



Urgent Appeal to the United Nations Special Procedures on the Extrajudicial Execution and Wilful Killing of Palestinian Person with Disability Iyad Al-Hallaq by the Israeli Occupying Forces on 30 May 2020 in East Jerusalem

Date: 8 June 2020

For the attention of:

- The United Nations Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr S. Michael Lynk;
- The United Nations Special Rapporteur on the rights of persons with disabilities, Ms Catalina Devandas Aguilar;
- The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms Agnes Callamard;
- The United Nations Special Rapporteur on contemporary forms of racism, Ms E. Tendayi Achiume;
- The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr Nils Melzer; and
- The United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr Dainius Pūras.

1. Introduction

On Saturday, 30 May 2020, at approximately 6:15 am, Iyad Khayri Al-Hallaq, a 31-year-old Palestinian resident of East Jerusalem and person with disability, was shot and killed by the Israeli occupying forces in the Old City of Jerusalem. Iyad, who suffered from an intellectual disability with autistic traits and physical disabilities that affected his hearing and movement, was shot and killed on his way to Elwyn Centre, a day centre for youth and adults with disabilities. He posed no threat to the lives of those around him at the time, as evidenced by Al-Haq's field monitoring and documentation. Instead, Iyad was followed by members of the Israeli border police and shot several times with live ammunition in an apparent extrajudicial execution and wilful killing, in violation of international human rights law, international humanitarian law, and in what amounts to the commission of an international crime giving rise to individual criminal responsibility. In light of the above, Al-Haq addresses this urgent appeal to the relevant United Nations (UN) Special

Procedures mandates urging public condemnation of the illegal conduct of the Israeli occupying forces and calling for international justice and accountability as well as full reparations for Iyad Al-Hallaq's family.

2. Facts of the case

On the morning of Saturday, 30 May 2020, Iyad Al-Hallaq was walking from his home, located in the Wadi Al-Joz neighbourhood of occupied East Jerusalem, to Elwyn Centre, located in the Old City of Jerusalem, as he regularly did five days a week. Elwyn Centre is a day centre or school for persons with disabilities, which Iyad had attended daily for about six years.¹ There, he learned everyday tasks and sometimes worked in the kitchen as part of the Centre's programme. The distance from Iyad's family home to the Centre is about 950 metres walking past Bab Al-Asbat (Lion's Gate), which is the eastern entrance to Jerusalem's Old City (*see* map in **Annex I**). He was well known to residents of the neighbourhood.

Iyad suffered from an intellectual disability with autistic traits that limited his interaction with the outside world and physical disabilities that affected his hearing and movement, which caused shaking in his hands, making it difficult for him to carry things. When Iyad first started attending Elwyn Centre, he was initially accompanied by someone every day for the first two years. Once Iyad could safely walk from his house to the Centre, he started to walk alone. Iyad's mother, however, preferred to walk with him, until she was convinced that it was safe for him to walk on his own.² Iyad had previously shared his fears about the Israeli police with his parents. Since then, they made sure he always carried his disability identification card on him, which shows that he has a permanent disability, as well as a document confirming his attendance of Elwyn Centre.³

Iyad would usually leave his home at around 7:00 am every day to go to the Centre. On 30 May 2020, he had left his home at around 6:00 am. At approximately 6:05 am, as Iyad was walking to the Centre, a member of the Israeli border police called on Iyad to stop walking. Iyad, due to his fear of the Israeli police, started running towards the Centre until he was some 100 metres away (*see* the distance he ran on the map in **Annex II**). At that moment, Warda Muhammad Abu Hadid, a 46-year-old teacher at Elwyn Centre and Iyad's caregiver, who was in close proximity at the time, saw someone running and realised it was Iyad. In her affidavit to Al-Haq, Warda recalled:

'On Saturday, 30 May 2020, somewhere between 6:00 am and 6:10 am, I arrived at Bab Al-Asbat... where a police station belonging to the [Israeli] occupying authorities is located. No police were standing at the entrance. However, there was a police officer in

¹ Al-Jazeera, Family of slain autistic Palestinian not optimistic over inquiry, 3 June 2020, available at: <https://www.aljazeera.com/news/2020/06/family-slain-autistic-palestinian-optimistic-inquiry-200603073001069.html>.

² Suha Arraf, 'Iyad was the flower of the family. They cut him down too early,' +970 Magazine, 3 June 2020, available at: <https://www.972mag.com/iyad-al-hallaq-family/>.

³ Al-Haq Field Report on the Killing of Iyad Al-Hallaq, prepared on 2 June 2020, on file with Al-Haq.

navy uniform at the entrance of Al-Aqsa mosque. Before I reached the waste collection site located at the junction of Bab Huta, I heard a voice speaking in Hebrew, which I understood to mean “saboteur, saboteur.” I saw three border police officers behind me. I also saw Iyad Al-Hallaq, a student of mine at Elwyn school, running. I screamed at Iyad to stop running. At the same time, I was shouting at the border police, in Arabic and in Hebrew: “he’s disabled, disabled!” But they ignored my calls and I did not hear any word of warning asking Iyad to stop [running]. Suddenly, I heard gunshots. I do not know how many shots were fired.’⁴

Iyad had nothing in his hands when he was shot by the Israeli border police officer. He was wearing a blue mask and black gloves at the time, which he discarded after he was injured. He was shot despite Warda’s calls to the Israeli occupying forces informing them of Iyad’s disability in a language they understood, and while he was running away from the Israeli border police. In her affidavit to Al-Haq, Warda continued:

‘Iyad came running and I saw him fall on his back in the square. He was bleeding from his foot. I am not sure which foot exactly. Three border police officers arrived, one of them carrying a gun who screamed at me and Iyad: “where is the pistol?” I told him I did not have a gun. I also said, in Arabic and in Hebrew: “he’s disabled” But [the officer] continued to threaten Iyad and myself with his gun. Iyad shouted to him “I am with her,” pointing at me. This situation continued for about five minutes. After that, I saw the same police officer who was carrying the gun, fire three bullets towards Iyad, without approaching him. The border police officer was standing at the entrance of the square at a distance not exceeding five metres [from him].’⁵

Immediately after the Israeli border police shot Iyad for the second time, Warda was assaulted by women border police officers and taken into interrogation. She stated:

‘A large number of Israeli border police and police officers arrived at the scene. There were two women [border police] officers with them. One of them pointed her weapon at my head, while the same police officer who shot Iyad kept asking about the pistol. Another border police officer came and asked that I be searched. The woman [border police] officer physically searched me. He then asked her and the other woman officer to take me to the [Israeli] police station located at Bab Al-Asbat. There, I was forced to take off my hijab and clothes. After they searched my body, they kept me in the police station for about two hours. Then, I was asked to get into a police car to be taken to Al-Mascobiyya

⁴ Al-Haq Affidavit 130A/2020, given by Warda Muhammad Abu Hadid, 46, a resident of Jabal Al-Mukabber in occupied East Jerusalem, on 1 June 2020.

⁵ *Ibid.*

*[interrogation] centre in West Jerusalem... There, I was subjected to a three-hour interrogation session, after which I was released unconditionally.*⁶

Following her release from Al-Mascobiyya interrogation centre, Warda went to a clinic in Jabal Al-Mukabber, where she lives, and was examined. She was in a state of hysteria, constantly shivering, and was given painkillers. The next day, on Sunday, 31 May 2020, Warda was called in to the Israeli police's internal investigation department and was questioned about Iyad's killing. A statement was taken from her.

Al-Haq notes that the Israeli occupying forces failed to provide Iyad with medical assistance at the earliest possible moment following his initial injury. Manal Al-Zein, the director of Elwyn Centre, who arrived at the scene at around 6:30 am, saw an Israeli ambulance standing by. Only once she had introduced herself, showed the occupying authorities official papers and explained that Iyad was one of the beneficiaries of the Centre, was the ambulance allowed to reach Iyad, some 20 minutes after Iyad had been shot for the second time and critically injured.⁷

At approximately 8:00 am that same day, the Israeli occupying forces raided Iyad's family's home in Wadi Al-Joz, searched it, and assaulted members of his family. They then informed the family that Iyad had been killed. According to initial information provided to the lawyer representing the case, Iyad had been injured by two live bullets.⁸ The first bullet hit the left part of his upper body, close to the eighth rib of his thoracic cage, which penetrated his chest and exited from the other side. The second bullet hit Iyad's abdominal area, penetrated the liver and intestine, broke a vertebra in the spine, and exited from the back. When the family was allowed to retrieve Iyad's belongings from the Israeli police station, they were only allowed to take his shoes, wallet, and belt. They were prohibited from seeing or taking Iyad's clothes that he was wearing when he was shot, and as such, were unable to see how many bullets had penetrated his clothes. Notably, an autopsy was performed on Iyad, the full details of which have not yet been made public.

On Sunday, 31 May 2020, at approximately 10:00 pm, the Israeli occupying authorities handed over Iyad's body to the Palestine Red Crescent Society, which transported it in an ambulance to Al-Maqassed Hospital in East Jerusalem. Iyad's body was then taken to his family home in Wadi Al-Joz, as is tradition, where his family were able to say their goodbyes. Iyad's body was then taken from his family home to Bab al-Asbat, where the funeral prayer took place that same evening. The number of funeral participants was not restricted but Iyad's family were prevented by the Israeli occupying authorities from performing the funeral prayer at Al-Aqsa mosque.⁹ It is worth noting that Israel has a longstanding policy of withholding the bodies of Palestinians killed by the occupying forces and of setting cruel, inhuman, and degrading conditions on the families

⁶ *Ibid.*

⁷ Al-Haq Field Report on the Killing of Iyad Al-Hallaq, prepared on 2 June 2020, on file with Al-Haq.

⁸ *Ibid.*

⁹ *Ibid.*

of the deceased, including by restricting funeral attendance and imposing requirements for immediate burial following the release of bodies, amongst other inhumane practices.¹⁰

According to Al-Haq's field documentation, there are at least five surveillance cameras installed between Bab Al-Asbat and the waste collection site where Iyad was killed. Yet, footage from these surveillance cameras has been withheld by the Israeli occupying authorities. On Wednesday, 3 June 2020, a court session was held regarding the surveillance camera footage during which a gag order was imposed on the lawyer representing Iyad's family in an effort to conceal the truth surrounding the killing and to prevent the lawyer from sharing any information about the proceedings with the public. Despite statements to the effect that the killing of Iyad Al-Hallaq would be investigated by the Israeli occupying authorities,¹¹ human rights organisations have repeatedly highlighted Israel's sham investigations¹² into the killings of Palestinians, as part of a system of institutionalised impunity¹³ for Israeli perpetrators of systematic human rights abuses.

3. Legal Analysis

3.1. International human rights law

Israel, as occupying power, is bound to respect, protect, and fulfil international human rights law in the occupied Palestinian territory as State party to the International Covenant on Civil and Political Rights (ICCPR),¹⁴ the International Covenant on Economic, Social and Cultural Rights (ICESCR),¹⁵ the Convention on the Rights of Persons with Disabilities (CRPD),¹⁶ the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),¹⁷ and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),¹⁸ amongst other international human rights treaties it has ratified.

¹⁰ Al-Haq, Newly Adopted Law to Withhold the Bodies of Palestinians Killed Breaches International Law, Must be Repealed, 14 March 2018, available at: <http://www.alhaq.org/advocacy/6261.html>.

¹¹ See, for example, Associated Press, Israeli defense minister apologizes for Palestinian's death, The Washington Post, 1 June 2020, available at: https://www.washingtonpost.com/world/middle-east/israeli-defense-minister-apologizes-for-palestinians-death/2020/05/31/ef717168-a3b2-11ea-898e-b21b9a83f792_story.html.

¹² See, for example, Al-Haq, Sham Investigation by Israel's Military Advocate General into IOF Killing of Razan Al-Najjar, 13 June 2018, available at: <http://www.alhaq.org/advocacy/6187.html>.

¹³ Al-Haq, Palestinian, Regional, and International Human Rights Organisations Submit Joint Report on Accountability to UN Special Rapporteur, 3 June 2020, available at: <http://www.alhaq.org/advocacy/16931.html>.

¹⁴ *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entry into force 23 March 1976) 16 December 1966, 999 UNTS 171 (ICCPR).

¹⁵ *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entry into force 3 January 1976) 993 UNTS 3 (ICESCR).

¹⁶ *Convention on the Rights of Persons with Disabilities* (adopted 13 December 2006, entry into force 3 May 2008) 2515 UNTS 3 (CRPD).

¹⁷ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (adopted 10 December 1984, entry into force 26 June 1987) 1465 UNTS 85 (CAT).

¹⁸ *International Convention on the Elimination of All Forms of Racial Discrimination* (adopted 7 March 1966, entry into force 4 January 1969) 660 UNTS 195 (ICERD).

3.1.1. Right to life

Legal framework

Article 6(1) of the ICCPR protects against arbitrary deprivations of life and enshrines the inherent right to life as ‘the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies.’¹⁹ The right to life is further protected under Article 10 of the CRPD, in which ‘States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.’ As recognised by the UN Human Rights Committee, the right to life ‘should not be interpreted narrowly.’²⁰ As such, any deprivation of life ‘must represent a method of last resort after other alternatives have been exhausted or deemed inadequate,’²¹ with ‘the threat responded to [involving] imminent death or serious injury.’²²

As law enforcement officials, the Israeli border police and other branches of the Israeli occupying forces are bound by international human rights law in their resort to force in the occupied Palestinian territory, including East Jerusalem, as prescribed by the law enforcement paradigm applicable to the present incident. Notably, ‘States parties are expected to take all necessary measures intended to prevent arbitrary deprivations of life by their law enforcement officials, including soldiers charged with law enforcement missions.’²³ In this regard, Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials clearly prescribes that:

‘Law enforcement officials shall not use firearms against persons except 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 resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.’²⁴

Accordingly, a deprivation of life is arbitrary when it is carried out in the absence of a threat to life or serious injury, in violation of the requirements of necessity and proportionality, which may

¹⁹ Human Rights Committee, General Comment No. 36 (2018) on Article 6 of the ICCPR on the right to life, UN Doc. CCPR/C/GC/36, 30 October 2018 (hereinafter ‘General Comment No. 36’), para. 2.

²⁰ General Comment No. 36, para. 3.

²¹ *Ibid.*, para. 12.

²² *Ibid.*, para. 12.

²³ *Ibid.*, para. 13.

²⁴ *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (hereinafter ‘*Basic Principles on the Use of Force*’), Principle 9.

justify the resort to force.²⁵ In addition, ‘law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons.’²⁶ Article 3 of the Code of Conduct for Law Enforcement Officials further requires that ‘Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.’²⁷ As such, the use of force ‘should be exceptional.’²⁸ The Basic Principles on the Use of Force also require law enforcement officials who resort to firearms to ‘Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.’²⁹

Critically, ‘Any deprivation of life based on discrimination in law or fact is *ipso facto* arbitrary in nature.’³⁰ Article 5(b) of ICERD requires States parties ‘to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of... The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.’

Finally, persons with disabilities enjoy specific measures of protection when it comes to the fulfilment of their right to life, in line with Article 6(1) of the ICCPR. According to the UN Human Rights Committee:

‘Persons with disabilities, including psychosocial and intellectual disabilities, are... entitled to specific measures of protection so as to ensure their effective enjoyment of the right to life on equal basis with others. Such measures of protection shall include... specific measures designed to prevent unwarranted use of force by law enforcement agents against persons with disabilities.’³¹

Application to the present case

Iyad Al-Hallaq attended Elwyn Centre daily and was on the way to the Centre from his home on the day he was killed. When Israeli border police called him, he started running away due to his fear of the police, a fear he had previously communicated to his family and which was likely compounded by the Israeli occupying forces’ systematic resort to lethal force against Palestinians.

²⁵ General Comment No. 36, para. 12.

²⁶ Principle 10, *Basic Principles on the Use of Force*.

²⁷ *Code of Conduct for Law Enforcement Officials*, adopted by General Assembly resolution 34/169 of 17 December 1979 (hereinafter ‘*Code of Conduct for Law Enforcement Officials*’), Article 3.

²⁸ Commentary to Article 3, *Code of Conduct for Law Enforcement Officials*, available at: <https://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx>.

²⁹ Principle 5(c), *Basic Principles on the Use of Force*.

³⁰ General Comment No. 36, para. 61.

³¹ *Ibid.*, para. 24.

Although Iyad was running away, he posed no threat to the Israeli occupying forces nor to anyone else in the area. Moreover, Iyad's caregiver Warda repeatedly told the Israeli border police, in a language they understood, that Iyad had a disability. They ignored her calls. It was at that moment that Iyad was first shot with live fire in the absence of necessity, as he was running away from the Israeli police. Iyad then ran away from the police again. The Israeli border police officer with the gun followed him and threatened Iyad and Warda, asking: 'where is the pistol?' Warda told him she did not have a gun and Al-Haq's documentation confirms that there was no gun in Iyad's possession. This was also confirmed by the Israeli police, which later stated that no weapon was found.³² Warda then again informed the officer, in a language he understood, that Iyad was a person with disability while Iyad, pointing at Warda, told the officer that he was with his teacher. Iyad's calls were also ignored. Then, after five minutes of apparent premeditation, the Israeli border police officer shot three live bullets at Iyad, from a distance not exceeding five metres. Moreover, Iyad did not receive medical assistance at the earliest possible moment. It was only some 20 minutes after he had been critically injured that an ambulance came.

The killing of Iyad Al-Hallaq amounts to an extrajudicial execution and an arbitrary deprivation of life in violation of Article 6(1) of the ICCPR and Article 10 of the CRPD and further violates the right to health enshrined in Article 12(1) of the ICESCR. In the present incident, the Israeli border police resorted to lethal force in the absence of necessity and proportionality, without a threat of death or serious injury, without issuing any warning signs before resorting to lethal force, and did not use lethal force as a last resort, in gross violation of international human rights law. Moreover, the Israeli border police officer knew that Iyad was a person with disability at the time he shot and killed him. There is further reason to believe that the deprivation of Iyad's life was based on discrimination and was therefore *ipso facto* arbitrary in nature, in violation of Article 2(1) of the ICCPR. Over the years, human rights organisations have repeatedly highlighted Israel's systematic shoot-to-kill policy targeting the Palestinian people,³³ and the illegality of Israel's rules of engagement for the use of live fire, disproportionately targeting Palestinians.

Israel's systematic resort to excessive use of force, including against persons with disabilities

Iyad is the second Palestinian killed by the Israeli occupying forces in East Jerusalem since the start of the year and the seventeenth Palestinian killed by the Israeli occupying forces in the

³² Associated Press, Israeli defense minister apologizes for Palestinian's death, The Washington Post, 1 June 2020, available at: https://www.washingtonpost.com/world/middle_east/israeli-defense-minister-apologizes-for-palestinians-death/2020/05/31/ef717168-a3b2-11ea-898e-b21b9a83f792_story.html.

³³ See, for example, Al-Haq, 'Bloody Monday' – Documentation of the Shoot-to-kill, Egregious Killings Committed by the Israel Occupying Force (IOF) on 14 May 2018, 26 May 2018, available at: <http://www.alhaq.org/advocacy/6196.html>. See also Al-Haq, The Killing of Mahmoud Badran: The IOF's Excessive Use of Force and Shoot to Kill Policy, 23 June 2016, available at: <http://www.alhaq.org/advocacy/6403.html>; and Al-Haq, Unlawful Killing of Palestinians by Israeli Occupying Forces, 31 October 2015, available at: <http://www.alhaq.org/advocacy/6476.html>.

occupied Palestinian territory during the first half of 2020.³⁴ In 2019, the Israeli occupying forces killed 135 Palestinians throughout the occupied Palestinian territory,³⁵ and in 2018, 292 Palestinians were killed by the Israeli occupying forces throughout the occupied Palestinian territory of whom a vast majority were shot with live ammunition.³⁶ Palestinian persons with disabilities have also been systematically targeted and killed by the Israeli occupying forces, including where they were clearly recognisable as such. For example, on 15 December 2017, prominent Palestinian human rights defender, Ibrahim Abu Thuraya, 29, from Deir Al-Balah, was shot in the head and killed by an Israeli sniper from a 15-metre range. At the time, Ibrahim, a double amputee who had lost both his legs in an Israeli airstrike on the Gaza Strip in 2008, was demonstrating peacefully in his wheelchair and holding nothing but a Palestinian flag.³⁷ Moreover, ten Palestinian persons with disabilities were killed by Israeli forces in the occupied Palestinian territory in 2018, five of whom had psychosocial, intellectual, or developmental disabilities.³⁸ On 4 December 2018, the Israeli occupying forces killed 22-year-old Muhammad Habali during a military raid on Toulkarem city in the occupied West Bank. Muhammad, ‘a resident of Toulkarem Refugee Camp, was born with a mental disability, which left him with difficulties recognizing his surroundings and identifying threats and risk consequences.’³⁹ He was shot from an 80-metre distance by the Israeli occupying forces near his place of work, while not posing any threat to life or serious injury, as confirmed by surveillance camera footage.⁴⁰

Between 30 March 2018 and the end of 2019, the Israeli occupying forces killed seven persons with disabilities during the Great Return March demonstrations in the Gaza Strip.⁴¹ In February 2019, the UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory found, that of the 189 Palestinians killed by the Israeli occupying forces during the Great Return March in 2018, only two incidents may have justified the use of lethal force.⁴² Accordingly, the Commission ‘found reasonable grounds to believe that Israeli snipers shot at journalists, health

³⁴ Figures provided by Al-Haq’s Monitoring and Documentation Department covering the period from 1 January 2020 until 1 June 2020.

³⁵ Al-Haq, Al-Haq Report on Killings in 2019, 5 April 2020, available at: <http://www.alhaq.org/advocacy/16689.html>. See also Al-Haq, Al-Haq Field Report on Human Rights Violations in 2019, 4 February 2020, available at: <http://www.alhaq.org/monitoring-documentation/16346.html>.

³⁶ Al-Haq’s Monitoring and Documentation Department; Al-Haq, Al-Haq Report on Killings in 2018 [Arabic], 21 January 2019, available at: <http://www.alhaq.org/ar/monitoring-documentation/2211.html>.

³⁷ Al-Haq, Five Palestinians killed during Protests across the OPT since 7 December 2017, 19 December 2017, available at: <http://www.alhaq.org/advocacy/6297.html>.

³⁸ Al-Haq, Al-Haq Sends Submission to UN Special Rapporteur with regards to Israel’s Excessive Use of Force and Killing of Palestinian Persons with Psychosocial, Intellectual and Developmental Disabilities, 11 February 2019, available at: <http://www.alhaq.org/advocacy/6108.html>.

³⁹ Al-Haq, Israeli Occupying Forces Wilfully Kill 22-year-old Palestinian with Mental Disability in Toulkarem, 15 December 2018, available at: <http://www.alhaq.org/monitoring-documentation/6122.html>.

⁴⁰ *Ibid.*

⁴¹ Figures provided by Al-Haq’s Monitoring and Documentation Department covering the period from 30 March 2018 until 31 December 2019.

⁴² UN Human Rights Council, Report of the independent international Commission of Inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, paras. 93-94.

workers, children and persons with disabilities, knowing they were clearly recognizable as such.⁴³ The Commission also found that Israel's rules of engagement for the use of live fire were in violation of international human rights law and recommended that the Israeli government ensure these rules of engagement permit lethal force 'only as a last resort, where the person targeted poses an imminent threat to life or directly participates in hostilities.'⁴⁴ On 22 March 2019, the UN Human Rights Council adopted the recommendations of the Commission of Inquiry in accountability resolution 40/13 and called on all duty bearers and UN bodies to pursue their implementation.⁴⁵ Over a year since, these recommendations remain unimplemented, while Israel's institutionalised impunity for widespread and systematic human rights violations committed against the Palestinian people has prevailed.⁴⁶

3.1.2. Prohibition of ill-treatment

In addition to the extrajudicial execution of Iyad Al-Hallaq, in violation of his right to life, Warda Abu Hadid, Iyad's teacher and caregiver, was threatened by the Israeli border police, and repeatedly questioned about a pistol she did not have, with a gun pointed to her head. Then, immediately after Iyad was fatally shot, she was taken away for interrogation at the Israeli police station located at Bab Al-Asbat. There, she was forced to take off her hijab and clothes. She was strip-searched and kept in the police station for about two hours. Then, she was taken to Al-Mascobiyya interrogation centre in Jerusalem, where she was subjected to another three hours of interrogation before she was released. Only the next day was Warda called in by the Israeli police to testify as to Iyad's killing, which she witnessed. The hours of harassment and intimidation during Israeli interrogation left Warda shivering and in a state of hysteria. Taken together, the conduct of the Israeli occupying forces amounts to prohibited ill-treatment of Warda Abu Hadid, in violation of Article 7 of the ICCPR and Article 16 of CAT. Critically, Article 5 of the Code of Conduct for Law Enforcement Officials provides that 'No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment.'⁴⁷ As recognised by the commentary to Article 5, 'The term "cruel, inhuman or degrading treatment or punishment" ... should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.'⁴⁸

⁴³ See OHCHR, No Justification for Israel to Shoot Protesters with Live Ammunition, 28 February 2019, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24226&LangID=E>.

⁴⁴ UN Human Rights Council, Report of the independent international Commission of Inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, para. 119(b)(i).

⁴⁵ UN Human Rights Council, Resolution 40/13, 22 March 2019, UN Doc. A/HRC/RES/40/13, para. 2.

⁴⁶ See, for example, Al-Haq, Palestinian, Regional, and International Human Rights Organisations Submit Joint Report on Accountability to UN Special Rapporteur, 3 June 2020, available at: <http://www.alhaq.org/advocacy/16931.html>.

⁴⁷ Article 5, *Code of Conduct for Law Enforcement Officials*.

⁴⁸ Commentary to Article 5, *Code of Conduct for Law Enforcement Officials*, available at: <https://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx>.

3.2. International humanitarian law

As the occupying power, Israel is bound to respect international humanitarian law throughout the occupied Palestinian territory, including East Jerusalem. International humanitarian law and international human rights law must be viewed as ‘complementary, not mutually exclusive,’ when it comes to the protection of the right to life, as recognised by the UN Human Rights Committee.⁴⁹ Moreover, persons with disabilities enjoy special protection in situations of armed conflict, as stipulated under Article 11 of the CRPD, which requires that States parties ‘in accordance with their obligations under international law, including international humanitarian law and international human rights law, [take] all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict.’

In particular, Article 4 of the Fourth Geneva Convention affords Palestinian civilians protection as ‘protected persons’ in the hands of the occupying power.⁵⁰ International humanitarian law further requires special respect and protection to be afforded to persons with disabilities in situations of armed conflict.⁵¹ As recognised by the International Committee of the Red Cross (ICRC), ‘persons with disabilities who are affected by armed conflict are also entitled to special respect (being spared from attack) and protection (help and support).’⁵² As a protected person and person with disability, Iyad Al-Hallaq was therefore entitled to special protection under both international human rights law and international humanitarian law applicable in the occupied Palestinian territory, including East Jerusalem.

Critically, the targeting of Iyad Al-Hallaq constitutes a gross violation of the principle of distinction protecting civilian persons from attacks. Al-Haq notes that the Israeli border police officer who killed Iyad had been repeatedly informed of Iyad’s disability, in a language he understood, before he shot and killed him. As such, the killing was carried out with knowledge of Iyad’s protected status both as a civilian and as a person with disability. This must be taken together with the element of premeditation, given that five minutes passed while Iyad constituted no threat to life or injury of anyone around him, before the Israeli border police fatally shot and killed him. Al-Haq also notes that medical assistance was not provided to Iyad at the earliest possible moment, in violation of Iyad’s rights to life and health. Under international humanitarian law, ‘persons with disabilities must... receive, to the fullest extent practicable, with the least possible delay and without discrimination, the medical care required.’⁵³ In light of the above, the killing of Iyad Al-

⁴⁹ General Comment No. 36, para. 64.

⁵⁰ *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (adopted 12 August 1949, entry into force 21 October 1950) 75 UNTS 287 (hereinafter ‘Fourth Geneva Convention’), Article 4.

⁵¹ ICRC, *International Humanitarian Law and Persons with Disabilities*, Legal factsheet, 4 October 2017, available at: <https://www.icrc.org/en/document/ihl-and-persons-disabilities#:~:text=IHL%20requires%20parties%20to%20armed, reducing%20the%20dangers%20they%20pose.>

⁵² *Ibid.*, p. 2.

⁵³ *Ibid.*, p. 2.

Hallaq amounts to wilful killing, a grave breach of the Fourth Geneva Convention under Article 147, giving rise to individual criminal responsibility.

Under Article 146, the High Contracting Parties to the Fourth Geneva Convention are under an obligation ‘to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the... Convention.’ In its detailed findings published in March 2019, the UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory recalled that ‘During armed conflict or occupation, international humanitarian law prohibits, inter alia, wilful killing and wilfully causing great suffering. Unless undertaken lawfully in self-defence, intentionally killing a civilian not directly participating in hostilities is a war crime.’⁵⁴ The Commission found that those responsible for suspected war crimes and crimes against humanity included ‘individuals who committed the violations directly, or who aided or ordered them to be committed,’ adding that ‘relevant military and civilian structures in Israel... bear primary responsibility for the conduct of the [Israeli] forces and their use of lethal force on Palestinians.’⁵⁵ Accordingly, the Commission of Inquiry recommended that ‘States parties to the Geneva Conventions and/or to the Rome Statute carry out their duty to exercise criminal jurisdiction and arrest persons alleged to have committed, or who ordered to have committed, the international crimes... and either to try or to extradite them’⁵⁶ to ensure justice and accountability.

3.3. International criminal law

The Rome Statute of the International Criminal Court (ICC)⁵⁷ enshrines grave breaches of the Fourth Geneva Convention as war crimes, which give rise to individual criminal responsibility at the ICC. In particular, wilful killing amounts to a war crime under Article 8(2)(a)(i) of the Rome Statute. According to the ICC’s Elements of Crimes, the war crime of wilful killing comprises the following five elements:

- ‘1. The perpetrator killed one or more persons.
2. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
3. The perpetrator was aware of the factual circumstances that established that protected status.

⁵⁴ Human Rights Council, Report of the detailed findings of the independent international Commission of Inquiry on the protests in the Occupied Palestinian Territory, UN Doc. A/HRC/40/CRP.2, 18 March 2019, para. 788.

⁵⁵ *Ibid.*, para. 784.

⁵⁶ *Ibid.*, para. 803.

⁵⁷ *Rome Statute of the International Criminal Court* (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 3 (hereinafter ‘Rome Statute’).

4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.⁵⁸

In the present case, the perpetrator was a member of the Israeli border police, a branch of the Israeli occupying forces. He killed Iyad Al-Hallaq who was a protected person under Article 4 of the Fourth Geneva Convention, and a person with disability entitled to special protection under international human rights law and international humanitarian law. The perpetrator killed Iyad knowing that he was a civilian person and person with disability within the context of Israel's prolonged military occupation of the occupied Palestinian territory, including East Jerusalem. Accordingly, the killing of Iyad Al-Hallaq amounts to the war crime of wilful killing within the meaning of Article 8(2)(a)(i) of the Rome Statute and entails the individual criminal responsibility of the perpetrator or perpetrators of the crime as well as that of Israeli military and civilian officials who drafted and approved Israel's rules of engagement for the use of live fire.

Indeed, Al-Haq recalls the widespread and systematic nature of the Israeli occupying forces' targeting of protected Palestinian civilians, comprising repeated and documented acts of wilful killing,⁵⁹ including against Palestinian persons with disabilities,⁶⁰ within the context of Israel's prolonged military occupation. The UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory 'found that responsibility for unlawful deaths and injuries [during the Great Return March] lay primarily on two fronts. First, those who employed lethal force, assisted with or authorized it to be deployed in specific instances, in the absence of an imminent threat to life or where the victim was not directly participating in hostilities; this includes snipers, spotters and/or commanders on site. Second, those who drafted and approved the rules of engagement' for the use of live fire.⁶¹ The Rome Statute prohibits murder as a crime against humanity under Article 7(1)(a) 'when committed as part of a widespread or systematic attack

⁵⁸ ICC, Elements of Crimes (2011), pp. 13-14, available at: <https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>.

⁵⁹ See, for example, Al-Haq, Gaza: Documenting Wilful Killings and Injuries during the Great Return March, 11 April 2018, available at: <http://www.alhaq.org/monitoring-documentation/6245.html>; Al-Haq, Evidence of Wilful Killing at Al-Nakba Day Protest, 24 May 2014, available at: <http://www.alhaq.org/monitoring-documentation/6651.html>; Al-Haq, Wilful Killing of Umar Qawasmi, 6 June 2011, available at: <http://www.alhaq.org/advocacy/7059.html>.

⁶⁰ See, notably, Al-Haq, Al-Haq Sends Submission to UN Special Rapporteur with regards to Israel's Excessive Use of Force and Killing of Palestinian Persons with Psychosocial, Intellectual and Developmental Disabilities, 11 February 2019, available at: <http://www.alhaq.org/advocacy/6108.html>. See also Al-Haq, Israeli Occupying Forces Wilfully Kill 22-year-old Palestinian with Mental Disability in Toulkarem, 15 December 2018, available at: <http://www.alhaq.org/monitoring-documentation/6122.html>; Al-Haq, Five Palestinians killed during Protests across the OPT since 7 December 2017, 19 December 2017, available at: <http://www.alhaq.org/advocacy/6297.html>.

⁶¹ UN Human Rights Council, Report of the independent international Commission of Inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, para. 107.

directed against any civilian population, with knowledge of the attack.’ Al-Haq stresses that, in light of Israel’s systematic shoot-to-kill policy and excessive use of force targeting Palestinians,⁶² and the systematic resort to live fire according to rules of engagement which violate international human rights law, the elements of the crime against humanity of murder are satisfied.⁶³

Finally, Al-Haq recalls that the crimes of wilful killing and murder are committed ‘in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime,’ within the meaning of Article 7(2)(h) of the Rome Statute as constituting the crime of apartheid. Palestinian, regional, and international civil society organisations have previously detailed Israel’s commission of the crime of apartheid against the Palestinian people as a whole,⁶⁴ which is embedded in a system of impunity preventing Palestinians from effectively challenging inhumane acts committed as part of the maintenance of Israel’s apartheid regime.⁶⁵

On 20 December 2019, the ICC Prosecutor announced the conclusion of her Office’s preliminary examination into the Situation in Palestine, concluding that she was ‘satisfied that (i) war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip...; (ii) potential cases arising from the situation would be admissible; and (iii) there are no substantial reasons to believe that an investigation would not serve the interests of justice.’⁶⁶ The Prosecutor also requested from Pre-Trial Chamber I a jurisdictional ruling on the scope of the ICC’s territorial jurisdiction in Palestine.⁶⁷ In this context, Palestinian human rights organisations have repeatedly called for the opening of a full, thorough, and comprehensive ICC investigation into the Situation in Palestine, comprising the West Bank, including East Jerusalem, and the Gaza Strip.⁶⁸ Accordingly, suspected war crimes and crimes against humanity committed throughout the

⁶² See, for example, Al-Haq, ‘Bloody Monday’ – Documentation of the Shoot-to-kill, Egregious Killings Committed by the Israel Occupying Force (IOF) on 14 May 2018, 26 May 2018, available at: <http://www.alhaq.org/advocacy/6196.html>. See also Al-Haq, The Killing of Mahmoud Badran: The IOF’s Excessive Use of Force and Shoot to Kill Policy, 23 June 2016, available at: <http://www.alhaq.org/advocacy/6403.html>; and Al-Haq, Unlawful Killing of Palestinians by Israeli Occupying Forces, 31 October 2015, available at: <http://www.alhaq.org/advocacy/6476.html>.

⁶³ ICC, Elements of Crimes (2011), p. 5, available at: <https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>.

⁶⁴ Al-Haq, Palestinian, regional, and international groups submit report on Israeli apartheid to UN Committee on the Elimination of Racial Discrimination, 12 November 2019, available at: <http://www.alhaq.org/advocacy/16183.html>.

⁶⁵ See, for example, Al-Haq, Palestinian, Regional, and International Human Rights Organisations Submit Joint Report on Accountability to UN Special Rapporteur, 3 June 2020, available at: <http://www.alhaq.org/advocacy/16931.html>.

⁶⁶ ICC, Statement of ICC Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the Situation in Palestine, and seeking a ruling on the scope of the Court’s territorial jurisdiction, 20 December 2019, available at: <https://www.icc-cpi.int/Pages/item.aspx?name=20191220-otp-statement-palestine>.

⁶⁷ *Ibid.*

⁶⁸ See, more recently, Al-Haq, Joint Open Letter to the Office of the Prosecutor of the International Criminal Court: Time to Investigate Crimes in Palestine, Time for Justice, 29 April 2020, available at: <http://www.alhaq.org/advocacy/16795.html>; Al-Haq, Al-Haq Welcomes and Broadly Endorses Response of the Prosecutor of the International Criminal Court to Amicus Curiae Briefs in the Situation in the State of Palestine, 2

occupied Palestinian territory fall within the territorial jurisdiction of the ICC in the Situation in Palestine, which must urgently be investigated to ensure international justice and accountability for Palestinian victims and to put an end to Israel's institutionalised impunity for widespread and systematic human rights violations committed against the Palestinian people.⁶⁹

4. Conclusion and Recommendations

In conclusion, the conduct of the Israeli occupying forces in the present incident constitutes a violation of Iyad Al-Hallaq's rights to life and health as well as Warda Abu Hadid's right not to be subjected to ill-treatment. The killing of Iyad Al-Hallaq constitutes an extrajudicial execution and a wilful killing, in violation of international human rights law and international humanitarian law. The conduct of the Israeli border police officer who killed Iyad Al-Hallaq further amounts to the war crime of wilful killing and the commission of crimes against humanity targeting the Palestinian people, including the crime of apartheid. Accordingly, Al-Haq urgently calls for international justice and accountability to put an end to Israel's serious human rights abuses and crimes. In light of the above, Al-Haq calls on the relevant UN Special Procedures mandates to:

- i. Publicly condemn the extrajudicial execution and wilful killing of Iyad Al-Hallaq by the Israeli border police, which amounts to a war crime under the Rome Statute and gives rise to individual criminal responsibility, as well as the ill-treatment of Warda Abu Hadid;
- ii. Send a communication to Israel, the occupying power, and call on the Israeli occupying authorities to immediately bring their rules of engagement for the use of live fire in line with international human rights law, as recommended by the UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory and adopted by the Human Rights Council in accountability resolution 40/13 of 22 March 2019;
- iii. Recognise institutionalised impunity for Israel's widespread and systematic human rights violations against Palestinians, including within Israeli judicial mechanisms, as forming part and parcel of Israel's apartheid regime of systematic racial oppression and domination over the Palestinian people as a whole;
- iv. Call for international justice and accountability for widespread and systematic human rights violations committed against the Palestinian people, including suspected war crimes and crimes against humanity, by urging third States to activate universal jurisdiction mechanisms, as recommended by the UN Commission of Inquiry on the 2018 protests in

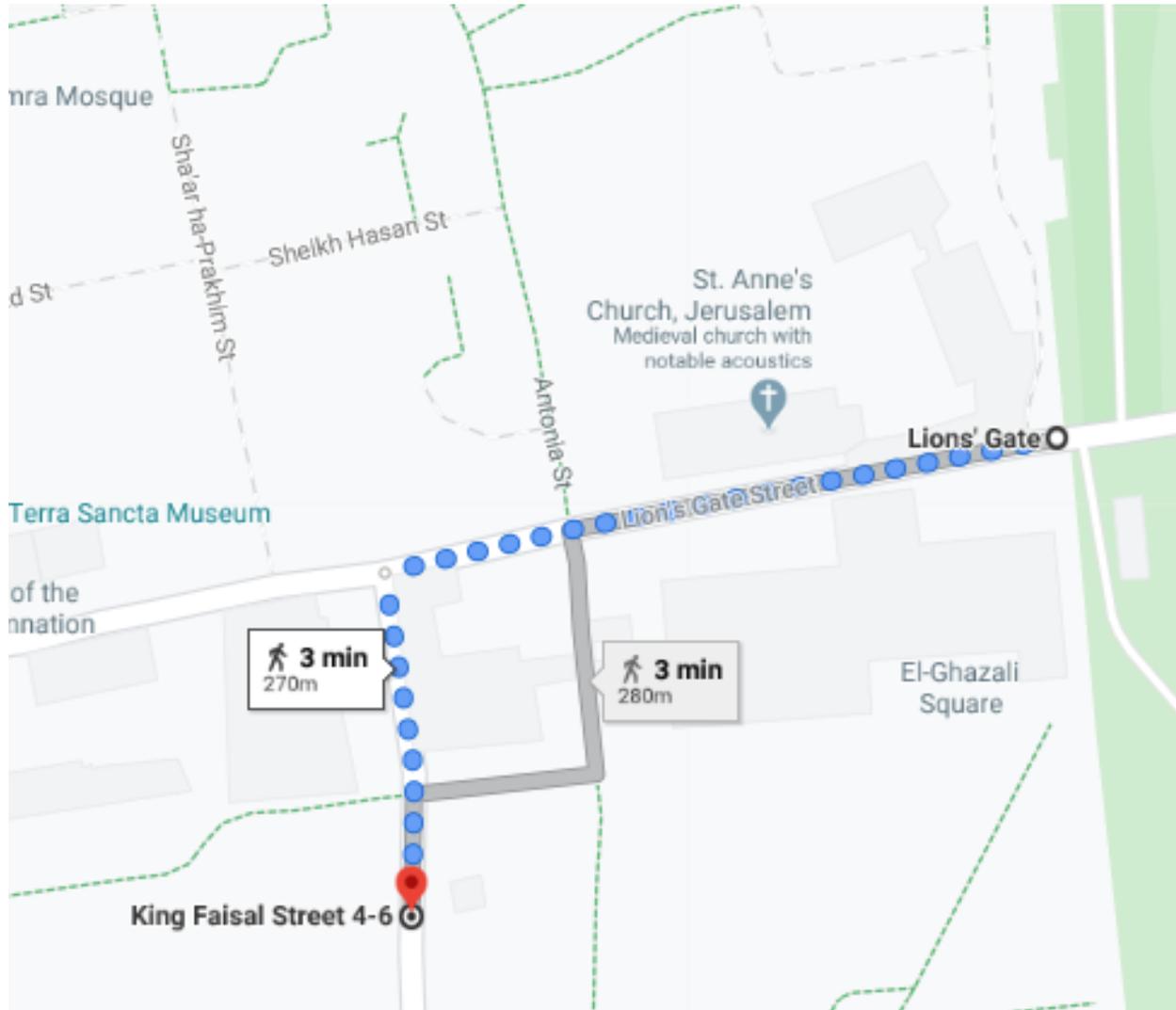
May 2020, available at: <http://www.alhaq.org/advocacy/16819.html>; Al-Haq, Palestinian Human Rights Organisations Publish Detailed Review Paper on Submissions Made to International Criminal Court on Territorial Jurisdiction, 29 April 2020, available at: <http://www.alhaq.org/advocacy/16796.html>; and Al-Haq, Al-Haq Questions and Answers: Palestine and Jurisdiction at the International Criminal Court, 30 April 2020, available at: <http://www.alhaq.org/advocacy/16807.html>.

⁶⁹ Al-Haq, Palestinian, Regional, and International Human Rights Organisations Submit Joint Report on Accountability to UN Special Rapporteur, 3 June 2020, available at: <http://www.alhaq.org/advocacy/16931.html>.

the occupied Palestinian territory, and by calling for the immediate opening of a full, thorough, and comprehensive investigation by the ICC into the Situation in Palestine.

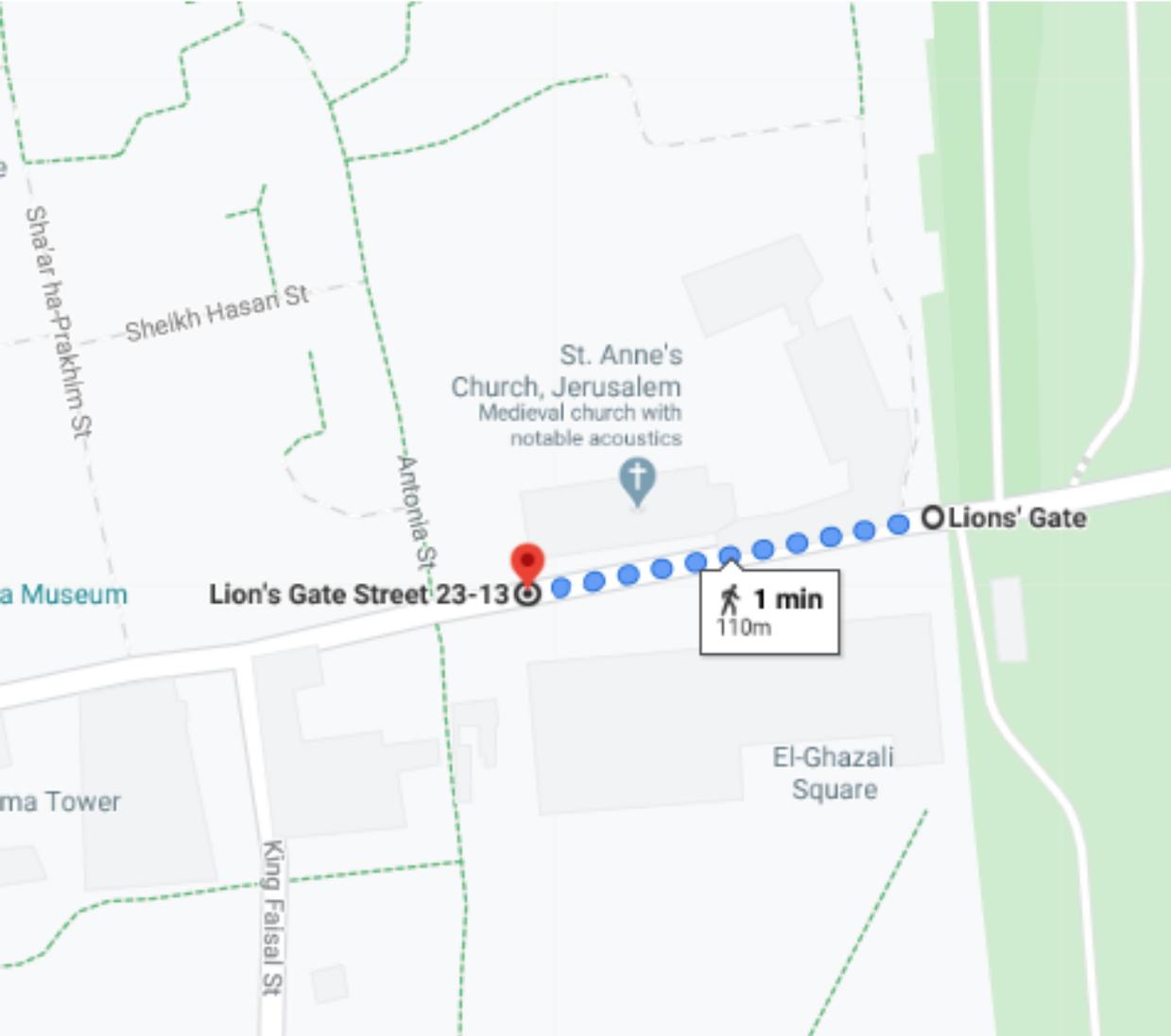
5. Annexes

Annex I



Map of the directions from Bab al-Asbat to Elwyn Centre in occupied East Jerusalem, indicating distance and walking time.

Annex II



Map of the distance Iyad Al-Hallaq ran while escaping the Israeli occupying forces from Bab al-Asbat (Lion's Gate) to the location where he was shot and killed by the Israeli border police.