilians represents a war crime in both international armed conflict and non-international armed conflict and may represent a crime against humanity when committed as part of a widespread, systematic, or planned attack directed against any civilian population. The reportedly deliberate killings of civilians attempting to find shelter and escape hostilities in Gaza, including this emblematic case of ██████ and her family members, may also constitute a breach of Common article 3 to the four Geneva Conventions that provides for the customary norm according to which persons taking no active part in hostilities shall be treated humanely and should not be subject to violence to life and person, in particular murder of all kinds, in addition to a failure to respect the provisions of the UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Proclaimed by General Assembly resolution 3318 (XXIX) of 14 December 1974. Furthermore, these killings 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 times of war or security emergencies.

We further remind your Excellency's Government that parties to a conflict must distinguish between the civilian population and combatants. Targeted attacks on civilians are prohibited under IHL and parties to conflicts must do everything feasible to verify that targets are military objectives and take all precautions to avoid and minimize incidental loss of life.

¹ Unlawful killings can result from a direct attack against a civilian (Rule 1), from an indiscriminate attack (Rule 11) or from an attack against military objectives causing excessive loss of civilian life (Rule 14), all of which are prohibited by the rules on the conduct of hostilities.

² Geneva Convention (I), article 50, Geneva Convention (II), article 51, Geneva Convention (III), article 130, Geneva Convention (IV), article 147, Additional Protocol (I) article 75(2)(a)(i), Additional Protocol (II) article 4(2)(a), and common article 3.)

We further express deep concern regarding the targeting of the PRCS's ambulance, causing the death of the two paramedics on mission to rescue [REDACTED] and her family, despite the reported coordination with the Israeli authorities. The obligation to respect and protect medical transports is enunciated in article 35 of the Geneva Convention (I) and article 21 of the Geneva Convention (IV). Further under customary IHL Rule 25 of the International Committee of the Red Cross (ICRC) "medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances." Targeting of medical and humanitarian personnel is considered a grave violation. This includes either to attack medical personnel, including causing their death, or failing to take appropriate measures to protect them. Personnel engaging in medical tasks must always be respected and protected.

We remind Your Excellency's government that the occupied Palestinian territory, including Gaza, is under occupation by Israel, to which international humanitarian law applies.³ Israel is therefore bound by the obligations of an occupying Power set out in the Fourth Geneva Convention and customary international law, including the Hague Convention respecting the Laws and Customs of War on Land, throughout the Occupied Palestinian Territory. The applicability of human rights law in a situation of armed conflict or occupation concurrently with international humanitarian law has been widely affirmed. A situation of armed conflict or occupation does not release a State from its human rights obligations.

Furthermore, we would like to underscore the obligation of your Excellency's Government, under IHL, to investigate allegations concerning an attack against civilians, and where there is sufficient evidence, to prosecute persons responsible for the commission or the ordering of the offence. In this regard, we take note of the announced probe into the killing of [REDACTED] by the Israeli Defence Forces (IDF) and would like to express our deep concern about the preliminary investigation's results claiming that no IDF troops were present in the area, despite compelling audio recording, including a child's terrified testimony on this regard, confirming that Israeli tanks were in close proximity to the car and firing at the vehicle. We recall the duty of the State of Israel to ensure that investigations are prompt, effective, thorough, independent, impartial and transparent, and that all persons identified by the investigation as having participated in crimes of extra-legal or arbitrary killings, are brought to justice and punished with sentences commensurate with the gravity of the crimes committed. Failure to properly, independently and reliably investigate the killing, with a view to hold accountable those responsible, would in itself constitute a grave violation under IHL. In this respect, we refer to the United Nations Revised Manual for the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions also known as the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), providing detailed guidelines on the duty to investigate potential unlawful deaths "promptly, effectively and thoroughly, with independence, impartiality and transparency."

We further emphasize that families and dependents of the victims of unlawful and extrajudicial killings are entitled to remedies and reparations for the loss suffered, including fair and adequate compensation within a reasonable period of time.

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

³ [A/HRC/50/21](#); Council resolution 1860 (2009); General Assembly resolution 76/126; A/69/711-S/2015/1, annex, paras. 4 and 8

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 indicate what action has been taken to ensure a prompt, effective, thorough, independent, impartial and transparent investigation into the unlawful killing of [REDACTED] and her family members, including four children, and, if not, please explain why.
3. Please explain measures that have been taken to investigate in a prompt, effective, thorough, independent, impartial and transparent manner the alleged targeting of the PRCS ambulance and the killing of the two paramedics, while on authorized rescue mission. and, if not, please explain why.
4. If investigations are conducted into these killing, please inform if they are guided by the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, commonly known as the Minnesota Protocol and, if not, please explain why.
5. Please provide information about precautionary measures taken to ensure the protection of the civilian population in Gaza, including persons attempting to flee areas of military operations, and to prevent indiscriminate and/or incidental loss of civilian life as well as ensuring effective advance warning of attacks, in line with International Humanitarian Law and IHRL, including the provisions of the UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Proclaimed by General Assembly resolution 3318 (XXIX) of 14 December 1974 .
6. Please provide precisions on measures taken by the Israeli Defense Forces to distinguish between civilian and military targets, as required by International Humanitarian Law, and to prevent disproportionate incidental death of civilians and protected persons.
7. Please provide information on measures taken to ensure security of the population when carrying out total or partial evacuations as required by Article 49 of the Geneva Convention IV, and in particular taking measures to ensure that such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory.

We stand ready to assist efforts to investigate the allegations in this communication in accordance with the highest standards of forensic best practice,

including for ensuring the independence and transparency required under applicable international standards.

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.

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

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

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Aua Baldé

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Dorothy Estrada-Tanck

Chair-Rapporteur of the Working Group on discrimination against women and girls

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.

The facts alleged, if proved correct, appear to be in contravention with international human rights law, specifically the International Covenant on Civil and Political Rights (ICCPR), acceded to by Israel on 3 October 1991, and the Four Geneva Conventions, ratified by Israel on 6 July 1951.

In its general comment 36, paragraph 2, the Human Rights Committee notes that article 6 of the International Covenant on Civil and Political Rights (ICCPR) recognizes and protects the right to life of all human beings, without derogation even in situations of armed conflict. 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. States parties should, in general, disclose the criteria for attacking with lethal force individuals or objects whose targeting is expected to result in deprivation of life, including the legal basis for specific attacks, the process of identification of military targets and combatants or persons taking a direct part in hostilities, the circumstances in which relevant means and methods of warfare have been used, and whether less harmful alternatives were considered. They must also investigate alleged or suspected violations of article 6 in situations of armed conflict in accordance with the relevant international standards.” A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

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). 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. Investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates.” (Para. 27).

In his report to the 50th session of the Human Rights Council (A/HRC/50/34, para. 80), the Special Rapporteur on extrajudicial, summary or arbitrary executions underlined that “The duty of States to investigate the cause and manner of any potentially unlawful death promptly, thoroughly, effectively, independently, impartially and transparently is integral to the right to life. The duty to investigate applies to all potentially unlawful deaths without distinction of any kind. States should ensure that medico-legal death investigations are conducted according to the principles and standards set out in the Minnesota Protocol on the Investigation of Potentially Unlawful Death.”

Under International Humanitarian Law, wilful killing and murder are used interchangeably and considered as grave breaches amounting to a war crime. All four Geneva Conventions list “wilful killing” of protected persons as a grave breach. In addition, the prohibition of murder is recognized as a fundamental guarantee by Additional Protocols I and II. Murder is also specified as a war crime under the Statute of the International Criminal Court with respect to both international and non-international armed conflicts and under the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda and of the Special Court for Sierra Leone.

Furthermore, it is a war crime to intentionally direct attacks against a civilian population or individual civilians not taking a direct part in hostilities in both international and non-international armed conflict. In addition, allegations concerning an attack against civilians must be investigated, and where there is sufficient evidence, persons responsible for the commission of the offence or ordering of the offence must be prosecuted, and full reparation should be granted for the loss suffered. (Additional Protocol I arts. 48, 49, 50, 51, 52, 57, 58, 79; 85; Additional Protocol II art. 13.)

We would also like to recall that launching an intentional attack against medical personnel in the context of an international or non-international armed conflict is a war crime, punishable under international humanitarian law and international criminal law (arts. 8.2.b.xxiv and 8.2.e.ii of the Rome Statute of the International Criminal Court).

We further underscore that Children should be granted special protections during conflict. The 1949 Geneva Conventions and their 1977 Additional Protocols determine that “children shall be the object of special respect and shall be protected against any form of indecent assault. The parties to the conflict shall provide them with the care and aid they require” (Additional Protocol I, Art. 77). The protections for children under IHL include: sheltering them from hostilities; maintaining family unity; and ensuring the necessary care, relief, or protection for those caught in hostilities and evacuation from besieged areas.

Furthermore, we emphasize the deep concerns of the Committee on the Rights of the Child (CRC) “[t]hat children on both sides of the conflict continue to be killed and injured, children living in the OPT being disproportionately represented

among the victims. The Committee expresses serious concerns that hundreds of Palestinian children have been killed and thousands injured over the reporting period as a result of the State party military operations, especially in Gaza where the State party proceeded to air and naval strikes on densely populated areas with a significant presence of children, thus disregarding the principles of proportionality and distinction.” (CRC/C/ISR/CO/2-4, para. 25). We further reiterate the CRC’s recommendations requiring the State of Israel to “take prompt measures to comply with the fundamental principles of proportionality and distinction enshrined in humanitarian law, including the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War , put an end to all killings and injuring of children, investigate immediately and effectively all such crimes, bring the perpetrators to justice and take all necessary measures to provide child victims of these human rights violations with possibilities for adequate compensation, recovery and social reintegration.” (Para. 26). On this regard we hereby also wish to remind about the provisions under the UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Proclaimed by General Assembly resolution 3318 (XXIX) of 14 December 1974.

Finally, we recall that individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited under articles 49 of the Fourth Geneva Convention, regardless of their motive. Article 49 permits the occupying Power to carry out total or partial evacuation of protected persons under very narrow circumstances, where “...the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.” We wish to further recall that according to article 49 of the said Convention, “the Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are affected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

We also remind your Excellency’s Government of the Guiding Principles on Internal Displacement, which recognize, inter alia, the right of everyone “to be protected against being arbitrarily displaced from his or her home or place of habitual residence”. Guiding Principle 7(1) establishes that “Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether”. Guiding Principle 7(2) also stipulates that “The authorities undertaking such displacement shall ensure to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated”; and guiding principle 7(3) states that “(b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation; (c) The free and informed consent of those to be displaced shall be sought; (d) The authorities concerned shall endeavor to involve those affected, particularly women in the planning and management of their relocation; (f) The right to an effective remedy, including the review of such decisions

by appropriate judicial authorities shall be respected”. Guiding Principle 9 further provides that “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.” This is particularly relevant, given the status of Palestinians as protected persons under the Israeli occupation. Authorities are also under an obligation to protect the right to life of internally displaced persons, including through protecting them against genocide, murder, and summary or arbitrary executions, and attacks against internally displaced persons who do not participate in hostilities (Principle 10). The principal duty and responsibility for providing humanitarian assistance lies with national authorities, who must grant the free passage of humanitarian assistance (Principle 25). Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected and shall not be the object of attack or other acts of violence (Principle 26).